



# Research Report 6 Land Registration in Nampula and Zambezia Provinces, Mozambique

**Arlindo Chilundo, Boaventura Cau,  
Marlino Mubai, Denise Malauene  
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Securing Land Rights in Africa

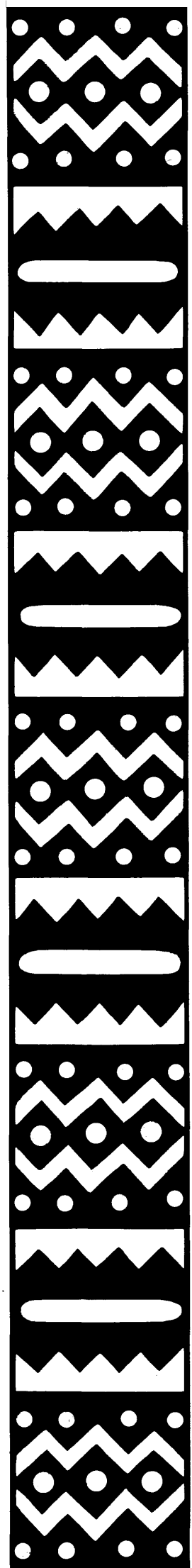




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## ACRONYMS

CDT	Diocesan Land Commission
DINAT	National Land Directorate (formerly DINAGECA – National Directorate of Geography and Land Registry)
DUAT	Rights to use and benefit from land
IIED	International Institute for Environment and Development
MINAG	Ministry of Agriculture (formerly MADER – Ministry of Agriculture and Rural Development)
NET	Land and Development Studies Unit
NGO	Non-governmental organisation
ORAM	Associação Rural de Ajuda Mútua (Rural Mutual Aid Organisation)
SPGC	Provincial Geography and Land Registry Services

# PREFACE

This research examines the current processes of land rights registration in Ethiopia, Ghana, and Mozambique and assesses their outcomes for poor and vulnerable groups. Land is becoming increasingly scarce in many parts of Africa, and mounting competition for this valuable resource is driving conflict between and within groups. Many governments have initiated a review of land legislation and established new structures for land rights administration. At the same time, there is considerable informal documentation of ownership and transactions in land taking place in many areas, as people seek to strengthen their claims over land and natural resources. Informal processes include the increased use of written contracts, witnessing of agreements, the emergence of new forms of rental and sharecropping arrangements, and other kinds of local collective action, often around management of common property resources. However, such informal documents and processes are not usually legally binding.

While registration might, in theory, be expected to help poorer groups confirm their claims to land, in practice registration has often served to redistribute assets towards the wealthier and better informed. We are keen to ask the question – is this inevitable? Can provisions be made which explicitly address the need to level the playing field between poorer and better-off groups in relation to registering claims over land? In Ethiopia, land registration systems are being designed and pilot programmes carried out in several states. In Ghana, an ambitious Land Administration Programme has begun, which has chosen to do much of its work through Customary Land Secretariats. In Mozambique, the 1997 Land Law is being implemented, a law which has been recognised internationally as demonstrating a strong pro-poor approach. What lessons can be learnt, from these cases, to inform policy and practice for future interventions in the registration of land rights in Africa?

The study tests a set of interlinked hypotheses, which assert that:

- Land registration is not inherently anti-poor in its impacts;
- The distributional consequences of land registration will depend on the design of the process and governance of the institutions responsible for its management; and
- Land registration procedures can be elaborated to address systematically the risk of bias against poorer, more marginal groups by considering issues including location, registration fees, language used, and recognition of secondary rights.

While the hypotheses can be broadly accepted as valid, and the study did identify examples of “good practice”, there are also many lessons to be learnt about the design of registration systems if they are to protect effectively the rights of poorer groups. Work in all of the case study sites pointed to the critical role of institutional governance.

The results of this research project come at a particularly opportune time. In 2005, a “High Level Commission on Legal Empowerment of the Poor” is in the process of being set up with an independent secretariat jointly hosted by UNDP and the UN Economic Commission for Europe (UNECE). It seeks to make property rights accessible to all, especially the poor and marginalized, and by so doing, contribute to poverty reduction and achieving the Millennium Development Goals (MDGs). Evidence suggests that formalising property rights through individual title can have negative consequences for poor groups and in particular, for women and those relying on secondary rights to land. It is therefore important to base recommendations on empirical findings from diverse settings to avoid “one size fit all” solutions.

This research project was coordinated by the International Institute for Environment and Development (IIED) working with:

- Mekelle University, Mekelle, Tigray, Ethiopia
- SOS Sahel, Addis Ababa, Ethiopia
- Institute of African Studies, University of Ghana, Legon, Accra, Ghana
- Land Studies Unit, University of Eduardo Mondlane, Maputo, Mozambique
- Royal Tropical Institute (KIT), Amsterdam

The project adopted an iterative approach using reference groups at the national level to advise the researchers as work proceeded, and to disseminate findings. A proactive strategy was adopted to feed findings into relevant debates at local, national, and international levels. This included a major conference, which brought African policy

makers, opinion leaders, and researchers together with international agencies and experts to discuss “Land in Africa” in November 2004<sup>1</sup>.

The research has addressed three sets of questions:

Firstly, questions on the design and process of registration:

- What land and what land rights are being registered?
- How is land registered and by what institutions based at what level?
- What is the basis of registration and whose rules and procedures are being followed?
- How are boundaries demarcated and recorded and with what forms of technology?
- Where are land registers stored? In what language are they recorded? How accessible are they to the public?
- Have precautions been taken to ensure equitable access to the registration process, such as cost, language used, and place of registration? Has this made a difference in practice, in terms of who can register their rights?
- What happens to secondary rights because of registration?

Secondly, questions on the governance of registration processes:

- Which state and non-state actors are involved in registration processes?
- What political and legislative framework governs the actions of the actors involved in land registration? How is accountability to a broad constituency assured?
- How do these institutions deal with disputes? How transparent are these conflict resolution processes?
- How well do the different institutions involved in land registration coordinate their activities?
- How do formal processes of rights registration interact with “informal” processes for securing rights?

Thirdly, questions related to equity of outcomes:

- Who is seeking to register land rights, and why? Who are the winners and losers in the process?
- What happens to the claims of weaker groups in society?
- What happens to unregistered rights in practice?
- How are land rights of smallholders affected by the policy thrust to attract large, sometimes foreign, investors?
- How are land rights of more disadvantaged groups changing in peri-urban contexts where competition for high value land is intense?

Seven research reports have been produced under the common title “Securing Land Rights in Africa”.

Research Report 1: Can Land Registration Serve Poor and Marginalised Groups? Summary Report

Research Report 2: Land Registration in Tigray, Northern Ethiopia

Research Report 3: Land Registration in Amhara Region, Ethiopia

Research Report 4: Land Registration and Women’s Land Rights in Amhara Region, Ethiopia

Research Report 5: Land Registration in Eastern and Western Regions, Ghana

Research Report 6: Land Registration in Nampula and Zambezia provinces, Mozambique

Research Report 7: Land Registration in Maputo and Matola cities, Mozambique

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<sup>1</sup> See <http://www.iiied.org/events/landinafrica.html> for further information.

# 1. INTRODUCTION

This paper presents the findings of research carried out to examine the processes of land registration in rural Mozambique and to assess how land registration impacts poorer or more vulnerable members of rural society. Four community case studies are drawn upon, from the provinces of Zambezia and Nampula, to deepen the understanding derived from other literature. This research focuses especially on the process, made possible under Mozambique's 1997 land law, whereby communities can register the rights they have to use and benefit from their community land. The paper also elaborates the mechanism for individuals to apply to register land and describes some examples and outcomes. The individual registration process is mainly taken up by private investors and companies. Some want to invest in productive enterprises and some want to live in the community, while others seek to acquire land for speculation.

