

Spaces for Exploitation & Co-Optation of International Norms: The Case of Land-Grabbing in Mozambique



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List of acronyms

<i>Critical Discour Analysis</i>	CDA
<i>Corporate Social Responsibility</i>	CSR
<i>Direito do Uso e Aproveitamento da Terra</i>	DUAT
<i>Food and Agriculture Investment</i>	FAO
<i>Foreign Direct Investment</i>	FDI
<i>Frente de Libertação de Moçambique</i>	FRELIMO
<i>Global Value Chain</i>	GVC
<i>Gross Domestic Product</i>	GDP
<i>International Fund for Agricultural Development</i>	IFAD
<i>International Monetary Fund</i>	IMF
<i>International Organization</i>	IO
<i>International Political Economy</i>	IPE
<i>International Finance Corporation Performance Standards</i>	IFC PS
<i>Justicia Ambiental</i>	JA!
<i>Liquefied Natural Gas</i>	LNG
<i>National Content Strategy</i>	NCS
<i>Operation integrity Management System</i>	OIMS
<i>Regional Value Chain</i>	RVC
<i>Transnational Corporation</i>	TNC
<i>United Nations</i>	UN
<i>United Nations Conference on Food and Development</i>	UNCTAD

Introduction & Problem Area

After long years of deep financial dependence on international donors and a rather limited economic activity, since early 2000s Mozambique has experienced a relatively high economic growth and a significant increase in foreign direct investments (FDIs), closely linked to the discovery and exploitation of natural resources as well as to megaprojects in a number of sectors. Particularly, between 2006 and 2012, major discoveries of extensive offshore reserves of liquefied natural gas (LNG) in the Rovuma Basin, just outside Cabo Delgado Province, are said to have the potential to transform Mozambique into the third largest gas exporter in the world. The country is currently hosting three gas megaprojects – the Mozambique LNG project, the Coral FLNG Project, and the Rovuma LNG Project - owned and operated by, chiefly, Total (Anadarko until 2019), Eni, and ExxonMobil¹ and worth an overall of ca. \$55 billions. However, if especially since 2000s megaprojects and the dynamics around them have been an essential feature of Mozambique's development model, simultaneously, growing concerns have been raised on the broader impact of such megaproject. These concerns bear questions as to whether the booming of FDIs in the extractive sector is to be seen as a *blessing*, given the growing evidence associating such activities with what is often referred to as the *resource curse*, or *Dutch disease*², as well as to whether megaprojects do actually hold the potential to increase the country's participation in regional value chains (RVCs) and global value chains (GVCs), thereby “creating linkages between different economic activities, and promoting economic diversification and structural transformation” (Aurre & Jaén, 2019, p. 97). Surely, while the extractive sector might bear a high development potential, both the known *enclave*³ nature of extractive economies and Mozambique's governance structures might pose severe limitations to the hoped-for spill-overs and positive impact on the broader population. Moreover, “the destruction and radical transformation of the landscape, the impact of megaprojects on water quality [...] as well as the dangers to human health that ensue from air pollution produced by fossil fuel-fired power plants are serious issues of concern” (ibid., p. 109).

Given this contextualisation, of focal concern to this paper is the controversial issue of forced dispossession and resettlement of local communities due to a phenomenon that has come to be known as *land-grabbing*: despite the lack one single understanding, it can be broadly defined “as

¹ “The state-owned Empresa Nacional de Hidrocarbonetos (ENH) holds a share of between 10 and 15% in all concessions granted to these TNCs” (Aurre & Jaén, 2019, p. 100)

² The Dutch disease refers to a well-known, and still relevant paradox in economics, broadly defined as the “situation in which massive inflows of foreign currency lead to the over-appreciation of the national currency, damaging the competitiveness of domestic economic activities in tradable goods and services” (Aurre & Jaén, 2019, p. 108).

³ See (Ferguson, 2005)

being the control (whether through ownership, lease, concession, contracts, quotas, or general power) of larger than locally-typical amounts of land by any person or entity (public or private, foreign or domestic) via any means ('legal' or 'illegal') for purposes of speculation, extraction, resource control or commodification at the expense of peasant farmers, agroecology, land stewardship, food sovereignty and human rights" (Baker-Smith & Miklos-Attila, 2016, p. 2)⁴. The phenomenon is particularly widespread in Africa, where 70% of land deals occurred in 2011, and especially pernicious given that 60% of the population depends on land for their livelihood (Twomey, 2014); indeed, the impact of displacement on local communities' livelihood has often proven to be disastrous, as it has been clearly the case in Tete Province, where "local communities displaced and resettled from 2009 to 2011 due to coal operations owned by mining companies Vale and Rio Tinto [...] are now living in sites roughly 40km away with agricultural land of deeply uneven quality, unreliable access to water, and diminished access to key sources of non-farming income" (Human Rights Watch, 2013). In Mozambique, nonetheless, just between "2004 and 2009 over 400 large land acquisitions were approved, which allocated between 2 and 2.67 million ha of land" (Twomey, 2014, p. 3). For the development of the Afungi LNG Park and Project Site, comprising the onshore, nearshore, as well as accommodation facilities for the three extraction projects, approximately 9000 hectares of land were acquired by the interested companies via DUAT (Direito do Uso e Aproveitamento da Terra) transfer, physically and economically displacing 1508 households (10034 individuals)⁵. Interestingly, whereas displacement caused by war is universally seen problematic, displacement caused by development megaprojects too often falls within a grey area, assumed as an inevitable 'side-effect' to be mitigated.

However, as the scale and speed of land grabs have dramatically increased, international norms have been articulated and institutionalised in different strategies to address the issue; this paper looks specifically at: 1997 Land Laws and Corporate Social Responsibility (CSR). Both frameworks are aimed at preventing the negative consequences of *land-grabbing* on local communities through a greater involvement and participation of the latter in several processes, greater transparency of land rights transfers and acquisitions, fair compensation in case of forced eviction, and transnational corporations' greater accountability and involvement in social projects. Interestingly, both strategies are said to have successfully institutionalised those principles and norms

⁴ Whereas an exhaustive discussion on the different understandings of *land-grabbing* is beyond the scope of this paper, Annex 1 provides a glimpse in the debate.

⁵ Additionally, the communities of Senga, Maganja, and Mondlane will lose their common resources as a result of 1) alienation from community access to those areas due to Project use; 2) allocation of those common resources to physically displaced communities as replacement agricultural land. Likewise, 3266 individuals (collector and fishermen) are expected to be economically displaced due to the construction and operations of the projects (Mozambique Gas Development Project Resettlement Plan, p. 69).

encompassed by, respectively, the *good governance* and *good corporate governance* agendas which, in turn, broadly intersect with the development discourses disseminated by IOs, chiefly the World Bank and the IMF, and internalised by Mozambique's government.

Withal, despite the said successful institutionalisation of international norms, land grabs have not been prevented and local communities have shown increasing discontent with the implementation of these strategies to their advantage, as testified by how Anadarko's plan to relocate 5000 inhabitants of the Afungi Peninsula "has been strongly contested by local communities and civil society organisations, which claim to have had their activists harassed by both Anadarko and the police" (Aurre & Jaén, 2019, p. 109). Generally, critics "argue that resettlement processes lack consultation and local participation, and hence are considered grossly unfair", failing "to provide an adequate voice to those who have to leave their homes" and adequate compensations (ibid.). It appears, conclusively, that a striking discrepancy exists between what is seen as successful institutionalisation of international norms and their implementation within Mozambique's domestic context.

Problem Formulation & Paper Outline

In the light of the foregoing, this paper seeks to answer the following question and sub-questions:

How can we understand the persistence and negative impacts of land-grabbing caused by extractive industries within a framework of 'progressive' land regulations and CSR in Mozambique?

- 1.2. How can we understand the discrepancy between the said successful institutionalisation of *good governance norms* within Mozambique's 1997 Land Laws and their implementation? And how is the latter conditioned by Mozambique's governance structures?
- 1.3. What role do TNCs take on within broader development discourses, how is the CSR agenda presented, and how can we understand the criticism of it allowing *business-as-usual* to be carried out?

In addressing the above questions, the paper endeavours to shed light on the critical role of local governance structures and actors in conditioning the implementation of international norms and principles, contending that a successful institutionalisation does not necessarily entail a likewise faithful implementation; therein, it investigate the mechanisms shaping the success or failure of

the said strategies (Land Laws and CSR) adopted in Mozambique to prevent *land-grabbing*. In order to advance our thesis, it is deemed necessary to first provide some insights into the relationship between broader development discourses and the *good governance* and *good corporate governance* agendas, as they encompass the core norms informing 1997 Land Laws and CSR; hereby, the positioning of the strategies under analysis within these established discourses will also be addressed. The paper will then explore how and which international norms and principles have been institutionalised in 1997 Land Laws as well as how the role of TNCs and CSR can be understood especially in developing countries. In the light of this contextualisation, the paper will propose a theoretical account of the discrepancy between norms' institutionalisation and implementation, enabling us investigate role of, specifically, Mozambique's domestic governance structures in shaping the implementation of these strategies. Therein, it will explore the limits of legal norms adopting Cortell and Davis (1996) conceptualisation of *cultural match*, *domestic structural context*, and *domestic salience* as critical variables in shaping the local interpretations and use of international norms, whereby allowing for spaces of *co-optation* and *exploitation* to be created; as this theoretical framework will help shedding light on the implementation gaps in Mozambique, the paper will take as a case study the Supplemental Land Access Management Plan, the Final Resettlement Plan and the Environmental and Social Management Plan for the Rovuma LNG Project. The mentioned documents will be analysed adopting Fairclough's formulation of Critical Discourse Analysis (CDA) which, as part of a broader critical theoretical understanding, will constitute the overarching theoretical framework of the paper.

Literature Review

Development, Good Governance, & Good Corporate Governance

Extractive FDIs and megaprojects have played a central role in the discourses on national development as promoted by especially international financial institutions and major donors, chiefly the World Bank and the IMF, and as espoused by Mozambique's government. For this paper's argument, the relevance of these discourses is to be understood in their power to both construct and promulgate a certain understanding of extractive industries and TNCs, seen in this paper as *land-grabbers*, but also especially to put forward agendas such as *good governance* and *good corporate governance* as the best means of ensuring the blessing of extractive FDIs to be such.

The emergence of the *good governance* agenda in the '90s was, interestingly, closely linked to "the disappointing development outcomes in the aid recipient countries" which "led the donor agencies to focus on the quality of governance" as condition of aid and an objective of development assistance itself (Nag, 2018); the 'quality of governance' is evaluated mainly on the basis of policy documents of international donor agencies and of the experience of many Western liberal democracies. As such, as some would argue, this agenda was established "as one of the most profound discourses in the realm of political economy all across the world" given "the unchallenged pervasiveness of the ideology of liberal democracy and its economic models" (ibid.). According to the World Bank, *good governance* "is epitomised by predictable, open and enlightened policy making (that is, transparent processes); a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law" (1994, p. VII). Despite the lack of one unanims definition, *good governance* is generally understood as encompassing eight core principles⁶:

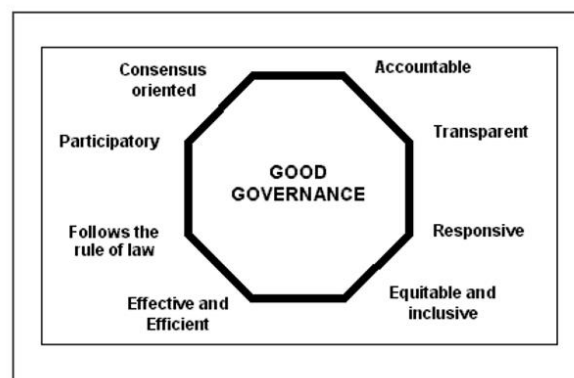


Figure 0: Eight Good Governance Principles (Sheng, 2020)

⁶ For a detailed account of each one see (Nag, 2018) (Sheng, 2020).

Whereas this agenda has surely been fundamental in the promotion of human rights, sustainable development, and social justice in developing societies, it has also been strongly criticised for its roots in Western political and economic philosophy as well as for its presuppositions of a relatively developed society made up of educated, informed, and active citizens – which is clearly not the case for many countries of the so-called Third World, where the very concept of governance might take on different meanings.