The paper presents firstly the legal context for land rights registration, shows the number of applications submitted since 1997, and then describes the registration process, both for individual and community lands. The findings from the cases studies are discussed, with reference to broader literature, followed by conclusions and recommendations.

During the course of the research project, three other papers have been produced; a background paper which draws more broadly from the literature, elaborating the legislative context and identifying the research locations, and two detailed case study reports<sup>2</sup>.

The research findings broadly support the hypotheses outlined in the preface, namely that land registration is not anti-poor in its impacts in rural Mozambique. There are some serious shortcomings in the implementation of the registration process, which will need to be tackled in order to for it to be really pro-poor in practice. The research did show that people perceive land registration as a mechanism to strengthen community land rights in relation to other communities and to private operators. It also showed that the reinforced security of tenure for common pool resources is fundamental for protecting the livelihoods of vulnerable groups. In some cases the level of community organisation has increased. Whether community land registration paves the way for partnerships between communities and outside interests remains to be seen but it should confer more power to communities around the negotiating table.

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<sup>2</sup> Chilundo, Arlindo, *et al* (2003). Securing land rights in Africa: can land registration serve the poor? Background paper – Mozambique.

Mubai, Marlino (2003). Securing land rights in Africa: can land registration serve the poor? Case study of Koma Koma and Nipuro communities, Meconta district, Nampula province. Research Report. Land Studies Unit, Maputo, Mozambique.

Cau, Boaventura (2003). Securing land rights in Africa: can land registration serve the poor? Case study of Murrua and Nhafuba communities, Nicoadala district, Zambezia province. Research Report. Land Studies Unit, Maputo, Mozambique.



## 2. BACKGROUND

Mozambique is located in south-east strip of the African continent and has a total surface area of 799,380 Km<sup>2</sup> (Instituto Nacional de Estatística and Ministério de Saude, 2005). It became independent from Portugal in June 1975. During the colonial period, economic development of the country was very modest (Datt et al., 1998). After independence, economic stagnation followed, brought about by war between 1976 and 1992, unfavourable climatic conditions (particularly drought and other natural calamities), and radical economic measures (Instituto Nacional de Estatística and Ministério de Saúde, 2005).

After the war, the government was committed to rebuilding the infrastructure that had been destroyed or neglected during the war and to improve living standards. The government adopted policies to open the economy and make it more market-oriented, while at the same time attempting to maintain some form of economic and social safety net for the poorest (Datt et al., 1998). Also, the country opened up politically with the first multi-party democratic national elections held in 1994, the second in 1999 and the third in 2004. Despite this, the country is still now ranked as one of poorest in the world. In 1997, about 70% of its population lived below the poverty line (Ministry of Planning and Finance et al., 1998).

One of the key actions of the government elected in 1994 was the review of land legislation to simplify administrative procedures and involve local communities in decision making regarding land management (Quadros, 1999). As a result, a new land law was enacted in 1997.

The 1997 Mozambican Land Law is recognised as being one of the most progressive in the world in protecting the rights of smallholder farmers. However, there are many aspects of the new law which have yet to be clarified, such as the design of mechanisms for implementation. It is also early days for seeing what really happens in practice. Through case studies carried out in Nampula and Zambezia provinces, this report examines the land registration processes under the above law and assesses impacts on the poor and vulnerable.

### 3. LAND POLICY AND LAND LEGISLATION IN MOZAMBIQUE

The history of land legislation in Mozambique, and land rights registration in particular, goes back to the colonial period, when the Portuguese colonial rulers declared the land to belong to them. At that time land registration, within the formal legal system, was only used by Portuguese citizens and by companies linked to colonial interests. After the Berlin Conference in 1884-1885, Portugal gave away land from the Central and Northern regions of Mozambique to foreign multinational investments, (for example, Companhia do Niassa, Companhia de Moçambique and Companhia da Zambesia) (Newitt, 1995; UEM, 2000). The colonial administration authorities registered such areas. In the meantime, the majority of the African population continued to administer the lands it used in accordance with customary law. Such forms of land rights registration as existed for Africans fell within customary norms<sup>3</sup>.

With the centralisation of the colonial administration from the 1920s, all land was considered the property of the colonial state<sup>4</sup>. According to the Land Attribution Act later put into place, land within the Mozambican territory was divided into three categories: i) land in large urban and small town areas; ii) land within and on the outskirts of African villages; and, iii) free land (land that was considered without ownership)<sup>5</sup>. The formal process of land attribution required a formal request to the authorities by a Portuguese citizen or organisation that needed land. The authorities would inspect the land requested to verify whether it was already occupied or not. If not, the land would be attributed and later registered. Yet, in practice, this process was not always followed. The land occupied by local African populations would in most cases be handed over to Portuguese citizens and the locals resettled to more marginal areas without access to infrastructure (Negrão, 1995). . This practice was common during the 1950s and 1960s when small schemes to attract European immigrants were set up. Such schemes offered the new settlers allocations of land that had already been cleared<sup>6</sup>. This land would be usually registered and titles provided.

At Mozambique's Independence in 1975 the state nationalised the land and gave powers for assigning land concessions in rural areas to the Provincial Services of Geography and Land Registry (SPGC), and to the town councils in urban areas. In this way, the State took over the role of traditional authorities in land allocation at the local level.

The first land law was drawn up in 1979<sup>7</sup>. According to the respective regulation<sup>8</sup>, the State rented land to users for a 15-year term, automatically renewable for the same period. Each member of a household had the right to half a hectare in irrigated areas and 1 hectare in rain-fed areas<sup>9</sup>. Agricultural co-operatives, state farms and some private farms established within the framework of the first land policy needed to acquire land titles as proof of their right to work the land. At the same time, the State formally required citizens to register the land they were using, including in the rural areas, in order to obtain a land use certificate. However, 17 years after independence few Mozambicans had registered their land, especially in the rural areas (Myers, 1993). This was due to the inter-connected factors of lack of human and financial resources for the State to extend efficient land administration to local level, a lack of understanding by the population of the requirements for land registration, and the destabilising effect of war that disrupted the functioning of State institutions at local level. As a result, most people in the rural areas continued to use customary norms to access land and claim their rights.

The 1979 land law was amended in 1986<sup>10</sup>, with a view to reinforcing the security of land ownership. The main amendment it introduced was to extend the period of land use concessions from 15 years to 50 years, renewable. There were no changes regarding land rights registration.

<sup>3</sup> Interviewees in Murrua community, Zambezia Province, revealed that during the colonial period some forms of transfer and allocation of land rights were usually public acts (eg the purchase and sale of land, allocation of land to immigrants). Though unwritten, these acts were registered in the collective memory of the local population.

<sup>4</sup> See Decree No 3,983 of July 8, 1918 (Official Bulletin of Mozambique province, I series, No 31).

<sup>5</sup> Land Law No. 6./73, August 13, 1973 (Official Bulletin of Mozambique province, I series, No 108, Sept. 15/73).

<sup>6</sup> See Hermele (1986; 1988) for examples regarding the southern region of Chokwe, Mozambique.

<sup>7</sup> Law 6/79.

<sup>8</sup> Decree 16/87.

<sup>9</sup> In many places, this legal right was not fully implemented.

<sup>10</sup> Law 1/86.

In 1992, the signing of the General Peace Agreement that brought to an end 16 years of war, heralded the return of refugees and displaced people, opening up a scenario of imminent land conflicts. A race for land on the part of the national urban elite began. These elite sought to acquire and register land more for speculation rather than investment and development (Negrão, 1998).