Good corporate governance, as *good governance*, lacks one single definition, for it should be understood as a broad concept rather than a single tool; nonetheless, in general terms, it “refers to that blend of law, regulation and appropriate voluntary private sector practices which enables the corporation to attract financial and human capital, perform efficiently and thereby perpetuate itself by generating long term economic value for its shareholders, while respecting the interests of stakeholders and society as a whole” (World Bank , 2005, p. 9). The emergence of this framework is surely intertwined with the shifting view on TNCs from one of strictly profit-oriented organisations to one of more socially and environmentally committed agents. Noteworthy, in the view of many policy-makers, this agenda is particularly vital in developing countries seeking to attract FDIs and strengthen their economies: as argued by the UN at the International Conference on Financing for Development, “[p]rivate international capital flows ... are vital complements to national and international development efforts.... To attract and enhance inflows of productive capital, countries need to continue their efforts to achieve a transparent, stable and predictable investment climate.... Special efforts are required in priority areas such as ... corporate governance” (ibid., p. 13). The *corporate governance* agenda also encompasses a set of standards and guidelines, “led primarily by multilateral and regional organizations” and able to “successfully serve as benchmarks and models for national codes and regulations” (ibid., p 34). One relevant example are the World Bank’s International Finance Corporation Performance Standards on Environmental and Social Sustainability (IFC PS), “designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way, including stakeholder engagement and disclosure obligations of the client [*the party responsible for implementing and operating the project*] in relation to project-level activities” (IFC, 2012, p. 2); of the eight Performance Standards, **PS 5** on *Land Acquisition and Involuntary Resettlement*, is of particular relevance as it shows how principles of good corporate conduct have been applied to *large-scale land acquisitions (land-grabbing)* as well. Nonetheless, the applicability of this framework is terrain of ongoing debates, many of which tend to become polarised discussions on the prevalence of shareholder over stakeholder value or viceversa; these debates bear also questions as to *whom* are to actually be considered stakeholders and towards *whom* a company should be held accountable. Surely, the

controversies surrounding the concept are also linked to the different views on TNCs as certain type of actors. The following table attempts to succinctly summarise the main features of the *development discourses* disseminated in Mozambique and their relationship to *good governance*, *good corporate governance*, extractive industries, and TNCs.

Development is about...	Approach & Focus on....	Extractive FDI's are to be seen as...	Positive impacts are to be ensured through....	Negative impacts derive from....	TNCs are to be seen as...
Attracting FDI's and promoting an export-oriented, megaproject-based economic model (liberalisation of the economy) (Aurre & Jaén, 2019)	Neoclassical economics; positivistic approach; focus on positive macro-economic effects (expansion of export, booming of FDI's, and the increase in GDP)	Blessing	Institutionalisation of Good Governance & Good Corporate Governance	Weak Governance	Development agents
Managing a number of inevitably negative consequences associated with a megaproject-based economic model (resource curse) (Obeng-Odoom, 2015)	Neoclassical economics; positivistic approach; focus on negative macro-economic effects (macroeconomic & currency instability, unsustainability of social programmes))	Blessing, but carrying along the risk of the resource curse	Institutionalisation of Good Governance & Good Corporate Governance (corruption-free contracts, transparency, and inclusiveness)	Weak Governance (mismanagement of the resource curse)	Development agents
Balancing the sectoral structure of the economy through diversification (creating linkages between different economic activities and strengthening fiscal linkages) (Aurre & Jaén, 2019)	Structuralist approach to economics, focus on how to create backward linkages and boost competitiveness through participation in RVC and GVC (Aurre & Jaén, 2019)	Great opportunity for developing countries to participate in RVC and GVC (Aurre & Jaén, 2019)	Ensuring that backward linkages can be created between TNCs' activities and local economy, participation of local SMEs in megaprojects, Good Governance & Good Corporate Governance	Underdevelopment of local economy, state lack of capacity, weak governance	Socially & Environmentally committed actors

Table 0: Development, FDI's, TNCs, Good Governance & Good Corporate Governance

Common to all discourses on national development is the emphasis placed on the institutionalisation of *good governance* norms and principles as what some critics call a *one-size-fits-all* approach to the negative impacts of extractive industries, including *land-grabbing*. Similarly, all three discourses see *weak governance* as the main source of the said negative impacts; finally, within the three discourses, through their compliance with *good corporate governance* standards, TNCs take on a high development potential, becoming crucial complements to national and international development efforts. Extractive FDI and TNCs, with the endorsement of *good (corporate) governance*, become then key propellants of economic and societal development. However, the focus on the institutionalisation of international principles characterises development discourses, as well as the positivist approach shared by the former two, seems to overlook the relevance of the governance context of their implementation. In the light of the foregoing, we wish now to propose an understanding of, more specifically, how international principles of *good governance* have been institutionalised in 1997 Land Laws as well as how TNCs can be understood and CSR presented.

Good Land Governance: 1997 Land Laws

The drafting of 1997 Land Laws, considered amongst the most progressive in the African context as they have successfully combined community empowerment with the need to accommodate foreign investors' needs, was the outcome of an ambitious project that had to be carefully navigated by the ruling party and came to embody FRELIMO's new governance agenda; indeed, with the end in 1992 of the RENAMO war, which displaced approximately 40% of the population (ca. 6 million people) within and beyond national borders, increasing pressure was made at both national and international level to effectively address the question of land and land-use rights. At national level, the party's legitimacy had been severely threatened by, firstly, the continuity displayed by FRELIMO's policies with Portuguese colonial order, but also by the government's unwillingness and incapacity to address what had come to be known as the *pipeline problem*: numerous conflicts emerging from the purchase of many ha of land, presented by the government as *terra nullis* whilst being claimed by returnees (mainly smallholders) displaced during the civil war, to private (often foreign) investors for a 'more productive' use of land. The already high discontent brewing amongst rural populations was further exacerbated by FRELIMO's attempts to outlaw customary structures, which had been mainly used by local smallholders to put forward their claims to land and resolve pipeline conflicts. In this light, and for FRELIMO to stay in power, a new governance strategy was needed.

At the international level, pressure was made by IOs to pursue further structural adjustment programmes, after the first one being put in place as early as 1987, in order to receive development aid and create a better investment climate in the country. As already hinted, as IOs framed the issue of displacement and dispossession around *good governance* principles and practice, the latter played a key role in shaping the drafting of 1997 Land Laws. Particularly influential were: the United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement; the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security; and the Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods, and Resources (PRAI). The former stresses the impact of development-induced eviction on the rights to adequate housing and related rights; its overall intent is to “minimise displacement and call for sustainable alternatives” by “assisting States and the International community in development policies and legislations to address forced eviction” (HIC , 2011, p. 18-16). The Voluntary Guidelines were articulated by FAO and partners to inspire responsible governance through “principles and internationally accepted standards of responsible practices for the use and control of land...for improving the policy, legal and organisational frameworks that regulate tenure rights” (FAO, 2012). Finally, the PRAI was the result of a collaborative effort by the World Bank, UNCTAD, and IFAD aimed at standardising good agricultural practice; as it was targeted at states and corporations, it contains a business perspective in addition to the focus on policy characteristic of the previous two texts. The following table, as drawn by Twomey (2014), shows how the core themes of *good land governance* have been institutionalised in Mozambique’s 1997 Land Laws, while Annex 2 provides a brief summary of the laws:

Practice	Article of Recognition
Security of land tenure and use rights, including recognition of customary land laws	Article 10, 12, 13, 14, 15, 17, 24/1997; Article 9, 13, 17, 21/1998; Article 4, 16/TA ⁵
Displacement or expropriation used as a last resort and in the name of “public interest”	Article 18/1997; Article 19/1998 and Article 82 of the revised 2004 Constitution
Requirement to compensate in the event that land rights are violated for “public interest”	Article 82 of the 2004 Constitution; Article 18/1997; Article 17, 19/1998
Requirement to conduct impact assessments ⁶	Article 1, 26/1998; Article 6, 24/1998
Requirement to disseminate relevant information to affected communities	Article 5, 6, 8, 12/TA
Requirement to host consultations, conducted in a participatory manner, prior to transferring land use rights	Article 24/1997; Article 15, 24, 25, 27/1998; Article 3, 5, 6, 7, 10, 11/TA
Transparent, incorrupt processes	Not explicitly mentioned
Presence of accountability mechanisms, such as a decentralised decision-making processes	(This is limited as accountability mechanisms are not explicitly mentioned) Article 22, 23, 33/1997; Article 3, 20, 27, 35, 38/1998; Article 6, 12/TA
Presence of accessible legal structures for dispute resolution and redress	Article 32, 38/1997
Women’s access to land	Article 10, 16/1997; Article 12/1998

Table 1: The institutionalisation of good governance practices in Mozambique’s Land Law

In general terms, to follow *good governance* principles “in the context of land deals means ensuring the following: transparency, participatory consultative processes, the availability of relevant information, accountability/monitoring mechanisms, reduction of corruption, and (the most heavily stressed) recognition of customary law and secure land tenure based on land use over formal or written ownership” (Twomey, 2014, p. 15). All these points have been, as shown in the table, institutionalised in Mozambique’s Land Laws. Nonetheless, as Twomey argues, there are two main mistaken assumption in the discourse on *good land governance*: the first one is the implication that land-grabs are caused by weak governance (see Table 0) or, as put by World Bank, : “[w]here rights are not well defined, governance is weak, or those affected lack voice, there is evidence that such investment can carry considerable risks of different types. Risks include displacement of local populations” (World Bank, 2010, p. 1). The second assumption lies in the belief that “by institutionalising the above good governance norms, the state will have both the capacity and interest to alter behaviour in a way that reduces displacement and dispossession” (Twomey, 2014, p. 16). In fact, and as we shall see in greater detail later, the successful institutionalisation of good land governance does not necessarily entail a likewise faithful implementation, nor does the focus on weak governance account for the ways in which intended governance strategies might facilitate dispossession. Furthermore, the focus on ‘risk management and alleviation’ (seen in the *good corporate governance* agenda alike) becomes problematic as it implies an understanding of *land-grabbing* as not always avoidable: “displacement should *only occur* in “exceptional circumstances,” and “for public purposes” or “general welfare” (HIC 2011:24; FAO

2012:6)” (ibid.). *Public interest* becomes, then, an ideological justification making of forced eviction an inevitable side-effect to be mitigated, while the inherent tension between upholding human rights and *public interest* is to be solved through *good governance* norms. Bearing this brief account of 1997 Land Laws in mind, the following presents TNCs, in their evolving role, and CSR as one instrument of *good corporate governance*.

Good Corporate Governance: TNCs & CSR

In his book *Global Shift*, Peter Dicken (2015) defines TNCs as corporations able to organise, manage, and maintain operations in multiple countries, regardless of whether they own the operation or not, as well as to shift production and manufacturing operations to locations across the globe without extra expenses or apparent revenue loss. Thus, they traverse national borders to take advantage of the opportunities in different countries and, in doing so, are said to often try to locate their factories in those countries that provide the cheapest labour. Consequently, but also due to the belief that the possibility of offshoring parts of the production process offers developing countries great opportunities to participate in RVC and GVC and boost their competitiveness, developing countries do often try to attract FDIs by providing incentives like tax free zones or cheap labour (ibid, p. 149). This understanding goes hand in hand with the view on TNCs as being inherently *private institutions*, with responsibilities solely to their shareholders. As Milton Friedman (1970) put it, businessmen or corporations who argue that business should not be concerned solely with increasing its profits and its shareholder value but also with solving issues such as eliminating discrimination, avoiding pollution, etc, are in fact

“preaching pure and unadulterated Socialism” [...] and “unwitting puppets of the intellectual forces that have been undermining the basis of a free trade society these past decades” (ibid, p.1).

However, and contrarily to Freeman’s view, in the early 1980s, multiple TNCs began to voluntarily herald the importance of *Corporate Social Responsibility* (CSR) policies, in order to combat those problems arisen during the first wave of economic globalisation (Hilson, 2012). Interestingly, the relevance of CSR seems to have increased alongside the promotion of the view on TNCs as *development agents* – which, in its turn, is closely linked to the view of FDIs as “vital complements to national and international development efforts” (World Bank , 2005, p. 13) as presented in development discourses (see Table 0). This view emphasises the development potential of TNCs

pursuing CSR in generating not only financial but also human and social capital, in engaging with development agendas, and in balancing the negative effects of capitalism in the global South.

Here, however, it is crucial to point out that there exist many different understandings of the concept of CSR and, as such, it has no straightforward definition; as Votaw famously put it: “corporate social responsibility means something, but not always the same thing to everybody” (1972, p. 25); this argument was further expounded upon by Jimali & Karam (2018) who argues that a gap exists amongst CSR practices especially between global North and South and, as such, the content, objectives, and targets of CSR must be theoretically understood in the context in which the research is embedded. Indeed, whilst many CSR frameworks have been established in developed countries, their application in developing countries remains relatively unexplored - despite the calls for good corporate governance especially in those countries.