The population displaced by the war that had taken refuge on land offering better conditions showed some resistance to returning to their areas of origin. At the same time, those who had abandoned land with good agricultural potential were motivated to return and reclaim it, resulting in some disputes<sup>11</sup>. Proof and reclaiming of land rights by the former refugees and displaced people was carried out through customary channels.

External factors such as the end of apartheid in South Africa and the economic crisis in Zimbabwe led many foreigners to seek land in the irrigated areas, in urban peripheries and along main roads. This, coupled with post-war population resettlement, led to land conflicts. Tique (2001) and Braga (2001) report cases of land conflicts between foreign investors and the local population in Niassa and Nampula provinces.

A new national land policy was drawn up in 1995 with the intention of responding to this demand for land. Its goal was to promote national and foreign investment without harming local people occupying the land with no formal registration<sup>12</sup>. Within the framework of this policy, the Council of Ministers created the Interministerial Land Commission and mandated it to coordinate the process of consultations, discussion and national debate leading to the drafting of a new land law. Some of the results of the consultations were presented and debated at a land conference held in Maputo in 1996, with the participation of the government (especially the Ministry of Agriculture and Rural Development and the National Directorate of Geography and Land Registry), civil society organisations, non-governmental organisations, and research institutions including the Land and Development Studies Unit. The new land law was passed in October 1997 (Tanner, 2002).

The law re-affirms of state ownership of land, but recognises and safeguards rights acquired traditionally through occupation and inheritance. At the same time it creates incentives for private investment, by granting land use concessions to private entities for renewable periods of 50 years.

The question dominating the current land debate in Mozambique is the new National Land Strategy (ENT). The strategy's main goal is to consolidate and deepen implementation of the National Land Policy and existing land legislation. The first feature to be explored in this new vision is the question of partnerships between local communities and private operators to exploit land and other natural resources (see de Marrule and Tanner, 2003). The debate on the registration of land use rights, especially by local communities, acquires increased relevance in this context, given that it has been argued that registration can be a way for local communities to acquire a recognised legal status, which is a prerequisite for establishing partnerships (see for example Norfolk and Soberano, 2000).

<sup>11</sup> See Myers, 1994.

<sup>12</sup> Resolution 10/95.

## 4. REGISTRATION PROCESSES UNDER THE 1997 LAW

The debate that started in 1997 resulted in the revision of the norms governing the land law applicable to rural areas<sup>13</sup> and in the approval of a Technical Annex to the Regulations concerning the land law<sup>14</sup>. The land law regulations provide the legal context for the law to be applied and the technical annex provides the procedures regarding the delimitation and demarcation of land<sup>15</sup>. This section of the report elaborates the process of land rights registration both in terms of individuals and communities.

### 4.1 Individual land registration

According to the 1997 Land law, any nationals that occupy land on the basis of customary norms or that have been using 'free' land in good faith for more than 10 years, acquire the rights to it (DUAT – rights to use and benefit from land). Both these categories are referred to as acquisition of land rights by occupation<sup>16</sup>. Individuals have the right to occupy the land and are entitled to legal recognition without having to formally register it. However, they may do so if they wish.

#### ***Box 1. Individual land registration – a description of the process***

The applicant fills in a form bought for 10,000 MT (USD 0.42)<sup>17</sup> from the Provincial Services of Geography and Land Registry (SPGC), where in addition to personal data he or she must state what they are applying for, (e.g. surveying, title, transfer by inheritance, exemption from taxes) and what the land is to be used for (e.g. agriculture, forestry, housing, industry), and describe the land in question.

The applicant will then receive the appendix to the form, which contains information required to complete the request procedures, and the costs of processing it, including survey costs and costs of community consultation. The applicant must pay the costs five days after filling in the form. Once payment is made, the SPGC and the applicant visit the land requested to identify and survey it.

A plan of the location is made at the site, costing 200,000 MT (USD 8.3). A further payment of 300,000 MT (USD 12.5) is made to the community as an incentive for participating in the consultation process. Participants in this stage are the SPGC, the district administrator or his or her representative, the District Director of Agriculture, the applicant and the communities themselves. Non-governmental organisations working to defend community interests often participate as well. The community's opinion is fundamental for validating the land concession request. If the community views the application favourably, a series of documents must be submitted within a time limit of 15 days. Once all the stages have been completed, the SPGC prepares the proposal to submit to the relevant body (provincial governor for requests up to 1,000 hectares, Minister of Agriculture for 1,000-10,000 hectares, the Council of Ministers for 10,000 hectares or more).

If the application is successful, a provisional title is issued. The SPGC or a chartered surveyor does the demarcation. Modern technology has been used for this (e.g. Global Positioning System – GPS), and software such as ArcView for preparing the site plan (sketch map). Classical technology is also used, involving measuring the land with a metric tape and designing the site plan by hand. The definitive land title for DUAT (right to use and benefit from land) is issued following confirmation of implementation of the development and use plan (five years for nationals and two years for foreigners) and the demarcation of the land area. Registration of community DUATs parallels the registration process of DUATs for the private sector.

<sup>13</sup> Decree 66/98.

<sup>14</sup> Ministerial Diploma No. 29-A/2000.

<sup>15</sup> Delimitation is the identification of boundaries of areas of land occupied by local communities and their registration in the National Land Cadastral Services. The boundary points in the delimitation process may be represented through trees or stones. Community land demarcation requires much more accurate measurements and the fixing of cement markers along boundary points. (Technical Annex to the 1997 Land Law Regulations).

<sup>16</sup> 1997 Land Law (Law No. 19/97, Oct.1, 1997).

<sup>17</sup> 1USD is equivalent to 24,000 meticaís (MT). The minimum national salary is no more than U\$40/month.

Apart from those who have the right to land by occupation, individual and collective entities, national or foreign, may claim the right to land through a request to the government. The procedures described below represent the simplifications introduced in 2001 in order to speed up the registration process. Indeed, the main innovation was the reduction of the time needed to a 90-day period. The stages that follow remain the same.

According to the National Land Directorate – DINAT (the former DINAGECA – National Geography and Cadastre Directorate), between 1997 and May 2005 at least 10,074 requests were submitted, of which 46% are from Maputo province, about 12% from Zambezia province, and 7% are from Nampula province (see Table 1). However, it is believed that more requests were submitted. Data is not available from all provincial directorates.

**Table 1. Requests submitted since 1997 to May 2005**

Province	Submitted requests		Accepted		Non-accepted		Cancelled	
	N°	Area (ha)	N°	Area (ha)	N°	Area (ha)	N°	Area (ha)
Maputo*	4,679	895,564.33	3,127	332,368.82	65	27,308.79	N/d	N/d
Gaza**	1,070	1,007,728.52	835	655,462.13	21	4,492.92	100	204,254.29
Inhambane*	748	158,842.30	404	71,475.03	5	3.34	3	0.84
Sofala*	678	1,181,160.49	388	410,457.73	N/d	N/d	240	N/d
Manica*	94	56,812.00	N/d	N/d	N/d	N/d	N/d	N/d
Zambézia*	1,178	595,586.32	1,176	595,236.32	12	1,636.24	1209	2,996,003.58
Tete*	209	18,835.58	138	18,378.61	6	0.95	1	2.00
Nampula**	660	1,048,087.02	581	983,295.59	2	309.5	77	64,481.92
C.Delgado*	39	12,062.00	N/d	N/d	N/d	N/d	N/d	N/d
Niassa*	715	398,552.00	N/d	N/d	N/d	N/d	N/d	N/d
<b>Total</b>	<b>10,070</b>	<b>5,373,230.56</b>	<b>6,649</b>	<b>3,066,674.23</b>	<b>111</b>	<b>33,751.74</b>	<b>1630</b>	<b>3,264,742.63</b>

*N/d = data not available*

*Ha = hectare*

*\* Information from 1997- 2002 (Balanço de Terras, DINAGECA, February 2003)*

*\*\* Information from 1997 to May 2005 (SPGCs of Gaza and Nampula)*

*Source: Atualização do Balanço de Terras, DINAGECA, Feb. 2003*

Excluding the missing data, DUATs were granted to 6,649 land requests up to May 2005, representing an area of 3,066,674 hectares.

## 4.2 Challenges for the individual land registration process

Evidence from literature and from the general debate about land questions, raises concerns about the processes of land registration. The process of individual land registration has been haunted by issues such as inadequate community consultation, non-fulfilment of land use and development plans proposed by those requesting land to DUAT and the incapacity of the government to carry out effective supervision. To overcome such problems constitutes a major hurdle for the land registration authorities of the country.

### 4.2.1 Persistence of inadequate consultation

One of the innovations of the 1997 Land Law was the need to carry out community consultations in the process of land registration. Whenever an individual asks the government for land, the law demands that the local community be consulted. The aim of such consultation is to find out whether the requested land is being used or not and if in use, on which grounds can the users assert their rights over the individuals requesting the area.

Since the application of the 1997 Land Law, the issue of consultation has always divided the opinion of those involved, mainly the state authorities and the NGOs that defend the interests of local communities. NGOs argue that the SPGC do not carry out adequate community consultations (see Norfolk and Liversage, 2002 for examples in the province of Zambezia). In 2002, Hanlon argued that community consultations were 'inadequate and dishonest' and

seemed like a way of evicting peasants from their land in Mozambique (Hanlon, 2002:32). With badly conducted consultation the government seems to expropriate the land from local people to give it to third parties in what appears to be the formal procedure. Still today, there is evidence of inadequate consultations. In a seminar recently carried out in Maputo, a study by the Centro de Formação Jurídica e Judiciária (CFJJ) with the assistance of the United Nations Food Organisation, concluded that the consultations done in the country are badly conducted and inadequate and do not bring about positive impacts for the local communities<sup>18</sup>.

#### **4.2.2 Non-fulfilment of development plans**

At least 6,649 requests representing an area of 3,066,674 hectares have been approved between 1997 and 2005. Those interested in rural development and poverty alleviation in Mozambique are concerned that some of the land being registered is not being used and developed. The figures may be deceiving because they do not verify that the land is being used for the purposes for which it was attributed. In principle, those who do not use the land in accordance with the request should have the land retrieved or reduced in size, unless an acceptable justification is given to the appropriate authorities. In practice, however, there is a lot of land that is not being developed. Such a situation is not new and, according to Hanlon (2002), the authorities had promised to fight against such practices in 2001 but by 2002 nothing had happened. This remains the case today and the newly elected government has already promised to address this issue, especially in Maputo province where there is a huge demand for land for various uses<sup>19</sup>.

#### **4.2.3 Lack of adequate supervision**

Another criticism is that the land authorities do not carry out supervision activities. Most of the SPGCs have limited human and material resources, which may hinder them to carry out their duties. This is the case of Zambezia province (Norfolk and Liversage, 2002). Without adequate supervision, the holders of the land titles will keep the land idle without the knowledge of the authorities. In these cases, the registration of land will not be of use to either low-income citizens of the country or the country in general if the new title-holders do not abide by their agreed development plan.

In parallel to the formal process of individual land registration described above, land registration by local communities has been carried out since 1998, using a different process.

### **4.3 Community land registration**

The period preceding the revision of land legislation was characterised by an almost complete lack of recognition of the rights of local communities<sup>20</sup> over community land. The State would sometimes assign to third parties certain categories of community land, such as forests and pastures, considering such land to be unoccupied (Myers, 1993). This happened in part because the State did not recognise local community rights acquired through customary norms and practices (rights that were often not registered). This had negative consequences for low-income population groups that are heavily dependent on land and other natural resources for their livelihoods, particularly forests and common pool resources.

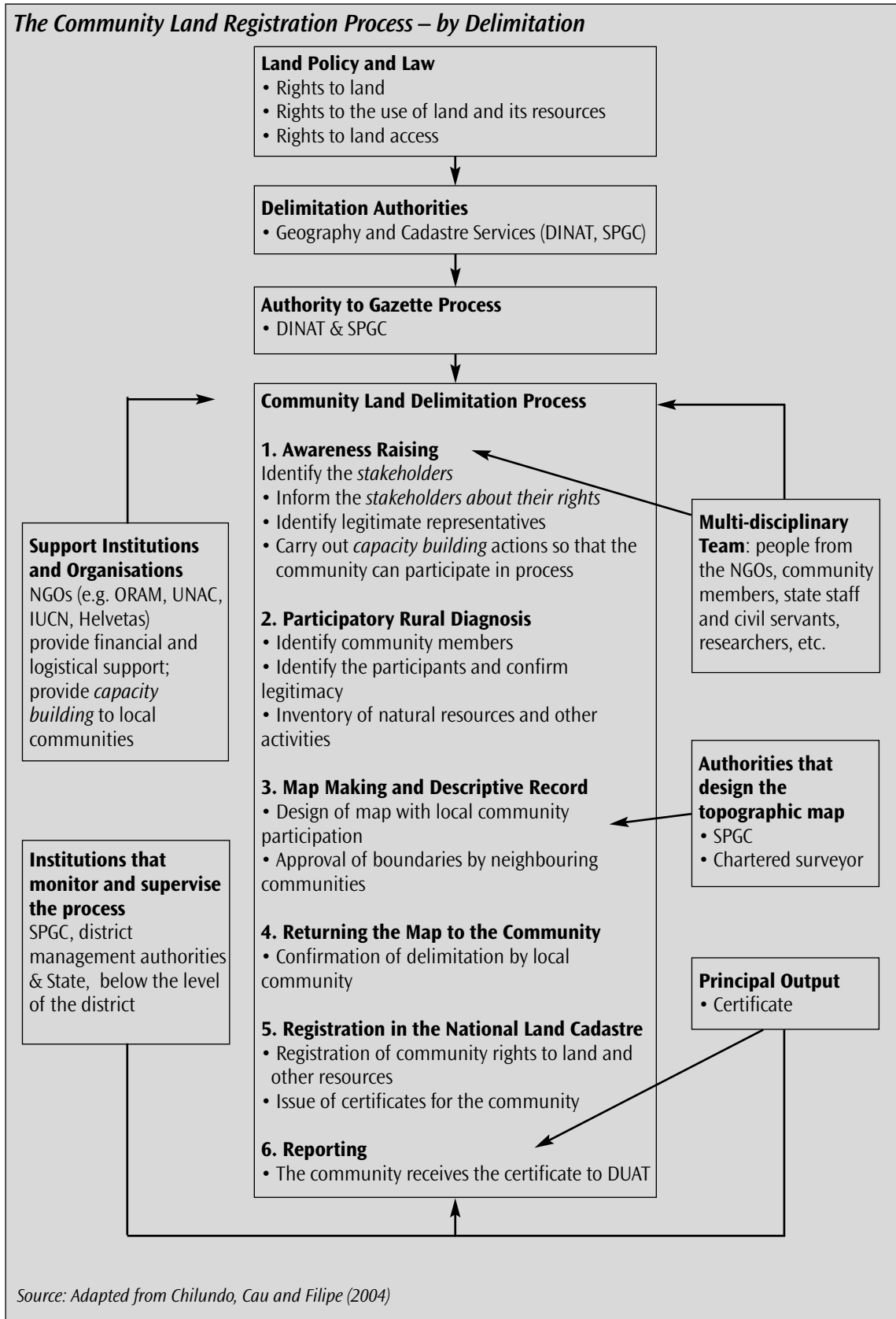
The need to address this situation became clear during the debates around the introduction of the current land legislation. One solution proposed was the registration of community land, and this in fact became part of the 1997 Land Law<sup>21</sup>. The delimitation of community land was identified as being an important step towards registration. According to Tanner et al., (1998), two main proposals were made: delimitation of community land with closed boundaries and with open boundaries.