Withal, Thomas Clarke (2016), in his reviews of Crane. et al. (2014), points out that, whereas the ways in which CSR is understood, practiced, and institutionalized are constantly changing and showing great differences in its interpretations, some shared features can nonetheless be pinpointed:

- Adopting CSR practices is largely voluntarily though legislation is developing widely
- Adopting CSR practices involves managing externalities which are the negative impacts of business
- Adopting CSR practices entails recognizing the interest of a range of stakeholders other than shareholders (customers, employees, suppliers and neighboring communities)
- CSR practices most often have a set of values associated with their practices, depending on the market’s behaviour
- CSR is considered to move beyond corporate philanthropy examining the impact of the core business functions impacts society (ibid, p. 162).

As regards the positive outcomes of CSR, some recent studies have shown how TNCs operating in countries where the CSR agenda is said to have been thoroughly implemented as well as having better CSR regulation, experienced increased investment efficiency and financial performance (Benkemli & Bitar, 2016); (Siueia, Wang, & Deladem, 2018). Contrarily, and in opposition to the view of TNCs as development agents, scholars such as Hilson (2012) and Ackah-Baidoo (2011) have criticised CSR as being a PR-strategy, a purposeful rebranding in order to continue *business-as-usual* in developing nations, especially in relation to extractive industries (ibid). Hilton (2012), for instance, argues that CSR does not take into consideration the primary political and economic

tools used by TNCs to undermine the development prospects in poor countries. Similarly, other studies have highlighted the detrimental impact of CSR in impeding environmental protection as well as compounding governance issues: Campbell (2012) highlights how “CSR investments in the mineral-rich Sub-Saharan Africa have largely contributed to blurring accountability between actors while creating further problems of legitimacy” while “Wiig and Kolstad (2010) note that rather than addressing governance issues, CSR facilitates patronage problems in resource-rich countries” (Jimali & Karam, 2018). In the light of the foregoing, and as ExxonMobil is one of the major operators of the projects under analysis, it is deemed relevant to provide a brief account of the company’s stance in relation to CSR principles and practices.

ExxonMobil’s CSR Principles & Practice

Being currently the fourth largest oil company in the world and having owned operations in many countries characterised by poor governance and human right records, ExxonMobil appears particularly exposed to public scrutiny and criticism; yet, the company has managed to avoid major scrutiny and indeed the allegation against it have been more indirect in nature and less extensive compared to those against other major companies. This lack of major criticism could be understood in terms of the relatively low profile kept by the company in relation to ‘macro’ CSR issues – i.e. the “indirect consequences for the society at large, such as the link between oil revenues and poverty, human rights controversies and democratic development in developing countries” (Skjærseth, 2003, p. 1) - whilst showing greater commitment to ‘micro’ CSR issues - i.e. issues related to local communities and ‘host societies’. Indeed, whilst the company’s contribution to the former CSR concerns is said to generally lie in its role in “producing oil and natural gas and providing energy and chemical products — such as fuels, lubricants and plastics — at competitive prices in a safe and environmentally responsible manner” (ExxonMobil, 2002, p. 16), in relation to communities it states: “[w]e pledge to be a good corporate citizen in all the places we operate worldwide. We will maintain the highest ethical standards, obey all applicable laws and regulations, and respect local and national cultures [...]” (ExxonMobil, s.d.). And in fact, “[c]ommunity awareness is part of ExxonMobil’s Operation Integrity Management System (OIMS) which forms the company’s framework for Safety, Health & Environment (SHE)” (Skjærseth, 2003, p. 13); of the eleven elements constituting the OIMS, element *eight* and *ten* are particularly important: the former establishes that contractors are required to provide the same standards as ExxonMobil and the latter is directed to communities’ awareness and emergencies. When operating in countries that “do not conform with Western norms ... and have traditions and views that are no longer

acceptable in the developed world”, interestingly, the company states to “perceives itself as an invited guest of the host government and complies with local laws and regulations” (Skjærseth, 2003, p. 12). ExxonMobil stance on political influence in developing countries has been, however, controversial: on the one hand, the company “perceives itself as an ‘invited guest’ in countries with poor governance records and has apparently no intentions whatsoever of influencing the policy of any repressive ‘host’ governments”; but, on the other hand, it has been willing to leave “such interference to the World Bank” – as it has been the case in the face of the political risks involved in the construction of the Chad–Cameroon pipeline project (ibid., p. 17). Nonetheless, the company included a clearer commitment to human rights in its 2002 Corporate Citizen Report: in countries plagued by insurgencies and armed conflicts ExxonMobil “made it clear that we condemn all human rights violations. We have dealt with these issues for many years and believe our efforts have improved the quality of life in these communities”⁷ (p. 18). A similar stance was taken in regard to corruption and fraudulent practices, said to strengthen the link between oil revenues and poverty:

“Employees must be encouraged to tell higher manager all that they are doing, to record all transactions accurately [...], and to be honest and forthcoming with the Corporation’s internal and external auditors. The Corporation expects employees to report suspected violations of law or ExxonMobil policies to company management” (ExxonMobil, 2001, p. 5)

Behind this anti-corruption stance, surely also the company’s subjection to US 1977 Foreign Corruption Practices Act (FCPA)⁸. In broader terms, ExxonMobil as many other companies endorses the view that corporations can benefit oil-dependent developing countries, becoming drivers of national development (see, again, Table 0):

“As guests of national governments, we can do things that both help improve historical practices and promote more citizen involvement. We seek to improve the lives of individuals by helping them help themselves and by engaging with communities and host governments. Our efforts can play a catalytic role in getting people started” (ExxonMobil, 2002, p. 19)

In the light of what discussed so far, the following proposes: 1) a theoretical framework to understand the limitation posed to the efficacy of international norms; 2) the overarching critical theoretical framework of the paper.

⁷ Nonetheless, when “the US and UK governments launched the Voluntary Principles on Security and Human Rights” most oil companies participated in the process but not ExxonMobil (Skjærseth, 2003, p. 19).

⁸ Here, however, it is worth mentioning that the exemption made for payments considered lawful under the written laws of the foreign country of operation could serve as a loophole for companies operating in developing countries.

Theoretical Framework

The Limits of International Legal Norms

Most debates on the limitations of international law, understood as the branch of international governance that seeks to influence state (and non-state) behaviours through the diffusion of norms or codes of conduct, are framed around the restrictions posed by its very *statist character*. Accordingly, a main inherent limitation is found in the necessary reliance on national governments as the medium through which governance norms are operationalised. However, whilst the recognition of this inherent limitation is crucial, the above understanding alone fails to account for the many cross-cultural variation of norms – i.e. the ways in which the adoption and impact of international norms varies across countries. Similarly, in acknowledging the interdependent and mutually limiting character of the relationship between law and governance, the role of local governance structures is often disregarded due to the prevailing positivist approach – characteristic, as we have seen, of development discourses – that tends to “deemphasise the role of context” and “to remove law from the political realm in which it operates”, using “this depoliticisation as evidence for its universal applicability” (Twomey, 2014, p. 7). In this light, and as we seek to examine “the limitations of law in relation to a norm’s ability to alter state behaviour in the way it intends”, we depart from the above understanding to focus on those limits rooted in the life path of legal norms itself, and more precisely in the mechanisms and variables comprised by each stage (*ibid.*); in doing so, we challenge the positivistic approach, emphasising the ways in which local governance structures shape the interpretation and use of norms.

In conceptualising the life path of legal norms, it is useful to divide it into two parallel but independent phases: *institutionalisation* and *implementation*. The former stage is “characterised by the formalisation of an emerging norm [...] into national law” while the latter “is identified as a space for “normative political contestation at the domestic level” in which norms may be challenged, “with the result that the adopted norm is understood differently across states and other international actors” (Betts and Orchard 2014:7-8)” (*ibid.*, p 7-8). Whereas identifying institutionalisation as the critical stage implies assuming that norms are unchanged thereafter and that they move vertically, focusing on the implementation phase seems to enable us to better account for cross-national variations. Thus, the latter process is identified as the critical stage in shaping a norm’s success or failure. Within this stage, drawing on Cortell and Davis (1996), a first critical variable conditioning how norms are received and operate domestically is identified in the *cultural match*, or *normative context*: “the way in which the international norm interacts with domestic

practices and norms” (ibid., p. 10). Even more critical factors are “the organisation of decision-making authority and... the pattern of state-societal relations” (p. 454), i.e. the very nature of state authority – centralised or decentralised – and the relative authority attributed to the state vs society; together they constitute what the authors call *domestic structural context*, of which four different types are identified:

	Pattern of State-Societal Relations	
Structure of decision-making authority	Distant	Close
Centralized	Type I	Type II
Decentralized	Type III	Type IV

Figure 2: A typology of domestic structural contexts (Cortell and Davis 1996:455)

Interestingly, in their understanding, the state “is not conceived here as a rational, unitary actor”: rather, it “is seen to encompass a host of actors with distinct sets of institutional biases and predispositions” upon which the implementation of a norm is contingent (ibid.). A further variable is *domestic salience*: “the legitimacy of a norm as reflected through “domestic commitment” to the norm” and as evidenced by how the state treats it within political discourses and policy, thereby attributing to it a specific meaning (Twomey, 2014, p. 11). Betts and Orchard (2014) additionally identify three “critical implementation/causal mechanisms” through which norms move downwards, consisting of: 1) *ideational factors*, or the influence of the political cultural context; 2) *material factors*, or state capacity and domestic interests; 3) *institutional factors*, or “those structures that are responsible for policy-making and implementation, as shaped by national history, political structures, and the nation’s constitution” (ibid.).

Conclusively, it appears that the stage of institutionalisation of international norms plays a lesser role than their implementation in shaping how such norms are interpreted and used in local contexts, thus in accounting for cross-national variations; more specifically, the *structure of decision-making authority*, the *type of state-societal relations*, and *domestic salience* represent potential major obstacles to a successful implementation. Importantly, this theoretical framework enables us to highlight how the institutionalisation of norms does not necessarily entail their subsequent implementation; similarly, this understanding allows for “greater agency to the domestic structures and the role of actors within norm creation and contestation” (ibid., p. 12). The following diagram, as sketched by Twomey (2014), is a useful visualisation of the discussed mechanisms:

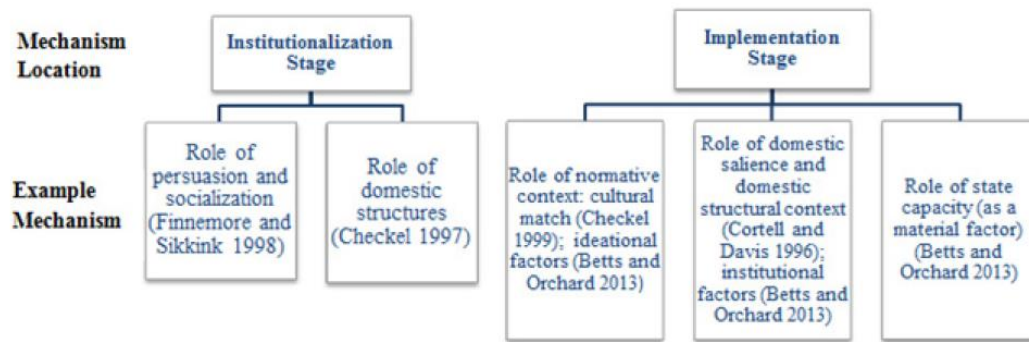


Figure 3: Potential limits of each stage

In the case of Mozambique, it appears that: whereas *cultural match* and *state capacity* play a lesser role, the *decentralised governance structure*, legacy of the colonial order and type III of domestic structural context, has provided local actors with a greater power to condition the implementation of norms; hence, the gap between norms institutionalisation and implementation does not appear to result from a *lack of state capacity* or *weak governance*: rather, it is rooted in a complex and intended governance strategy motivated by a set of historical, economic, and political factors at both the international and domestic level. FRELIMO's *polycentric governance strategy*, as opposed to a hierarchical one, is mainly concerned with strengthening party and national unity through decentralisation and diffusion; this has been the case in relation to land governance alike, as through 1997 Land Laws a number of changes within institutions were made to devolve greater power to district level administrators and provincial governors to oversee land allocation processes (Twomey, 2014).

As the investigation on international norms is, in this paper, closely linked to investigations on the discourses encompassing these norms, Fairclough's conceptualisation of CDA constitutes the overarching theoretical framework of this paper; thus, we wish to first propose a brief account of his understanding of *power and ideology at work* as well as of *discourse as social practice*.

Fairclough's Critical Discourse Analysis

In this section, the conceptual and analytical framework of Norman Fairclough's Critical Discourse Analysis (CDA) will be examined; firstly, the main tenets of CDA are presented:

- Discourse is fundamentally a social practice.
- Discourse reproduces and transforms society and culture.

- Discourse is historically contextual.
- Discourse furthers ideologies.
- The relationship between text and societal processes are mediated.
- Power relations are discursively constituted.
- CDA is both interpretive and explanatory in nature.
- CDA is designed to situate and analyse social problems.

(Fairclough & Wodak, 1997)

Discourse as Social Practice

According to Fairclough, discourse is a social practice: it is first and foremost a socially conditioned endeavour (Fairclough, 1989); it is embedded within society and is thus regarded not as a reflection of social activity, but rather as a *social activity in and of itself*, capable of intersubjectively transforming societal structures (Fairclough, 1992). The authors' approach towards operationalising this concept comes in the form of the focus on land regulations and CSR, for these are two discursive practices orbiting non-discursive social activities: land-use, the behaviour of TNCs in Mozambique's LNG sector, and behaviour of government entities in Mozambique. Here, it is deemed crucial to mention Fairclough's conception of *orders of discourse*: "[...] complex interdependent configuration of discursive formations [...] the structural entity which underlies discursive events" (Wodak, 2009:68). Indeed, while TNCs have long been embedded within general market discourses, the emerging view of TNCs as development agents has situated them also within development discourses. Likewise, here, it is necessary to understand the correspondence between social structure and discourse as fundamentally dialectical, so as to not exaggerate either the societal determination of actors or indeed the actor's own capacity to transform society (ibid.).

Power Dynamics & Ideological Underpinnings

As with society at large, political discourse is assumed to produce, maintain, and transform power relations and identities between groups or collectives through mediation (e.g. socioeconomic classes). Ideological discourse has the following purposes: 1) naturalise power relations; 2) sustain them; and 3) transform them (Fairclough, 1992). For the purposes of this project, the focus will be laid on the aforementioned development discourses, promulgating *good governance* and *good corporate governance norms*, that have ostensibly been implemented on a policy-level in Mozambique.

These norms purport to transform and naturalise political relations between the lay Mozambican, the Mozambican government, and TNCs. The specific nature of these relations, as well as the effects on the political practice in Mozambique, will be examined further in the analysis, where the authors draw upon aforementioned relevant texts (mentioned below as well) so as to uncover the ideological underpinnings in the orders of discourse. Concepts such as *intertextuality* and *interdiscursivity*, which describe the assumption that all discursive events exist in relation to past discursive events and the processes through which discourses from various points of origin are drawn upon simultaneously in the construction of text, are useful tools in this regard (ibid.)

Having briefly addressed two highly relevant theoretical components of Fairclough's critical research programme, the following chapter seeks to present 1) the particularities of the chosen metatheoretical standpoint proposing an evaluation of critical theory in relation to *normativity, ontology, epistemology, and the relationship between structures and actors*; 2) Fairclough's CDA three-dimensional model in terms of its methodological approach; 3) the empirical data to be analysed, alongside the selection process of the said data; 4) few considerations on the limitations of this study.

Methodology

Philosophy of Science

Normative Ideals

A core tenant of Critical theory is that the social sciences should be based on a normative and emancipatory ideal that acts as a foundation for the production of knowledge, as well as illustrates flaws in society that hamper human development (Juul, 2012). This is exemplified by Jürgen Habermas' focus on self-emancipation from oppression by groups of actors capable of societal transformation (Held, 1991). Indeed, critical social theory separates itself from other forms of scientific inquiry, as it does not define normativity as a concept existing *outside* the field of scientific inquiry; rather, a foundational assumption of critical theory is that normative standpoints lend themselves to rational disputation. As Morrow & Brown write in the book *Critical Theory and Methodology* (1994):

“From this perspective, questions about justice, freedom, and equality can be subjected to critical scrutiny and strong, weak, and fallacious arguments for such values and the means to realize them can be potentially differentiated. For this reason critical theory can claim to develop a scientific research program that combines empirical and normative theorizing” (p. 52).

Critical theory thus prescribes a scientific approach that seeks to uncover unjust practices and mechanisms within systems of knowledge, as these systems are inclined to construct knowledge in ways that conceal these practices and mechanisms (Freeman & Vasconcelos, 2010). Hence, critical theory's normative foundation ultimately prevents it from being merely descriptive in nature, as is the case for e.g. positivism (Morrow & Brown, 1994) (Freeman & Vasconcelos, 2010). Finally, it is relevant for this paper to highlight that critical theory is best operationalised when exploring local conditions, as it is exactly there that the paths of theory and praxis cross (Freeman & Vasconcelos, 2010). In this light, such critical approach is especially important when investigating and seeking to unveil the potential unjust practices and power structures, in which the phenomenon of *land-grabbing* is rooted, underlying the workings of extractive industries in developing countries. Furthermore, the paper undertakes a critique of those established systems of knowledge concealing unjust practices, as to shed light on the exploitative structures in play implies a critique of the neoliberal ideological underpinnings within development discourses. Finally, the focus on local conditions characterising critical theory also largely informs this paper,

for it seeks to shed light on how international good governance norms and principles are actualised in Mozambique's local reality. Normative language use and assessments will therefore be intimately embedded and evaluated within the paper's analysis, general findings, and conclusion.

Ontology and Epistemology

Even if it ontologically aligns with positivists in its recognition of the importance of external causal factors and mechanisms, critical theory acknowledges the importance of interpreting socially constructed, historical meanings as typical of the subjectivist approach (Morrow & Brown, 1994) (Freeman & Vasconcelos, 2010). Indeed, critical theory exhibits a *historical ontology* in holding that there exists a perceivable reality separate from the subject, but that such reality is constructed by intersubjective forces that have since substantiated into structures that appear *natural* to the individual (Cohen & Crabtree, 2006). The paper takes on this ontological stance in holding that, whilst a certain understanding of *land-grabbing*, extractive industries, and TNCs (*land-grabbing* in public interest, extractive FDIs as blessing, TNCs as development agents) has been concealed and naturalised through a set of discourses, the actual exploitative nature of this phenomena and actors exists and can still be grasped.

When the question of epistemology arises in relation to the subject of critical theory, a key element is succinctly summarised by Max Horkheimer: “[t]here is no complete picture of reality, neither according to essence or appearance. Even the very idea of a... subject, who can grasp all, is delusion” (Held, 1991, p. 179). Habermas complements this viewpoint by pointing out the social element in the construction of knowledge, rejecting the positivist distinction between the knowledge produced and the historical and social context in which it is created (Morrow & Brown, 1994). He adds, moreover, three additional knowledge-constitutive interests in scientific inquiry: 1) the *empirical analytical interest*; 2) the *hermeneutic-historical interest*; 3) the *critical-emancipatory interest* (ibid.). Morrow & Brown write:

“We seek to know in order to control social and natural realities (the empirical-analytic interest), to qualitatively interpret and understand such realities (the hermeneutic-historical interest), and to transform our individual and collective consciousness of reality in order to maximize the human potential for freedom and equality (the critical-emancipatory interest)” (p. 146).

The subject is therefore viewed as incapable of separating itself from its knowledge context, as the production of knowledge is always instigated by the interaction between an inquirer and an object of inquiry; such factors, in turn, inevitably influence knowledge-production (Cohen & Crabtree,

2006). This perspective is incorporated into the project structure: indeed, one of the aims of the paper is to supply a critical examination of 'TNCs' and local government elites' role in facilitating *land-grabbing* in Mozambique (empirical-analytical interest). The paper seeks to uncover the underlying ideological implications of development discourses, and particularly how such implications are institutionalised into the three legal texts under analysis, as situated in their particular historical context (the hermeneutic-historical interest). Finally, the motivation behind the creation of knowledge in this paper is ultimately emancipatory, on behalf of the general Mozambican population (critical emancipatory interest). The authors do, moreover, acknowledge that their very positioning as researcher influences the knowledge that is hereby produced.

Fairclough's Three-Dimensional Model

If discourse is considered a social process in CDA, the text is the result of said process (Fairclough, 1989). In fact, one central aspect of Fairclough's three-dimensional model of CDA is the analysis of texts through the lenses of the social practice, processes, and contexts that influence and structure them (ibid.):

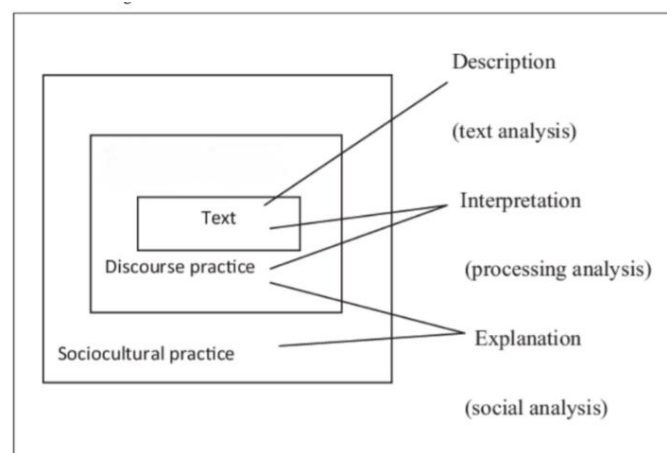


figure 2

By *social conditions of production and interpretation*, Fairclough alludes to three levels of social organization: 1) the environment in which a discourse takes place (Mozambique) 2) the social institution (e.g. 'TNC's, the government of Mozambique), characterised by a larger roster of discourse; and 3) society at large (within the Mozambican population) (Fairclough, 1989). To these dimensions come the different levels of analysis: 1) *description (textual analysis)*, wherein the linguistic content of the text is analysed; 2) *interpretation (processing analysis)*, wherein the text is regarded as a product of social processes; and 3) *explanation (social analysis)*, wherein the correspondence between interaction and social conditions are examined (Fairclough, 1989; Beck, 1995). The analysis should

then, ultimately, touch upon both text, discursive practice, and social practice (Jørgensen & Phillips, 1999).

As it will be further elaborated in the section pertaining to our analysis strategy, the *textual analysis*' central focus is on language-use and the implications of which in the specific Mozambican context (Fairclough, 1992). In the analysis of the *discursive practice*, focus is laid on which discourses are informing and combined in the construction of text (Jørgensen & Phillips, 1999). Finally, in the analysis of the *social practice*, the analyst examines the non-discursive structures that condition discourse (e.g. governance structures in Mozambique) to see if these conditions restructure orders of discourse (Jørgensen & Phillips, 1999). In this paper, the descriptive textual analysis will apply for the Supplemental Land Access Management Plan, the Final Resettlement Plan, and the Environmental and Social Management Plan for the Rovuma Basin LNG Project. For the processing analysis, the findings of this textual analysis will be examined along with the project's conceptualisation of international *good governance* and *good corporate governance* norms, as well as the broader development discourses promoting them. Fairclough's three-dimensional model will then be supplemented by Cortell & Davis' (1996) aforementioned conceptualisation of the limits of legal norms, which will be applied to the explanatory stages of the analysis of the social practice – as it is mainly concerned with exploring Mozambique's governance context.

Qualitative Data Sources

As our research is of *qualitative* nature, it implies a process of enquiry that seeks in-depth understanding and interpretation of social phenomena studied in their natural setting, rather than logical and statistical procedures. In this light, qualitative research is more inclined towards asking *how* than *what* questions, as it is clearly the case for our problem formulation. Moreover, it implies an understanding of social phenomena as inherently complex and nuanced. As we are drawing on official documents produced at institutional level and as we are undertaking a qualitative type research, the data will be necessarily analysed in the institutional context in which they were produced; this implies an understanding of documents as not just a record of activities and experiences or a simple representation of fact: rather, they are communicative devices that constructs a particular account of the aforementioned activities or experiences, created by individuals or institutions for a specific purpose or use (Flick, 2018). As Fairclough's three-dimensional model is developed in order to make the analysis of communicative events more fluent, official documents seemed a natural discourse to investigate. CDA also allows for a comparative dimension between different discourses, as it looks at both the discursive and social

practices of the context in which they are produced and at how these discourses contribute to reshaping, or maintaining, current social structures.