<sup>18</sup> Presentation of the study "Community consultations and their impact on local well being" in a seminar organised by the Centro de Formação Jurídica e Judiciária (CFJJ) and FAO Livelihoods Support Programme, Maputo, 17-18 March 2005.

<sup>19</sup> For example, the declaration by the deputy minister of agriculture – TV news 30 May 2005 (Televisão de Moçambique – TVM).

<sup>20</sup> In the 1997 land law, a local community is defined as "a grouping of families and individuals, living in a given area at locality level or lower, which aims to safeguard common interests through the protection of areas for habitation, areas for farming, whether cultivated or lying fallow, forests, sites of cultural importance, pastures, water sources and expansion areas" [Article 1(1)]. The dimensions of the local communities are in fact very different and sometimes may cover a large area. For example, the community of Nhafubua in Zambezia province has an area of 74,000 ha and in 1997 it had a population of 2,912 inhabitants (INE, 1999a) and the community of Mungoma, in the same province, has about 213,984 ha (Norfolk, 2002).

<sup>21</sup> Article 13.



### 4.3.1 Delimitation of community land with closed boundaries

In this proposal, local community land would be strongly protected and would not be assigned to outside interests. Community members would continue to enjoy their specific rights to land acquired through the State or through customary norms and practices. One of the consequences would be the isolation of the community from externally driven socio-economic transformations, as it would create a kind of enclave (Tanner et al., 1998).

### 4.3.2 Delimitation of community land with open boundaries

This proposal, which was adopted into the law, meant that local community land would be protected, but access to resources within the community area would be open to outside interests (such as investors). However, the local community would have to be consulted to find out whether or not it agreed to the granting of its resources to outside interests. As in the other proposal, local community members would continue to enjoy their specific rights to land acquired through the State or through customary norms and practices. This proposal was more advantageous for communities than the first one, because (i) it would reduce the economic isolation of the community; (ii) the local community would be a participant in efforts to achieve local economic development; and (iii) it would enable good relations between outside interests and local communities (Tanner et al., 1998).

This proposal is the best guarantor of the key goal of Mozambique's land policy, namely "*to ensure the Mozambican people's rights over the land and other natural resources, and to promote investment and the sustainable and equitable use of these resources*"<sup>22</sup>.

Next, the main steps for community land registration are briefly presented (Interministerial Commission for Land Legislation Review, 2000).

#### **Box 2. Community land registration – a description of the process**

##### **Awareness raising**

This is the phase when the local community is informed about the aims of the national land policy and their rights in the land legislation. This includes information about the opportunities made possible by the delimitation process. It is compulsory to indicate the number of men and women participants and it is also at this phase that the representatives of the community are chosen. Three copies of information and dissemination reports are made and signed. One is left with the local community, another with the district administration and the third one with the community land delimitation team.

The execution and results of this phase will influence the other phases. Its main merit is the creation of opportunities that are used to inform the local communities about their rights and duties, aims of delimitation, as well as those opportunities resulting from the carrying out of this process.

In an analysis of cases of community land delimitation in Mozambique, Chilundo, Cau and Felipe (2004) observed that the dissemination of the legislation concerning land delimitation and the awareness of the population regarding the need to register the land was an important element for the current process to be carried out successfully. In most of the cases, the delimitation was done in less than a week – in an average of 5 days (total working days in the community).

##### **Participatory rural diagnosis**

This phase gathers knowledge about the social, economic and environmental conditions of the areas occupied by the community. It is also aimed at knowing the boundaries of the community, the existing resources and mechanisms for its management as well as local institutions. If well conducted, this exercise resulted in the capture of the concept of how the community defines itself. It is compulsory to record of the number of women and men participating in the process.

In order to secure the representation and consensual view of the results concerning the delimitation of the land, the Technical Annex to Land Legislation requires that during the previous phase, the delimitation facilitating team works with women and men from different social backgrounds and ages that belong to the local community. This avoids the exclusion of certain social groups.

<sup>22</sup> Resolution 10/95 of 17 October; 28 February 1996, I series No. 9.



**Map making and descriptive record**

This phase is made up of the following: (1) the design of a map with the participation of the community, (2) the validation of the map by the local and neighbouring communities, and (3) the geographic reference of the draft situating the area on a topographic chart<sup>23</sup>.

**Returning the map to the community**

The map of the location and its descriptive record, designed through rural diagnosis, and the geographic referencing are returned to the community. This must be carried out in the presence of the community and representatives of neighbouring communities. These people have the right to approve and or reject it. This feedback mechanism is used to balance the decision-making power within the process and between the parties.

**Registration in the National Land Cadastre Services**

The registration of community rights to land and other resources is occurs after the SPGC has certified that the process has been conducted correctly and is complete. The area is registered and a land certificate issued to the community. The issuing of the land certificate is a sign that the delimitation of the community land went according to the procedure laid out in the Technical Annex and also shows the recognition of the rights of the community to the use of other resources within the delimited area.

In practice, the registration of community land rights using the delimitation process began in 1998. This registration, also called collective rights registration, can likewise be done through farmers' associations, as happens in the peri-urban areas of Maputo and Matola.

The process involves the participation of MINAG through the SPGCs and District Directorates of Agriculture, traditional authorities, local communities in general, and NGOs such as HELVETAS and ACTION AID in Maputo Province, ORAM in Zambezia and Nampula, and the Diocesan Land Commission (CDT) and KULIMA in Nampula.

Many of the community registrations to date have been at the request of the local community and supported by non-governmental organisations (CTC Consulting, 2003). As we argue in this paper, the role of the NGOs is fundamental for community land registration. Most of the registered communities made their applications after learning about the land law through NGO information campaigns. The NGOs are also responsible for providing the

**Table 2: On-going and completed delimitations of community land in May 2005.**

Province	Land delimited	Issued certificates	Issued land titles
Niassa*	5	3	0
Cabo Delgado*	11	0	0
Nampula**	56	19	24
Zambézia**	48	39	0
Tete**	3	0	0
Manica**	18	5	0
Sofala*	17	5	0
Inhambane*	5	0	0
Gaza**	13	10	0
Maputo*	9	7	0
Total	185	88	24

\* data that is not up to date

\*\* Reviewed data by SPGCs

Source: Updating of table data by CTC Consulting (2003).

<sup>23</sup> Geographic referencing is the process by which the area is located on topographic charts, which have known geographic coordinates. This may also involve the process of data collection of the boundaries points with the use of Global Positioning System (GPS). A map is then produced. The geo-referencing of the area may be done by private chartered surveyors or the SPGC.

communities with legal and financial support. There are currently 185 communities with registered land in the entire country (see Table 2). Of these, only 88 have their land certificates. Nampula province stands out as having most community land registered and the only province with land titles. Land titles are given in cases where community land has been demarcated<sup>24</sup>. A key difference between delimitation and demarcation is that in the latter, the land is registered in the Property Records Registry after the title is issued to the community. In the case of delimitation, the community receives a certificate for land use and benefit rights (DUAT) which is registered in the National Land Register.

#### 4.4 Challenges for the community land registration process

In practice, the process concerning local community land registration is much more complex than it seems. The delimitation process has to be done carefully and with the participation of the community to be delimited and its neighbours. It is an activity that involves several organisations that are alien to the community and in most cases the process demands coordination and communication between the organisations. In most of the cases analysed by Chilundo, Cau and Filipe (2004) two or more organisations took part in the process (ORAM and SPGC were involved in most cases).