Data Collection

We will here outline the process involved with our data selection in order to assert the ways in which the chosen data are relevant in the context of our research, as well as align with methodological choices and theoretical framework. We have primarily been searching for official documents produced for, and in the context of, the Rovuma LNG Project as it represents the more encompassing project – both in terms of scope, company involved, and because the construction of on-shore facilities for all three projects is responsibility of the main operator of the Rovuma LNG Project, i.e. ExxonMobil. Secondly, we have searched for documents with a publication timeline between 2016-2019. Accordingly, we have chosen to take as the paper's empirical data three interconnected legal documents: The Supplemental Land Access Management Plan (2019), the Final resettlement Plan (2016), as well as the Environmental and Social Management Plan (2019) for the Rovuma LNG Project. These documents are deemed emblematic of the broader discourses on *good governance* and *good business conduct*, representing an interesting means of exploring how spaces for co-optation and exploitation of international norms are discursively created and locally translated into *praxis*. The former two documents allows us to investigate how the discourse on DUAT transfer has been constructed, as well as at how the resettlement of local communities is being 'managed' discursively and practically according to what established in land regulation frameworks; the latter text enables us to give a closer and critical look at the ways CSR is articulated by the interested TNCs and to discuss the extent to which their social and environmental commitments are likely to be implemented.

Analysis Strategy

The critical discourse analysis of the three mentioned documents is, in this paper, operationalised in the following linear pattern. Firstly, a textual (linguistic) analysis of the documents will be conducted: here, focus will be placed on the particular use of language – e.g. the very use of English language as means of communication, the choice and recurrence of certain words, the clarity of formulations, and the use of moods and verb forms –, as well as on features of text coherence and cohesion; as emphasised in Fairclough's research programme, attention will be paid to both

the *presence* and/or *absence* of the given textual features which, after having been individuated, will be critically problematised. Secondly, as the processing analysis is concerned with the relationship between text and social interactions, this step will consist of a critical investigation on the context of production and circulation of the documents; the processing analysis will, in other words, investigate the relationship between these documents and the broader discourses on development, *good governance*, and *good corporate governance* in which they have been produced. Finally, a social analysis, aimed at explaining the relationship between social interactions and sociocultural contexts, will be carried out exploring how the specificities of Mozambique's governance context relate to the given texts; therein, this last step will more closely relate the documents to those critical variables shaping a norm's implementation presented in the theoretical framework. Finally, the findings of this three-steps analysis will be discussed in terms of how spaces for exploitation and co-optation of international norms have been discursively constructed within the given documents, preventing a faithful implementation of the strategies they inform. The following figure shows how Fairclough's three-dimensional model has been applied in this paper:

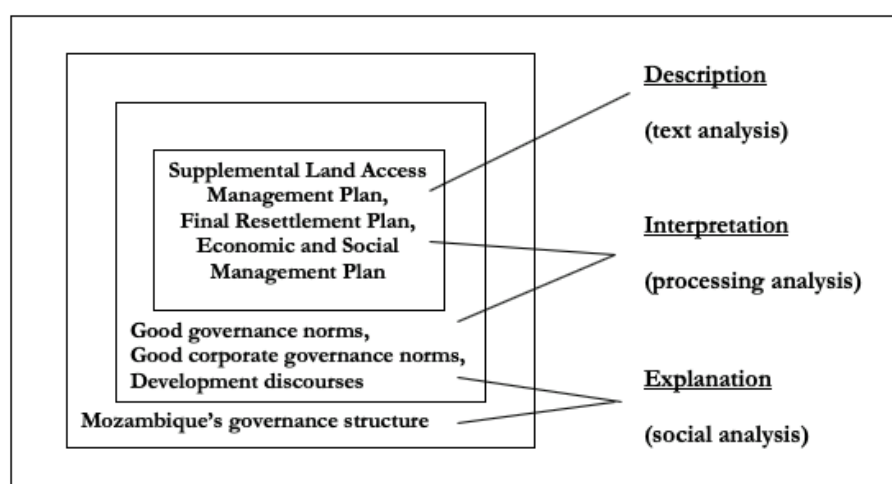


Figure 4: Fairclough's Three-Dimensional Model applied

Limitations

Fairclough's conceptualization of CDA does not come without its share of criticism. A common example of such a critique, is that Fairclough's distinction between discursive and social practice has not been sufficiently demarcated, presenting problems for researchers attempting to utilise his model (Jørgensen & Phillips, 2002). In the project at hand, the authors have tried to meet this criticism by simply categorising these distinctions as ideal types. Another pressing issue with CDA is the difficulty in analysing audience reception of the text (ibid.). In this paper, the audience reception to the texts will not be further investigated because of the vague nature of Fairclough's

description of it but also because of the lack of public channels facilitating debate around them. Besides the limitations inherent to our ontological and methodological standpoint, it is crucial to mention additional structural limitations stemming from the impossibility of conducting fieldwork, the recency of the extraction project under analysis (of which none has at present being initiated), and the lack of clarity surrounding several aspects of the latter (as which companies are actually involved at present and the share of responsibilities amongst them, and information regarding the involvement of Mozambique's government, amidst others).

Analysis

The analysis of the chosen documents is structured as follows: first, a textual and processing analysis of the documents pertaining to the management of land-use rights and to the resettlement of local communities – i.e. the Supplemental Land Access Management Plan and Final Resettlement Plan (referred to as, respectively, SLAMP and RP)- will be carried out; secondly, a textual and processing analysis of the document pertaining to the company’s CSR agenda – i.e. the Environmental and Social Management Plan (ESMP) – will be implemented; finally, *one* social analysis of the three documents will be presented. The findings will be subsequently problematised and examined in the discussion.

Land Governance: Spaces for Exploitation & Co-optation

Textual Analysis

A recurrent linguistic feature of both the Supplemental Land Access Management Plan and Final Resettlement Plan is the pervasive usage of conditionals and modal verbs as *shall*, often in close connection with adjectives such as *avoidable/unavoidable* and *possible/impossible* connotating local communities’ land expropriation and consequent resettlement. A clear instance of such use is provided in the Supplemental Land Access Management Plan:

“Involuntary resettlement *shall* be avoided, but *when avoidance is not possible*, a comparison of alternatives *shall* be undertaken and documented with the aim being to *minimize* physical and economic displacement impacts.” (p. 9)

Indeed, phrases such as *where possible*, *as possible*, *if avoidance is/is not possible* and generally just *if* are mentioned numerous times in both the documents. The above quote from the former text represents a good instance of the recurrence of words such as *minimise*, *limit*, *mitigate*, and *manage* alike:

“Involuntary resettlement should be avoided, and to that end, a project must explore all viable alternative project designs to avoid and/or *minimize* physical and economic displacement [...] Where displacement is unavoidable, it should be carefully planned and implemented with *mitigation* actions adequate to *minimize* the adverse effects of relocating the communities” (p. 17)

As seen in the quotes, alongside the emphasis on *mitigation* and similar terms comes also the frequent usage of words as *alternatives*, to be found through the *engagement* - another recurring term - of local communities. These terms, however, remain vague and of relative meaning, leading us to address a central point of this linguistic analysis: the recurrent usage of vague or undefined terms

and formulations. Adjectives such as *transparent*, *lawful*, *adequate*, *appropriate*, and *fair* frequently appear, yet no definitions or elaborations on their meaning are provided within either text. Such is also the case when it comes to certain articulations within the documents:

“[...] *reasonable proximity*” (RP, p. 143), “Senga community *has agreed in principle* [...]” (RP, p. 144), “Households to be displaced will be given *sufficient notice*” (RP, p. 147), “[...] on the understanding that the host community itself *would benefit in some way*” (RP, p. 203) and “The project proponent *typically undertook all responsibility* for resettlement planning and implementation [...]” (SLAMP, p. 12).

In opposition to the aforementioned vagueness of articulation, certainty is instead expressed in the documents’ emphasis on *improvement*, *enhancement*, *betterment*, and *efficiency* associated with the (re)establishment of community livelihoods and living conditions. In this regard, terms such as *equal or above* as descriptors for the quality of the aforementioned (re)establishment permeate the text. Instances of this appear in the following quotes:

“*To improve the citizens the quality of life and enhance the socio-economic development of the country*” (SLAMP, p. 14), “Lost infrastructure will be replaced in kind with *improved infrastructure* at the replacement” (RP, p. 154), and “Displaced households and their hosts will be eligible to participate in The Projects agricultural livelihood restoration program, which will focus *on improving and intensifying the productivity for smaller agricultural plots*” (RP, p. 164).

The coexistence within the text of recurrent vague formulations alongside the terms expressing *improvement*, *enhancement* is constitutive of the discrepancy between the specificities associated with corporate entitlement and the vagueness associated with the supposed benefits for affected communities. Another important point to mention here, is the preference and usage of the term *grievances* instead of *complaints* (to be expressed by local communities and evaluated through what is named a Grievance Management Process) as well as *involuntary resettlement* rather than *expropriation* or *eviction*. The preference for certain words over others is arguably not neutral nor can be dismissed on the basis of the supposed interchangeability of the terms; indeed, *grievances* are usually filed when complaints that have been advanced cannot be resolved. Hence, the use of this specific word could be seen as implying a certain, limited agency ascribed to local communities. Similarly, the use of *involuntary resettlement*, as internationally defined, entails the unavoidability of land acquisitions and subsequent resettlement of communities; again, the latter do not appear to be given much agency. The same is true for the recurrent appeals to community engagement made in the documents where, paradoxically, the language used to describe such processes is often informative in an authoritative manner, illustrating little to no agency ascribed to local communities (this can be seen also in e.g. the usage of passive sentence structures):

“The team(s) will conduct a *quick confirmation through consultation* with affected stakeholders and by walking the land parcel to determination whether there are any dwellings, graves, sacred, or other sensitive sites within the demarcated area” (SLAMP, p. 25); “The cut-off period will be *deemed closed* and households *will be reminded* that any assets not recorded in the asset survey will not be eligible for compensation” (SLAMP, p. 26)

In broader terms, the language usage in these texts appear very *positive* and *promising*, yet without clear formulation, especially in terms of the supposedly positive impacts deriving from the projects, but also in the choice of euphemistic language in relation to the negative impacts; a positive connotation is often given especially to communities’ participation and inputs:

“The data shows that the majority (84%) of survey respondents emphasize provision of infrastructure and services, followed by the potential for employment creation (78%) as the main benefits of The Projects. Infrastructure and services was predominantly cited in response to benefits to the community (83% of respondents), while employment was most commonly cited as household benefit (71%)” (RP, p. 138)

Finally, in relation to cohesion and consistency, the usage of formal English, as well as business-jargon, are indicators of the texts’ overall coherency and consistency. Inconsistency can nonetheless be found in the selective usage of quantitative data which, whilst being largely used as instruments and indicators of *transparency* and *accountability*, do appear to be used only to endorse certain claims, often related to communities’ agreement, positive responses, and satisfaction. The above quote does, for instance, mention (positive) percentages pertaining to a survey of which, however, there is no record available. Similarly, whilst large appeal is made to voting processes and the outcomes of the latter are often presented in terms of percentages (again, as proof of transparency), no reference is ever made to the actual number of voters; a vague *people present at voting day* is instead used in these cases. Within especially the Final Resettlement Plan, there are several instances of this instrumental use of quantitative data related to voting processes, surveys, and records of meetings: out of the 810 meetings listed in the Final Resettlement Plan, for instance, there is record, in the form of summary, of only 15 (in Annex K). Hence, rather than a proof of transparency, this selective use is constitutive of text incoherence.

Processing Analysis

For this part of the analysis, we identify the orders of discourse frequently drawn upon in order to relate these texts to the broader discourses they orbit, as well as observe the overarching persuasive methods utilised in the texts.

Surely, we can see that these texts exist in accordance with international *good governance* principles which, as previously seen, have been ‘successfully’ institutionalised within Mozambique’s 1997 Land Laws, and with *good corporate governance* principles, as specifically illustrated by the focus on the IFC PS 5:

“All land acquisition outside of the DUAT shall be carried out in *accordance with both national laws and regulations and international standards* [...] This plans land acquisition process has thus been developed *in accordance with not only national legislation but also IFC PS 5*” (SLAMP, p. 9).

The incorporation of *good governance* principles is seen in the recurrent appeal to the core principles of the agenda: the acting under the *rule of law*, being *consensus-oriented, transparent, accountable, inclusive, participatory, effective, and responsive* (see Figure 0); the main tenants of *good land governance* are also present in the documents: the security of land tenure and use rights, the requirement to assess impacts and disseminate relevant information to the affected communities, and the prior, free and informed participation of the latter (see Table 1). Specifically, the highlighted focus on *mitigation* and *alternatives* appears to be perfectly in line with the overall intent of the mention UN guidelines on development-induced forced eviction. The compliance with these norms is often implied in the compliance with national laws as, for instance, the Resettlement Decree which is based on:

1. Principle of Social Cohesion
2. Principle of Social Equality
3. Principle of Direct Benefit
4. Principle of No Alteration to Level of Income
5. Principle of Public Participation
6. Principle of Environmental Responsibility
7. Principle of Social Responsibility

Reference to the *good corporate governance* agenda is here made in the emphasis on specifically the IFC PS 5 which “is designed to be applied as part of the process *identifying impacts and risk* putting in place *systems and management plans* to help *avoid, mitigate, and manage risk and impacts as sustainable manner of conductive business*” (SLAMP, p. 17). The emphasis on particularly *risk assessment, management, alleviation/ mitigation*, which is key concern of the *good corporate governance* agenda, permeate the texts - as noticeable in the quote alike. Moreover, and as stated in the same document,

“While the Project does not qualify as a public development project, the expropriation procedure set out in the Territorial Planning Law is relevant in that rights and/or private property in connection with the Project can be expropriated based on *public interest*. This public interest stems

from the *Project's potential economic and social impact on Mozambique in terms of revenue generation, boost of economic growth, construction and expansion of infrastructures, creation of employment, and the like*" (ibid., p. 15).