There are sometimes land conflicts between communities involved in the delimitation exercise (i.e. land disputes concerning areas rich in resources such as fertile soils, water sources, etc.). These conflicts have to be looked at very seriously and this slows down the whole registration process. There are other cases where the land area is large which means higher costs and challenges because it is necessary to involve and negotiate with different neighbouring communities.

The financing for the land registration process is another hurdle. According to the CTC Consulting (2003), the Government does give priority to community land registration<sup>25</sup>. Between 2001 and 2003, however, the government only made funds available for 4 delimitations per year. As the donors who funded the process in the past started to channel their funds through the government, funding has become a major problem (CTC Consulting, 2003). The argument used by the government concerning the non-allocation of funds for land delimitations, is that the land legislation safeguards the rights to land of local communities, even if the land is not registered. In other words, as the law demands that a community consultation be done in the case of any new land registration request, the community can refuse to sign the minutes of the consultations. However, there are still consultations that are not carried out correctly.

The next section looks in more detail at four communities in Zambezia and Nampula provinces.

<sup>24</sup> See footnote 15.

<sup>25</sup> According to the Technical Annex of the 1997 Land Law Regulation, the delimitation of community land is prioritised for cases (i) where there are conflicts on the use of the land and/or other natural resources; (ii) in local communities where the State and/or other investors want to start up new economic activities, development projects or plans; (iii) where the local community itself requests it (Ministerial Diploma 29-A/2000 of 17 March).

## 5. CASE STUDIES IN NAMPULA AND ZAMBEZIA PROVINCES

### 5.1 Study areas

Two districts were selected for study, each from a different province. Two communities within each district were chosen.

Zambezia province in Mozambique's central region (see Figure 2, Annexes), is one of the poorest in the country (UNDP, 2002). In spite of its poverty, the province is rich in natural resource diversity and is suitable for cultivating food crops (corn, peanuts, beans, rice) and commercial crops (tea, cotton, tobacco) and fruit trees. Nicoadala district experienced a number of post-war land disputes (Norfolk and Soberano, 2000). The district is close to the Provincial capital and main roads and signs of land pressure are apparent. It is characterised by both patrilineal and matrilineal influences on the land tenure system. Murrua and Nhafuba communities were selected as study sites. They officially possess areas of 13,000 hectares and 74,000 hectares respectively<sup>26</sup>.

Meconta district in the province of Nampula in Mozambique's northern region (see Figure 1, Annexes) is an area of high agricultural potential and suitable for irrigated agriculture. Nampula is the most populous province in Mozambique and the largest producer of crops for export. The district of Meconta is located between the main urban centres of the province and close to a railway corridor. There are large investors in commercial crops involving farmers in production activities. There are several disputes between farmers and private companies. The province is characterized by a matrilineal society. Within the Meconta district, two communities, Koma Koma and Nipuro were selected. Koma Koma community has a registered area of 4,120 hectares, while Nipuro community has 24,000 hectares<sup>27</sup>.

#### 5.1.1 Murrua and Nhafuba communities, Nicoadala district, Zambezia

Land registration in Murrua community was carried out in 1999 and in the Nhafuba community in 2001. Both communities belong to the Nicoadala administrative post, and their centres are around 35 km and 72 km respectively from Quelimane, the provincial capital<sup>28</sup>. National highway No. 7 runs through Murrua community, which comprises five settlements, known as cells: Awande, Marques, Mugua, Murrua-Sede and Portugal. Nhafuba community in its turn has four main settlements: André, Lino, Maremissa and Nhafuba-Sede.

In 1997 Nicoadala district had a population of around 198,451 inhabitants (INE, 1999a), speaking variations of Chuabo. The local power structure comprises representatives of both government authorities and traditional authorities.

Murrua community has two main agro-ecological areas. The first is the Mucelo river valley (which has an average width of 6 km) and the second is a sandy inland dune. In the case of Nhafuba community the sandy inland dunes predominate, notwithstanding some low-lying areas in the river valleys. Both communities have a damp and rainy climate (dos Muchangos, 1991), and are crossed by rivers and numerous streams.

Commercially valuable forest species can be found in the forests and scattered through other areas, including umbila (*pterocarpus angolensis*), ironwood (*swartzia madagascariensis*), jambirre (*milletia stuhlmannii*), chanfuta (*aftzelia quanzensis*) and murroto or mutando (*cordyla Africana*). The local communities use these trees for various purposes.

#### 5.1.2 Koma Koma and Nipuro communities, Meconta District, Nampula

Nipuro community's registration process took place in 2001, and that for Koma Koma began in 1999 and was completed in 2001. Both communities belong to the *régulado* of Nipuro and have the 7 Abril Administrative Post

<sup>26</sup> Official data provided by the Provincial Geography and Land Registry Services (SPGC), Zambezia, July 2003.

<sup>27</sup> SPGC – title number 1926/2001; process number 2001 – Plot 14, Pages 403 and 443.

<sup>28</sup> We found that Nhafuba community has two centres: one for the locality government and one for the *régulado* (traditional authority). The former is in Lino, around 72 km from Quelimane, and the latter is in Nhafuba-Sede, around 100 km away.

in Meconta district as their centre. This is around 70 kms from Nampula City, the provincial capital, and around 20 kms from the district capital. The Nacala road and rail corridors pass through Nipuro.

In 1997 Meconta district as a whole had around 115,517 inhabitants (INE, 1999b) who are Macua speakers. Local power structures comprise both government authorities and traditional authorities (*régulos* and *cabos*), that work closely together.

In agro-ecological terms the two communities are in a region with satisfactorily high levels of rainfall. The main crops are cassava, groundnuts, beans, rice and cotton. All except cotton are grown for consumption, but in times of abundance some of the produce is marketed to enable the purchase of other basic goods. The main marketed crops are groundnuts, and cashew nuts, the latter being the main export crop and symbol of wealth among community members.

The Niapala settlement in Nipuro also has important forestry resources, including species of commercial value: umbila (*pterocarpus angolensis*), ebony, jambirre (*milletia stuhlmannii*) and chanfuta (*aftzelia quanzensis*).

## 5.2 Research Methods

The field work was carried out by two teams, one in each study area, over three weeks in July 2003. Information was collected and interviews were held with government officials and representatives of NGOs working on land questions in the administrative centres<sup>29</sup>. Fieldwork in the four communities consisted of mapping the local organisations and social institutions linked to land and other natural resource issues (e.g. local power structures, local land committees, local associations and mutual aid schemes), and understanding how they function. Mapping aimed to collect information on both formal and informal mechanisms for land registration. Semi-structured group and individual interviews of community members, including the leadership, were also held<sup>30</sup>.

As the study aimed to assess the impact of land registration on the livelihoods of low-income groups, the semi-structured individual interviews were directed more towards the people who are considered locally as belonging to the following categories: women, immigrants<sup>31</sup>, young people, single mothers, older men and women, widows and widowers.

In addition to the interviews, direct observation in the communities was used as a method to understand the dynamics of the land registration process and evaluate its implications for poor people's livelihoods.

The preliminary results from these studies were presented and discussed in various meetings, in particular the mid-term research workshop convened by IIED in Maputo (November 2003), the local seminar held in Nampula (July 2004), the Eduardo Mondlane University research seminar (September 2004) and the national seminar organised by NET (September 2004). This report was additionally circulated via e-mail within Mozambique, and received inputs from various people who are working on issues related to land registration.

## 5.3 Traditional forms of access to land and security of tenure

To assess the impacts of a formal land registration system on more vulnerable groups, we have explored the traditional forms of land allocation and tenure during the interview process and asked respondents to discuss which groups within the communities are most disadvantaged. Access to land and security of tenure are two of the factors with most influence on the livelihoods of low-income groups for whom land is their main resource. We paid particular attention to women, who are considered to be at a disadvantage in relation to men with regard to land rights under the customary system (Waterhouse, 2000).

<sup>29</sup> Quelimane City and Nicoadala town, 9 interviews; Nampula City and Meconta town, 10 interviews.

<sup>30</sup> 27 individual interviews were conducted in Murrua (11 women and 16 men) and 24 individual interviews in Nhafuba (10 women and 14 men). Two group interviews were held in Murrua and three in Nhafuba. In Koma Koma and Nipuro communities, 66 interviews were carried out; 36 with men and remainder with women. Different categories of women were included, such as widows, single, elderly and divorced. Two group interviews were held; one in Koma Koma and the other in Nipuro.

<sup>31</sup> In Nhafuba and especially in Murrua, most immigrants were men, this led to the number of men interviewed exceeding the number of women in these communities.

In all the communities studied, the native born has the most privileged access to land, through inheritance. Next to this, those with family connections or friendships with local leaders or residents, have more advantage in acquiring land rights.

In Nampula, inheritance is the main form of access to land, followed by marriage, loans, gifts and the occupation of 'empty' land, mostly forests.

In Zambezia, a single woman uses her parents' land, but on marrying she goes to cultivate her husband's land. In Nampula, where matrilineal inheritance is still prevalent in many areas, most women cultivate their parents' land, and men often cultivate land at their wives' homes. However, there are exceptions to both rules, with the practices of Zambezia occurring in Nampula and vice-versa.

In the Nampula interviews it appeared that there were no differences between men and women in accessing land and other natural resources<sup>32</sup>. Charcoal making, however, appears to be a typically male activity, or at least one which is carried out by married couples. In terms of benefiting from production, the coordinator of an NGO said, "*Women have the right to manage the land but do not have the right to its final product. The man helps to clear the woman's land, she manages it and produces, but who fixes the prices and markets the production is the man*".

In Murrua, Zambezia, we found a situation of land scarcity, particularly in highland areas<sup>33</sup>. Anyone who has not inherited enough land has to buy an area to cultivate<sup>34</sup>. In this case, land purchase was indicated as the main form of acquiring land after inheritance. We also found cases of land rental in low-lying areas where rice cultivation predominates. The price of land has evolved over time, perhaps in parallel with the fluctuating cost of living or depending on the area. For example, in 1980 someone bought the land where he lives and farms in the Marques settlement for 15 MT<sup>35</sup>, and in 1987 someone else bought land with cashew trees on it in Awande for 450,000 MT (USD 18.75)<sup>36</sup>. But current prices in Murrua range from 700,000-900,000 MT (USD 29.2-37.5). Common reasons to sell land in Murrua include (i) the need to resolve some difficulty that requires money; (ii) emigration to somewhere else such as the city; (iii) control of so much land that it can be sold to someone who will buy it rather than offering it as a gift.

Those who are immigrants to the communities include those displaced by the war, people seeking land for farming and housing, and up to a point, men who acquire land through marriage. Immigrants who want land must present themselves to the local authorities and express their interest in acquiring it. Sometimes the person knows someone in the community who can facilitate entry. The local leader calls the community together, and they decide together where and how to allocate land (in the case of Murrua by gift, loan or purchase; loan or gift in the case of Koma Koma, Nipuro and Nhafuba). Certainly in Nampula province the traditional authorities do not have wide powers over the communities' lands, "*The régulo's role is only to give guidance, to resolve various types of conflicts. He has no power to distribute land. Even the party structures don't have the power to distribute land*"<sup>37</sup>. However, the immigrant sometimes contacts an individual in the community with available land for direct sale or loan. In both Zambezia and Nampula it is accepted that loaned land does not provide security. In the case of Koma Koma and Nipuro people working borrowed land may not plant fruit trees, and the owner can claim the land back at any time. In Murrua, this lack of security is used to justify buying and selling land. As the traditional chief of Murrua said "*borrowed land is land full of problems. It's no good*"<sup>38</sup>.

In both provinces it is clear that common pool resources are an important contribution to people's livelihoods. In Nampula province, the following activities were mentioned in interviews: charcoal making, cutting bamboo and twine for house building, making domestic utensils and beds from local materials, and making sand and clay

<sup>32</sup> Of the 30 women and 36 men interviewed, 95% of each group said they had equality between the sexes in terms of land access.

<sup>33</sup> This is perhaps due to its proximity to the provincial capital, where there is high demand for land for different uses, and to the fact that it is on the main road (EN7).

<sup>34</sup> The sale of land is illegal in Mozambique. Sales of improvements made to the land are permitted (see Chilundo et al., 2003).

<sup>35</sup> Interview in Marques settlement, Murrua community, July 2003.

<sup>36</sup> Interview in Awande settlement, Murrua community, July 2003.

<sup>37</sup> Interview in Meconta district, July 2003.

<sup>38</sup> However, immigrants in Awande-Zambezia and Niapala-Nampula seem to have some security of land tenure even without having bought it. In Awande some people have already planted fruit trees such as cashew and coconut palm.

blocks. In Murrua as in Nhafuba in Zambezia province, all members of the community can use the communal land. They collect firewood, produce charcoal, find building materials and gather food such as mushrooms and roots. According to the interviewees, the space occupied by communal lands in Murrua has shrunk considerably, due to the expansion of cultivated areas, charcoal production and the cutting of poles and planks for family use and for sale in the market. The people involved in these activities are not only from Murrua community, but also come from other places quite far away such as Namacata, Namacurra and Nicoadala town. Their use of communal land depends on authorisation by the local authorities.

### ***Informal 'registration' processes and practices***

As we have seen, in Murrua land is often sold. Land sales occur among members of the community, and also involve people from outside. Sale and purchase transactions take place in the presence of local authorities as witnesses, with written declarations confirming the operation. These declarations are written in Portuguese, and when one of the parties is illiterate a third party is asked to write the declaration. The declarations are kept by the seller and buyer. The local authorities and community members who witness this type of transaction only do so mentally, not in writing. Some buying and selling transactions are done clandestinely.

In Nampula province we found peasants' associations that are working a certain plot of land within the area registered by the community. These associations have informal registers of members, and their income reverts to the members. In Zambezia there are peasant production associations that have land use titles.

## **5.4 Disadvantaged groups**

Disadvantage is a relative term and it could be argued that much of Mozambique's rural population is disadvantaged through lack of access to basic services such as health, education and extension and to markets for selling produce and buying basic provisions. Certainly Koma Koma and some of Nipuro's settlements are extremely difficult to reach by road<sup>39</sup>. Most of the Nhafuba community is similarly far from passable roads<sup>40</sup>.

In the case of Zambezia, those who are disadvantaged include older men and women without support, sick people, single mothers, widows, disabled people and the young. However, except in the case of young people, access to land is not the contributing factor, nor is security of tenure. Rather, it is the lack of ability to use land productively which determines vulnerability. In Nhafuba, and also in Koma Koma and Nipuro, for example, although there is abundant land, it is extremely difficult to open a field for cultivation due to the predominance of forest. Nonetheless, there are some forms of help at local level for people in this situation<sup>41</sup>. In Nampula, one woman stated *"women and men are equal in access to land, but men have an advantage in the size of the cultivated area because they are able to clear the bush and exploit new areas"*. However, there are people in Murrua who do not fall into the above categories but consider themselves to be disadvantaged because they are unable to leave much land as an inheritance for their children or can only leave marginal land.

In Nampula, the most disadvantaged are those who farm borrowed land. According to the cabo of Koma Koma, *"people who work on borrowed land are poor because they can't plant trees or crops that will only provide an income in the medium or long term. They can only use the land for crops such as groundnuts, sorghum or beans, but they can't plant cashew trees"*. They are thereby deprived of production of one of the main cash crops in the area.