Of particular relevance is the focus on the justification of expropriation 'based on *public interest*': the latter indeed, as discussed in the literature review, has been constructed within development discourses as the ideological justification of an otherwise problematic phenomenon, and as such as been incorporated in Mozambique's national law. This understanding is closely linked to the mentioned view on TNCs as development agents, as promoted again by development discourses, as well as to the view on FDI as vital complements to national and international development efforts. Moreover, by emphasizing the adherence to these international principles and standards, the texts establish the legitimacy and transparency of the processes involved in the acquisition of land and resettlement of local communities, which are seen as assuring the participation of and mitigation of negative impacts on the latter:

"A dedicated resettlement engagement team has focused systematically *disseminating accurate and meaningful information* about the resettlement process to affected people; *encouraging dialogue and gathering feedback*; and, *documenting* the outcomes [...] *Consultation* with the affected population, District officials and civil society is required in order for the Project to understand the types and degree of adverse effects and to inform the design of *appropriate mitigation measures*" (RP, p. 25, 261).

Conclusively, it is deemed necessary to mention how the repetition of certain words and formulations as well as the overall positive language use (as seen in the linguistic analysis) could be seen as a persuasive technique, replacing otherwise necessary elaborations and clearer formulations. Likewise, unclear formulations and euphemistic language are often linked to key omissions such as, for instance, the numerous negative experiences associated with extractive industries documented throughout the continent – and as shown by an increasing number of studies (see for instance Human Rights Watch, 2013; Lesutis, 2019; Justiça Ambiental & UNAC, 2011). As such they represent potential loopholes in the discourses, allowing spaces for interpretation and co-optation to be created.

TNCs & CSR: Carrying out Business-As-Usual?

Textual Analysis

The first, immediate textual feature identified when reading the Environmental and Social Management Plan is the prevalence of economic managerial and organisational jargon, as

expressed through the recurrence of terms such as *risk*, *asses/assessment*, *manage/management*, *evaluate/evaluations*, *notify/notification*, *report*, *standard*; this can be clearly seen in the following quote:

“RLNG comprises a unique set of facilities and ownership arrangements. Each presents different E&S *risks* and potential impacts. *Management* of these *risks* and potential impacts will be commensurate with both the specific *risks* associated with the component or activity and the degree of *management* control available to the contracting parties (e.g., EMMI). This, in turn, defines the scope of the ESMP” (p. 15).

As an integral component of managerial and organisational processes is the establishment and share of *roles* and *responsibilities* the latter terms are likewise frequent within the text, alongside words such as *commit/commitments*, *comply/compliance*, *require/requirements*, and *system*:

“The Project's Managers are *responsible* for ensuring that *management systems* satisfying the Framework are in place and used as a normal part of business activities. The scope, priority, and pace of *management system* implementation should be *consistent with* the *risks* associated with the business” (p. 26); “It is Company policy to *comply* with *applicable* laws and *regulations* and apply *responsible standards* where laws and regulations do not exist [...] the Project will also be subject to *relevant international conventions* and *agreements* ratified by the GoM (p. 23)

Interestingly, and as seen in the previous texts in relation to the use of conditionals and modal verbs together with adjectives such as *avoidable/unavoidable*, *possible/impossible*, as similar usage is here made with terms as *applicable/inapplicable*, *appropriate/inappropriate*, *adequate/inadequate*, *responsible/irresponsible*:

“It is Company policy to: Comply with all *applicable* environmental laws and regulations and apply *responsible standards* where laws and regulations do not exist; Encourage concern and respect for the environment, emphasize every employee's responsibility in environmental performance, and foster *appropriate* operating practices and training” (p. 24); “Pre-construction survey reports including details of additional management and mitigations arising, *where applicable*” (p. 48); “Details of livelihood restoration monitoring *where applicable* Details of additional land acquisition and compensation and resettlement *where applicable*” (p. 49)

Appropriate, *adequate*, *responsible* are, however, also relevant examples of an overall *vagueness* characterising language use, as it clearly the case for the following quote:

“It provides the framework to achieve *safe*, *sustainable*, *reliable* and *environmentally friendly* operations. The Operation Management Systems help to manage every element of operations from basic compliance to excellence in performance” (p. 9)

It is relevant here to mention that, contrarily to the previous documents analysed, in the Environmental and Social Management Plan *definitions* are selectively provided, even though they could be said to leave much to interpretation:

“An incident is defined as a specific event, sequence of events, or extended condition that has an unwanted or unintended impact on safety, security, health, the livelihood of people and an impact on property, on the environment, or on legal/regulatory compliance” (p. 39).

In terms of specific words choice, the preference for *harmonisation* instead of *coordination/cooperation* is also telling of the overall preference for positively-connotated words over more neutral ones. Finally, another important text feature to be highlighted is the use of *authoritative language*, that could be seen as the foundation of the company’s regulatory power:

“Where facts are scarce and/or evolving, EMMML will define the most likely severity level based upon known circumstances at the time (i.e., a credible worst-case scenario) when performing notifications. In such cases, adjustments to the initial classification are made as the incident evolves and more information becomes available. EMMML uses a standardized process to determine the classification and the associated severity level of an incident. Once the classification and severity level is determined, the incident is communicated to the appropriate organizational levels to ensure management is aware of the incident, at a pace commensurate with the defined Severity Level” (p. 39).

As regards text coherence and consistency, surely the use of formal English and specifically managerial jargon assure an overall coherence of the text. At the same time, though, such use of language renders the reading of the text rather difficult, if not even confusing at times.

Processing Analysis

The positioning of the Environmental and Social Management Plan within the broader discourses on *development*, *good corporate governance*, and CSR appears rather straightforward, as extensive references are made throughout the text to international frameworks, standards, and principles which the company states to comply with. Indeed, in addressing the major areas of CSR/good business conduct concerns (environmental policy, human rights, health, and labour practices), the document references several national and international regulatory frameworks. Such compliance is explicated in the very outline of the document’s objectives:

“Describe the processes and actions required to meet Environment License conditions imposed by the Government of the Republic of Mozambique (GoM), and Lender E&S requirements,

including International Finance Corporation (IFC) Performance Standards (PS) on Environmental and Social Sustainability (IFC, 2012)” (p. 13).

Whilst EMML ostensibly says to commit to “continuous efforts to improve environmental performance throughout its operations worldwide” (p. 24), its environmental policies are presented in rather unspecific terms; indeed, it states to broadly:

- “Comply with all applicable environmental laws and regulations and apply responsible standards where laws and regulations do not exist
- Encourage concern and respect for the environment, emphasize every employee's responsibility in environmental performance, and foster appropriate operating practices and training”
- Work with government and industry groups to foster timely development of effective environmental laws and regulations based on sound science and considering risks, costs, and benefits, including effects on energy and product supply” (p. 24).

Furthermore, and as noticeable in the last bullet-point, a certain market-oriented perspective seems to characterise the company’s approach to environmental concerns; this appears true also in regard to their environmental expectations alike:

- “Deliver superior environmental performance, which will also lead to competitive advantage
- Drive environmental incidents with real impact to zero, through a process of continuous improvement
- Achieve industry leadership in focus areas that are valuable to the business (focus areas are functionally-defined, locally implemented, and of high environmental significance)” (p. 25).

A similar, unspecific approach is taken in relation to human rights which, as seen in the literature review, were included as an integral part of ExxonMobil CSR agenda. As stated in the text:

“The Company’s Standards of Business Conduct establish the Company's approach and its practices and operations reflect the spirit and intent of the Universal Declaration of Human Rights as it applies to private companies and the spirit and intent of the Fundamental Principles and Rights at Work of the 1998 ILO Declaration [...] The Company condemns human rights violations in any form. *While recognizing that host governments* have the responsibility of maintaining law and order, security and respect for human rights, the private sector also has a responsibility to respect human rights within the legitimate role of business” (p. 26)

The company’s self-perception as a guest in the host government has, however, been a controversial aspect of ExxonMobil’s stance on the company’s political influence in developing countries, as mentioned. Health concerns are closely linked to the broader well-being of local communities and employees:

“By incorporating workforce and community health consideration in project planning, Company plays a role in addressing the broader economic and social development of the communities in which it operates” (p. 25)

Finally, the company’s framework for employment practices supports principles of *Freedom of Association and Right to Collective Bargaining*; *Elimination of Forced or Compulsory Labour*; *Abolition of Child Labour*; *Equal Employment Opportunity*; here, it worth mentioning that the legal working ages to be applied is that of the host country, which in the case of Mozambique is fifteen-years-old. Further frameworks mentioned in the text, and previously discussed in this paper as well, are ExxonMobil’s Operations Integrity Management System (OIMS) and the World Bank’s International Finance Corporations Performance Standards on Environmental and Social Sustainability (IFC PS).

Social Analysis

In order to understand how these documents are going to be operationalised in Mozambique, it is crucial to understand the role of local governance structures in conditioning their implementation. As hinted in the literature review, Mozambique governance context is characterised by *decentralisation of power* (in the case of land governance specifically, domestic elites and district level governors have been given much authority over key aspects of land allocation) and *distant state-societal relations* (i.e. great power ascribed to the government vs limited societal power). Such type of *domestic structural context* is closely intertwined with great disengagement from and distrustfulness of central authority, especially amongst rural populations, as well as with a *polycentric governance strategy* used by the ruling party to strengthen party and national unity and stay in power – through, as largely documented, corruption and patronage systems. As argued by Twomey (2014), “norm interpretation leading to co-optation is undertaken by empowered local actors, reinforced by materialist state attitudes and made possible by institutionalising decentralised governance” (p. 24). Importantly, the ways in which local political discourses present the international norms informing the documents also largely shape the way they are implemented (*domestic salience*): the Mozambican “state has communicated its attitude by constructing a wider development agenda that is structurally incoherent with that of community land rights” (ibid., p. 27). Indeed, in local political discourses, extractive megaprojects become synonyms for economic and social development, while their negative consequences on local communities are dismissed through the emphasis on *public interest*. This *ideological justification*, however, is to be understood in terms of those *material factors*, i.e. FRELIMO’s economic self-interests and state lack of capacity, limiting the scope of what is perceived as *public*; the “political penetration of local capital begs the question of how to distinguish

between public interest, state and party interests” (ibid., p. 28). Finally, as the implementation of processes such as communities’ involvement, land allocation, and resolution of conflicts over land-use right depend on effectively running institutions, the underdevelopment of these in Mozambique represent a major bottleneck. In light of this understanding of Mozambique’s governance context, when companies leave up to the government crucial aspects of communities’ resettlement and livelihood restoration - such as the search for supplemental agricultural land, the registration of new DUATS after communities’ resettlement, and the settlement of disputes between host and displaced communities – it appears that political and economic interests as well as lack of institutional capacity will in most likelihood prevent a faithful execution.

Discussion

The following discussion attempts to merge the problematisation of the findings of our CDA (micro-level of analysis) with broader reflections on the mechanisms in which the persistence and negative impacts of *land-grabbing* on local communities are rooted (macro-level analysis); therein, the main gaps identified in the texts will be highlighted and discuss in the light of a broader critique of the discourses which the documents belong to.

The first point to be made relates to two highly emphasised notions in the documents, being also core tenants of *good (corporate) governance: transparency* and *accountability*; indeed, whereas the adhere to the two principles is reiterated numerous times in the analysed documents, the actual compliance with these norms is severely questioned by what is at present known, or rather *not* known, about very foundational aspects of the three megaprojects. Great confusion indeed surrounds basic information as which are the companies actually involved in the projects, time-schedules, and the distribution of roles and responsibilities: whilst Anadarko was acquired by Occidental Petroleum in 2019, its assets in Mozambique were purchased by Total; however, as Anadarko authored the 2016 Final Resettlement Plan, as soon as the company was purchased by Total confusion was exacerbated on whose responsibility it was to implement the plan, and the agreements reached with local communities became uncertain. Lack of clarity largely affects local communities, as expressed by Mr. Leonardo Nfaume during the first Public Consultation meeting: “At the beginning people only talked about Anadarko. But now people also talk about eni. The community would like to understand the emergence and meaning of the company called eni. Is it a new partnership?” (Annex K RP, p. 46). Turmoil in Cabo Delgado has been increasing as the area has been targeted by a set of attacks, identified by the government as jihadist terrorism, since the arrival of the companies in 2017. The area is now highly militarised, yet perplexity on the role of the military and private security is widespread amongst local population, as Mr Crisanto told the JA! Team: “the military who is supposed to be protecting them, instil fear in the community instead. They stand around drinking beer [...] and give the people of Senga a curfew of 8 pm, and then beat up people who are out after that” (Justicia Ambiental, 2019).

Secondly, it's crucial to mention the problematics associated with community participation processes which is the perhaps most highly emphasised aspect of *good land governance* and *good corporate governance*, and as institutionalised in Mozambican 1997 Land Law. The first crucial issue relates to the question of *who* represents the affected communities; such issue was brought up by locals themselves during Public Consultations: in the words of Mr. Juma Sumail: “[...] we are tired of meetings. We ask that tomorrow, on the sixteenth day, the Community Resettlement Committee

be dismissed, because the *members create problems among themselves*, they *do not tell the truth*, they are young people and *do not have competency to represent us*"; and according to Dade Amade: "At the community level, *there are people that proclaim to be defenders of the community's interests*, while they *hold clandestine meetings, contradicting the agreements* reached during the public meetings". In this light, one could argue that these consultation meetings, of which records are often missing, are "viewed more as impediments or "one of the various administrative hurdles necessary" (Twomey, 2014, p. 25). The second problematic is linked to the role of NGOs, supposedly involved to lobby for communities' interests: indeed, as contended by JAI, "there are very few [NGOs] in Cabo Delgado working on the gas issue that don't receive funding for some or other services from Anadarko" which "raises questions of independence and transparency for us when NGOs receive money from the very companies they are supposed to be challenging" (Justicia Ambiental, 2019). Similarly, whilst the involvement of NGOs is justified in terms of their closer connection to local communities and their ability to better understand, mediate, and put forward their needs, the fact that the majority of these NGOs are Western organisations poses questions about their actual situational knowledge and ability to work in furtherance of communities' interests. Finally, the unequal power relationship between local communities and government entities makes it likely that a certain coercion is exercised during Public Consultations by government representatives, as clearly noticeable in the following statement: "[...] the substitute of the Administrator addressed the participants in the following terms: *we want development, don't we? [...] You, in Senga, open your eyes. There are ideas that simply destroy; there are ambitious ideas that want you to continue like this. Don't you want development? So, you need to be very attentive [...] There are those that say that we don't understand what is happening, but we monitor everything*" (Annex K RP, p. 233).

The third point to mention, closely linked to the previous one, is the framing of resettlement as a positive *opportunity*, whilst land acquisitions are simultaneously presented as being *unavoidable* and done in *public interest*. In this regard, and contrarily to what perceived in reading the documents and to what stated by the companies, the resettlement process has been mired in disappointment and frustration on behalf of locals. In fact, central complaints have been put forward in relation to compensation, which is said to never come, to employment opportunities, which are said not to be really given, to the actual possibility for communities to advance complaints, which are said not to be taken into account nor answered, and to the registration processes, which are said to be miscarried (see Annex 3). In more general terms, one could argue that the discourse on communities' benefits, employment possibilities, and livelihood restoration programmes, whilst being presented in very promising terms in the documents, are not attuned to the actual socio-cultural context of the host country; the proposed business-training initiatives, "such as

accounting, stock management, use of bank, business planning, etc” (RP, p. 160), represent a clear instance: their relevance and feasibility are minimal in a context of high overall illiteracy rate - 53% in 2019 (USAID, 2019). The findings of this analysis, especially in relation communities dissatisfaction arising from the discrepancy between what is promised and what is actually implemented, are supported by a number of previous studies conducted on the subject, both in Mozambique and in other Sub-Saharan countries (see Human Rights Watch 2013, Lesutis 2019, Justicia Ambiental & UNAC 2011, Ackah-Baidoo 2012, Hilson 2012, Campbell 2012, Kolstad 2010).

Conclusively, it appears that, while the analysed documents and the broader discourse they orbit have institutionalised all those principles and guidelines articulated to ensure that developing countries benefit from the activities of foreign TNCs, spaces for local *interpretation* and *co-optation* permeate the documents and allow for a local selective implementation; these loopholes have been created especially through the usage of *vague*, yet promising, language which also serves to buys the necessary community support – which is better understood in light of the diffuse distrust towards local government and the view on TNCs as development agents. *Exploitation* and *co-optation* are enabled by Mozambique’s decentralised governance strategy which, on the one hand, works to deflect state responsibility towards its citizens and, on the other hand, allows the state to cleverly position itself as “both mediator and regulator, simultaneously encompassing a “depoliticised” role and legally interfering role, and implementing the law only to the extent that this suits party interests”, thereby also making “state/party interests” appear as “public interests” and interfere “just” in cases that serves wider state-building and economy-making processes” (Twomey, 2014, p. 30). In this light, the political reality of Mozambique is a useful example to understand the criticism of the good governance agenda as being a *one-size-fits-all* solution: “[r]ather than undermining the underlying incentives as a means to transform governance, good governance norms have been integrated into the pre-existing governance structure, rendering them ineffective” (ibid., p 32). TNCs, in turn, can dismiss the controversies surrounding their operation in countries with poor governance and human rights record in terms of their being *guests* in the host countries (as seen in the case of ExxonMobil) and use their CSR agenda as a means of continuing business-as-usual conduct, as there are no material incentives to actually implement it and they often buy in patronage systems. Hence, the persistence and negative impacts of *land-grabbing* are to be understood neither in terms of *weak governance*, nor in terms of solely state lack of capacity; rather, it appears that the phenomenon is facilitated, on the one hand, by the creation of spaces for co-optation and exploitation that allow empowered local elites and actors to perpetuate their interests at the expenses of local communities; and, on the other hand, by a superficially implemented CSR

agenda which, whilst transforming inherently profit-oriented organisation into development agents, allows the company to conduct business-as-usual and profit from the government's attitude.

Conclusion

This paper has sought to shed light on the ways in which the implementation of international norms, institutionalised to ensure that positive impacts are derived from the activities of foreign TNCs in developing countries, are conditioned by the governance context of their implementation. Specifically, we have seen how Mozambique's polycentric governance strategy, used by FRELIMO to strengthen party and national unity through diffusion, represents a major obstacle to a successful implementation of the said norms. Indeed, spaces for co-optation and exploitation are used by empowered local elites to selectively implement international norms whenever opportunities for self-enrichment arise. *Land-grabbing* is presented as an unavoidable phenomenon and *public interest*, which more often than not equates party interests, becomes an ideological justification for forced dispossession. In this light, community engagement and participation emphasised in land regulation frameworks is better seen as "*one of the various administrative hurdles necessary for TNCs operation*". Likewise, the CSR agenda, while being presented as embodying TNCs full development potential, is better understood as a PR-strategy used by companies to carry out *business-as-usual praxis* while simultaneously situating themselves as benevolent drivers of economic and societal development. Accordingly, the persistent and negative impacts of *land-grabbing* caused by extractive industries, appears to result from both political unwillingness - as opposed to weak governance - to fully implement the aforementioned norms to actually benefit the general population, and from low material incentive for TNCs to effectively implement their CSR agenda and denounce patronage systems within the host country.

In this light, through the utilisation of a critical theoretical framework, we have attempted to uncover the discursive processes through which certain power structures within Mozambique's context are produced and naturalised, with the intention of uncovering unjust practices for emancipatory purposes. While the authors acknowledge the policy-prescriptive nature of this philosophy of science, we also wish to highlight the difficulty in actually proposing feasible solutions; the problems involved are, indeed, multifaceted and amorphous as well as embedded within political unwillingness to drive positive change.

In conclusion, we wish to point out the need for further studies investigating in greater depth the organisational structure of decision-making processes as well as the interrelationship between corporate and political interests in Mozambique. Of course, this research should be conducted continuously throughout the projects' lifecycle and especially once the operations have been concluded. Finally, future studies should be encouraged to place focal emphasis on the environmental impacts of such megaprojects, especially since Mozambique also possesses large quantities of renewable energy sources in which, however, no preliminary investments have been made.

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Annexes

Annex 1. A Glimpse in the Debates on Land-Grabbing

ACCORDING TO...	NATURE & SIZE – What is to be considered land-grabbing and what size equals it?	PEOPLE – Who can be considered a land grabber?	CONTROL – How is the land controlled?	LEGALITY – Is land grabbing legal or illegal?	USAGE – How is the land used and for what purpose?	
CIVIL SOCIETY	It applies only to agricultural land; the size is bigger-than-usual (as hold by local population)	Foreign investors	Through both purchased and leased land	Legal but through use of power and/or coercion	Mainly resources exploitation	“Land grabs [are] the purchase of vast tracts of land from poor, developing countries by wealthier, food-insecure nations and private investors...” Oakland Institute ⁹
GOVERNMENTS	Terms ‘large-scale land acquisition’ or ‘land consolidation’ are used instead of land-grabbing; applies to agricultural land and if of large-scale size	Mostly private investors or states (usually foreigner)	Illegal seizures	Illegal	Can be used for good and economically beneficial purposes	““Transnational land acquisitions refer to the procedure of acquiring land (and freshwater) resources in foreign countries. It is often called ‘land grabbing’. Most commonly, investors or investing countries are located in the developed

⁹ “The Great Land Grab: Rush for World’s Farmland Threatens Food Security for the Poor.” The Oakland Institute. <http://www.oaklandinstitute.org/great-land-grab-rush-world’s-farmland-threatens-food-security-poor>

						world, while the 'grabbed' land is usually in developing countries." European Environment Agency ¹⁰
CORPORATIONS	Land-grabbing is the result of unclear land rights or ownership; Lack of consent is an issue that is a result of poor 'due diligence'; 'large-scale land acquisition' or 'land consolidation' are used instead of land grabbing	/	Through both purchased and leased land	Legal	Used for good purposes: it brings jobs, taxes, industry, modernization and much more to the targeted areas	"Sometimes referred to as land grabs, these disputes often involve conflicting land claims and unclear or unprotected underlying land rights, and are exacerbated by the inadequate recognition of customary rights to land and natural resources." Nestlé ¹¹
FINANCIAL INSTITUTIONS	Land grabbing is only a problem in 'developing' countries; applies just to agricultural Land; large scale acquisition	Foreign investors	Through both purchased and leased land	Legal	Used for good purposes: job increase, GDP increase, modernisation, and development	Transnational investments or large-scale land acquisitions (called land grabs by critics) are by developed countries of agricultural land in developing countries,

¹⁰ "Transnational land acquisitions." European Environment Agency.

<http://www.eea.europa.eu/data-and-maps/figures/transnational-land-deals-1>

¹¹ Nestlé Commitment on Land & Land Rights in Agricultural Supply Chains." Appendix to The Nestlé Policy on Environmental Sustainability.

http://www.nestle.com/asset-library/documents/library/documents/corporate_social_responsibility/nestle-commitment-land-rights-agriculture.pdf

						and if properly regulated can promote long-term economic development and reduce poverty.” IMF ¹²
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IN BROADER TERMS	<p>“The amount of land considered a land grab changes depending on local plot sizes. In order to have a size to identify land grabs, people must look at land holdings in their countries and determine what the average sizes are and the range that most holdings fall into” (Baker-Smith & Miklos-Attila, 2016, p. 2)</p>	<p>“Absolutely anyone can be a land grabber: individuals, groups or companies; public or private; governmental or non-governmental; domestic or foreign. Land grabbing is not limited to certain groups or people. Romania, like most countries, has at least a few land grabbers from every category” (Baker-Smith & Miklos-Attila, 2016, p. 2)</p>	<p>“Land grabbing is about overall control. Land grabbers can control areas in several ways including leasing land (sometimes through long-term leases from governments, called concessions), having tenant farmers or sharecroppers, or actually owning the land. Land can also be controlled through quota and supply contracts that force people to use the land in a specific way for the benefit of the land grabber” (Baker-Smith & Miklos-Attila, 2016, p. 2)</p>	<p>“Land grabbing occurs both legally and illegally within current laws. Most land grabs are actually legal, meaning the deals obey national and local laws. However, these current laws do not protect against land grabs. In most cases laws at least tolerate land grabbing if not help it. These unjust and illegitimate laws encourage land grabbing and abuse human rights by allowing land grabbing to</p>	<p>“Land grabbers use land in harmful ways and for exclusive purposes. Agricultural uses include monocultures and non-agroecological methods (which can even be organic). Land use changes from agriculture towards another sector are also frequent and particularly damaging, as land is a scarce resource and is difficult to regain for agricultural use. Other uses include land speculation, commodification, resource control and extraction (meaning local communities do not benefit from the resources). All of these</p>
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¹² Arezki, R., Deininger, K., Selod, H. “Global Land Rush.” International Monetary Fund. <http://www.imf.org/external/pubs/ft/fandd/2012/03/arezki.htm>

				be a 'legal' action" (Baker-Smith & Miklos-Attila, 2016, p. 2)	uses threaten food sovereignty, land stewardship and sovereignty, and human rights" (Baker-Smith & Miklos-Attila, 2016, p. 2)
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Annex 2. Summary of 1997 Land Laws

This process started in 1995, the law was approved in 1997, rural parcels were added in 1998, and in 1999 it was finalised with technical annexes regarding the delimitation processes. The National Land Policy revokes all previous laws and it establishes that:

- 1) Land remains under state ownership but DUATs can be issued. All pending application under the previous Law are to be re-submitted under the new Law within specific timeframes (from 1998 to September 2001).
- 2) The **right to use land** can be acquired through: a formal application process to the state; customary law (Art. 11); ten-years *good faith* occupation (art. 12). Importantly, customarily-recognised land rights are to be given equal legal value as statutory land right. Thereby, oral recognition of rights is empowered, for rights can be proved through oral testimony of neighbours.
- 3) As regard **foreign investors** (whose company needs to be registered in Mozambique), a development/business plan need to be approved (art. 19) before a DUAT can be obtained; moreover, a two-years timeframe is established (Art. 25) for the plan to be implemented: in case of non-compliance the DUAT is to be revoked, in case of compliance a fifty-years DUAT is granted (with possibility of further renewal); contrarily, no timeframe is given to local communities (Art. 17).
- 4) **DUATs can be transferred** through: written agreement which needs to be authorised by competent state entity and the transfer includes the improvements (Art. 16); a consultation phase between the two party is established prior to transfer and an in-place negotiation encouraged; importantly, communities are empowered to demarcate the areas which are open for transfer and those which are not: an 'open-border' model is presented whereby acquisition of DUATs might not include all the rights, communities can negotiate the nature of land rights within the established borders - allowing for a coexistence of community and private investors in the same

area. There are two main institutions involved in the land transfer process: the national level Deeds Registry (or *Registro Predial*) and the provincial and national-level Cadastre.

- 5) **Compensation** is granted for immovable property when rights are extinguished in *public interest* (Art. 18); no compensation is granted for rights revoked due to noncompliance (Art. 27). Under the Investment Law more precise timing and valuing are provided for compensation (Art. 13) but does not apply for investments made before the Law enter in force in 1993.
- 6) **Gender equality** of rights is established mainly through oral or written testimony of occupation of land, customary authorities should not discriminate based on gender (Art. 10), title inheritance is not be undermined by gender (Art. 83), women are granted equal access to land as men.
- 7) As regards **conflict resolution**, disputes can be negotiated in private arrangements (including co-titling resolutions) or settled through court; three forms of evidence in the adjudication of land conflicts are generally to be taken into account: title, testimonial evidence presented by men and women members of local communities, and official inspection and other forms as permitted by law (article 15); local communities have the right to participate in conflict resolution (Art. 25); conflict resolution must take place in Mozambican fora (Art. 32); alternative tools for conflict resolution are recognised in the law on extrajudicial conflict management (Law 11/99), these are: arbitration, mediation, and conciliation.
- 8) Nothing is prescribed in terms of title **restitution**.

Further regulatory frameworks were establish in early 2000s as through: **The Petroleum Law (Law N° 3/2001 of 21 February)** revised in 2014 (**Law N° 21/2014 of 18 August**), **The Territorial Planning Law and Regulations (Law N° 19/2007 of 18 July)** enacted by Decree N° 23/2008 of 1 July; and **The Regulation on the Resettlement Process Resulting from Economic Activities (Decree N° 31/2012 of 8 August)**. The latter is particularly important as it “clarifies both government oversight mechanisms and companies’ legal obligations. It calls for companies whose operations require community resettlement to prepare a resettlement plan in line with requirements under land use planning laws. The relevant district government has the authority to approve or reject resettlement plans and is required to make space available for resettled communities. The decree also sets up a Technical Resettlement Monitoring and Supervision Committee comprised of representatives from the district and provincial governments, members from the land use, public workers and administration, housing, and agriculture sectors, and a community member. The committee is responsible for monitoring the entire process, issuing technical opinions, and preparing evaluation reports”; nonetheless, it “misses vital protections related to land and livelihoods, access to health care, grievance mechanisms, and meaningful consultation and participation of affected communities.²³⁸ The current decree interprets public participation narrowly by primarily relying upon public meetings and by designating community representatives to be involved in dissemination of information about the resettlement process. There are also few dedicated measures to facilitate the participation of groups that may face specific impacts or

that are marginalized, such as women, children, the elderly, and people with disabilities” (Human Rights Watch, 2013, p. 95-96). Interestingly, this Decree has been largely based on the World Bank’s International Finance Corporation Performance Standards 5 (IFC PS5) resettlement principles and approach, which “advises companies to avoid involuntary resettlement wherever possible and to minimize its impact on those displaced through mitigation measures such as fair compensation and improvements to and living conditions. Active community engagement throughout the process is essential” (IFC, Performance Standard 5, 2020)

Annex 3. Public Consultation Records

COMPLAINTS ON...	
COMPENSTION	<p>Mr. Assumane Chale: “[...] All of you, our representatives, know we have done the survey and we have the respective summaries of the registration of assets, yet, you are still delaying the payment. When will we get the compensation? If it was just to talk, there was no need for us to gather here in droves. If so many of us showed up to this big meeting, it was because we thought that we were going to be paid our compensation. Or, you do not yet know the number of people who went through the census? If you already know the number of people affected and who have done the census, why this delay in the process? I am one of the people working in one of the Project’s companies, and today when I heard about this meeting, I preferred to skip work to come and attend this meeting, when I saw a large number of white people passing by. I said “today is the day we will get our compensation money”. Those people who rushed to do their asset survey should be paid their due compensation, and those that have not yet done so, leave them aside, they know why they still did not do it, to this day. We made ourselves quickly available to participate in census process, to ensure the payment of compensation. So, those who have not yet done it, they have their reasons” (Annex K RP, p. 602).</p> <p>Mr. Ali Selemane: “[...] There is something wrong taking place, and it is related to Anadarko Company. There are people in all districts who</p>

	<p>support the company's activities but the company does not give them any assistance or payment. In fact, these people have the same right to be paid as others in the Project teams who come to work with the communities. Another issue that I have to present: you promise us jobs every day, but you never fulfil your promises. Another issue: you always hold meetings with people who have their assets in Afungi, promising payment, but the compensation values never come [...] They promised compensation for machambas and building of houses for people affected but, to date, nothing has been done. Is that there are people who are going to be removed from their dwelling places and resettled elsewhere, and will be compensated for their assets, will conditions be created for them to continue their subsistence activities, such as machambas? So, I would like to request you to make an effort to meet the wishes of those affected and that everything be done in the best possible way" (ibid.).</p>
EMPLOYMENT	<p>Ms. Rosa Albino Mucundavila Nkunakwela: "I have doubts. Anadarko has arrived in the district and is working, but when it recruits people, it claims that applicants should speak in English and not in our language, or at least in Portuguese. In Palma the elderly cry for employment, but only young people are employed. But the elderly know about surveillance locations that the young people do not know of" (ibid., p. 184).</p> <p>Mr. Omar Saïde Omar: "[...] Presently, people are dismissed in the Project in an arbitrary manner. How do you turn up promising employment opportunities? Why is only the construction of the church here in Senga spoken about and not the construction of the mosque? The clinic of the Project's camp does not provide assistance to the local workers; however, when someone falls ill they demand a certificate that often is not accepted" (ibid., p. 401).</p> <p>Mr. Assane Sangagi: "[...] We want the company to develop its programs that will ensure benefits to the communities. People want areas for the development of agricultural activities. Why is the company firing people without justification? Community members want to know how many hectares they have based on the asset survey and registration that took place. The people of Quitupo is not concerned with the DUAT</p>

	<p>problems, but with the benefits that will accrue to the community with the implementation of the Project. I recognize that the community has a low level of education, which has not allowed community members to benefit more from employment opportunities, but I request the Project to take this into account. There are members of the Community Committee who are against the interests of the community. Why does it not bother to solve the other problems the community is facing? We do not want CTV” (ibid., p. 541).</p> <p>Mrs. Fátima Ntimacharubo: “Employment opportunities are only given to people from Maputo and Pemba. When will local people have the opportunity to work in the Project; We request that the LNG Liquefaction Plant be built in the District of Palma” (ibid., p. 898).</p> <p>Mr. João Saíde Mola: “I am worried with our future. More than a job opportunity, it would be good if we had opportunity to learn to do something to facilitate employability” (ibid., p. 899).</p>
GRIEVANCES	<p>Mr. Issufo Tankar: “[...]The first issue is the opportunity given, because yesterday, in Senga, after all spoke, it was asked that someone from the company answered some questions, and there was no other session where people could submit additional issues or requested again clarification for the issues raised. At least, here, it was different. I would like to ask the Government and the company to improve this, to allow people to talk, and we all will be satisfied. The second issue has to do with the police. I know and acknowledge that there are personalities who are entitled to protection, but I have participated in many consultations and some attended by ministers and others by Administrators from other districts, and I have never seen policemen. I do not mean that the policemen should not be in these meetings, but they should remain in places where they not disturb the meeting and be called only when needed” (ibid., p. 481).</p>
REGISTRATION	<p>Mr. Adinane Buruhane: “We request that the Government members clarify the mistakes that were made at the time the DUAT was awarded to the company. We want areas suitable to the cultivation of coconut trees and, preferably, in the coastal zone and not inland. Regarding the graves, our religion does not allow their transfer or sale. When will the</p>

	<p>delimitation of the communities affected by the Project take place? We also want to know what will be the size of the plant to be built by the company. Why was there no negotiation of the prices established after the first proposals?” (ibid., p. 539).</p>
NGOS	<p>Mr. Sumail Ali Tuaibo: “[...] We, from Quitupo, are here collaborating with the Project from the beginning until today, but some groups appeared, such as CTV, who cause contradictions in the communities. Here in Quitupo, we lack schools and hospitals. CTV has been around for a long time and there are also several organizations that provide support, why they never bothered to ask support for us in this area? If today we have a school is due to the Government effort. After realizing that there is a Project that is developing activities in our communities CTV came to confuse things. If the Government and the Project decide to do a construction, let it be done before organizations such as CTV come to counteract things, because then we get confused. We want to see planned things to go forth. The works should proceed. Another issue I have to present is regarding the census: there are approximately 10 members of this community who have not registered their assets. I request that their situation be dealt with” (ibid., p. 543).</p>
GENERAL	<p>Mr. Dade Sumail: “I would say that the Milamba community does not want to be resettled in Quitunda. Take only Quitupo community there, and find another place for us, from Milamba. And I ask the District Administrator for this to be the last meeting, and that, next month, the planned construction works should start, if we just stay here saying what is going to be done next, we will end up starving to death, while others will be having better living conditions than us” (ibid, p. 542).</p> <p>Mr. Assumane Chá: “People who have been registered already should be compensated, should not have to wait for others who are not yet registered. The community members are already tired of meetings. They want to be compensated” (ibid., p. 898).</p> <p>Mrs. Tima Saíde: “We are worried because promises have been made for a long time, but not yet materialized. We stopped working based on the expectation that our worries would be resolved, but they were never resolved. We request that our promises be fulfilled” (ibid.).</p>

	<p>Mr. Ali Momade Licada: “The Project workers brought problems to the community. With the Project’s presence, many problems are emerging; there are people who come from Pemba or Maputo, to sow trouble in the community, showing weaknesses of our government officials. At this meeting we the community members wish to receive our compensations. The community members are tired of false promises and want the truth” (ibid., p. 899).</p> <p>Mr. Momade Ahalifa Muenhe: “My brothers, do you really believe that the Project will ensure our rights? What has the company done since it arrived in the district? The Project conducted research in our production areas, but we will not gain anything as compensation for the loss of these areas. I request clarification regarding the payment of compensation” (ibid.).</p>
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