As for young people, the land they receive from their families is not always enough to meet the needs of their growing households<sup>42</sup>. Of all the communities studied, Murrua is where young people have the greatest difficulty acquiring land. Those who have, have acquired it by gift, inheritance, loan or purchase. Even those who received land

<sup>39</sup> The only vehicles able to get there with ease are tractors and 4-wheel drives.

<sup>40</sup> Between the main highway and Lino, the administrative centre of Nhafuba, and to access the regulado centre in Nhafuba-Sede, several streams must be crossed. None of these watercourses have bridges and only 4-wheel vehicles can get through. Apart from heavy trucks belonging to the Grupo Madal company, which transports timber, Nhafuba community has virtually no means of transport.

<sup>41</sup> A migrant widow was helped to open her field by relatives and members of her church - interview in Nhafuba-Sede settlement, 23 July 2003. In Nampula province women said they can obtain bush clearing services in exchange for traditional drinks or a meal after the work is done.

<sup>42</sup> Interview in Piluela-Nipuro settlement, July 2003.

<sup>43</sup> Interviews in Murrua-sede settlement, 15 July 2003.

freely from their parents complained that it was not enough, and that they did not have money to buy more<sup>43</sup>. With regard to divorce, in Zambezia divorcees lose their rights to the land they were using, as this belongs to their husband's family, whereas in Nampula (in matrilineal areas) it is the man who loses his right to the land belonging to his wife's family. However, losing a partner of either sex does not necessarily result in loss of access to land for the bereaved. In Murrua, for example, we found cases of women who continued to use their husband's family's land after they had been widowed. In Nipuro and Koma Koma we found cases of men who continued to work the land of their dead wife's family.

It is clear that the ability to access land to farm, the capacity to cultivate it and the rights of access and use to common lands all impact livelihood security. As highlighted in the interviews, access to market is also a key element to success. There are two main factors contributing to an increasing level of vulnerability in the communities. In Nhafuba, access to markets is seriously limited, as most of the community is far from passable roads. The same applies to much of the area studied in Nampula province. In Murrua, pressure on communal areas is leading to increased walking distances to find trees for poles or charcoal making. People are looking to Nhafuba to source these resources which sometimes causes disputes between the two communities.

## 5.5 How land registration occurs in practice

This section will look at the land registration processes as they occurred in the communities studied.

Once the community had shown interest in registering its land, the sequence of activities outlined in the Technical Annex to the 1997 Land law was followed. This included: finding out about the community's history and the use and management of local natural resources, drawing up a community map by means of a participatory rural diagnosis, checking the boundaries with neighbouring communities and fixing boundary markers. The community land use certificates and titles were deposited at the local administrations and the SPGCs, while one copy is retained by either the individual or community titleholder. There were clear efforts to make the process transparent, mainly thanks to the legal insistence on community consultations before the concession of any land at all.

All the communities studied elected local land committees, which were involved alongside the government leaders and representatives of traditional authorities in the registration process. The composition of the land committees was sensitive to gender and social differentiation to minimise marginalisation or exclusion of disadvantaged groups.

Within the local community, the chief (*régulo*) or *cabo* played significant roles in land rights registration. They were the first to be contacted by the NGOs working on publicising the Land Law, and by legal advisers involved in reg-

### **Box 3. The role of traditional authorities - an example of Nipuro community**

In the Nipuro community, the local *régulo* was the first person to invite the Diocesan Land Commission (*Comissão Diocesana de Terras* – CDT) to publicise the Land Law and register collective rights to land for that community. The *régulo* Nipuro participated in a training course for people who would disseminate the new Land Law, which was held in Muecate district<sup>44</sup>. As can be seen, the *régulo* was the key figure in this process; however, the role of other members of the community should not be under-estimated.

istration.

In practice, the main co-ordinators of the land registration processes were NGOs, with the collaboration of government institutions such as the SPGCs, the district administrations, the district directorates of agriculture, the local government authorities (at locality level and below) and the traditional authorities. It was also the NGOs that sought the necessary funding. In Nampula, however, the Koma Koma and Nipuro communities contributed 10,000 MT and 5,000 MT per family respectively to the cost of land registration. People in Koma Koma also mentioned an additional 5,000 MT was collected for organising the celebrations when the land title was received.

The land registration process is centralised. The SPGCs have the task of processing and authorising requests and they

<sup>44</sup> Interview with the coordinator of the Diocesan Land Commission.

also have powers to direct the work of delimiting or demarcating land. The lowest level with decision-taking powers is the provincial government. When there are SPGC offices at district level the process sometimes begins there, but this is rare.

The facilitators of community land registration communicated in the local language. Speeches made in Portuguese were always translated into the local language so that the majority could understand the process. The documents prepared and signed during registration (such as minutes of meetings and the reports from the participatory rural diagnosis) were written in Portuguese. However, the community leaders said that the main documents were read out loud and translated for the participants.

The members of the communities studied do not know how much the registration of their land cost, though they do recognise their inability to pay from their own resources. According to the CTC Consulting report (2003), the average cost of a demarcation in Zambezia was USD 8,700. However, the same authors say that the average cost during the pilot phase ranged from USD 2,200-5,500, though this figure excluded salaries (CTC Consulting, 2003).

Nobody in the communities studied had registered their own family land individually. Some showed interest in doing so, but lacked money to pay for it and did not know the bureaucratic requirements involved. They argued that registering the ownership of family land could guarantee security of tenure for their children. This may in part reflect the uncertainties felt by some people about the future. However, other community members do not think it is necessary to register their family land individually. As the community land is registered they feel their land tenure is secure.

To assess the impacts of community land registration, the study investigated land and resource conflicts at three levels, inter-community, intra-community and between communities and outside interests.

## 5.6 Land conflicts

### 5.6.1 Community level

Interviewees in both Zambezia and Nampula said that serious land conflicts were infrequent. In Zambezia there are conflicts related to some land sales that take place without the knowledge of the local authorities. The conflicts arise in cases where the seller wants to take back the land and return of the money is requested. Without a written declaration that witnesses the sale, it is difficult for the purchaser to prove that he or she paid money to receive the land. We found one such case in Maremissa settlement in Nhafuba community<sup>45</sup>.

In Nampula, we found that all members of the communities studied have access to land for housing and for farming. We only found one case of the sale of land in Koma Koma and another of the purchase of an asset (a house) in Mitano settlement in Nipuro<sup>46</sup>. The few conflicts mentioned are related to the accuracy of boundaries between fields occupied by different families. Also in Nampula, instead of land sales, we found a spirit of solidarity among community members, with cases of loans of land to people who do not have any. The length of use of the land is subject to negotiations between the parties involved, but tends to be long term. On occasion loaned land is used by the descendants of the borrower.

The traditional authorities are the preferred place for the resolution of disputes, including those related to the boundaries between neighbouring plots and the exploitation of other natural resources. When these types of disputes transcend the family's capacity to resolve them, they are channelled to the *cabo* and then by him to the *régulo*. The problems rarely reach the *régulo*, and get to the district court even less frequently.

### 5.6.2 Between communities

While Koma Koma and Nipuro communities in Nampula do not have cases of serious conflicts, there have been conflicts between registered and neighbouring communities in Nhafuba and Murrua communities in Zambezia over the control of land and other natural resources. However, the situation of Koma Koma and Nipuro should not

<sup>45</sup> Interview with the president of the locality and the deputy community judge, both from Nhafuba community, in Lino, 21 July 2003.

<sup>46</sup> This settlement is in a village formed during the war alongside the 7 de Abril administrative post centre.



be generalised to the whole province of Nampula given that in Namialo, also in Meconta district, and in Monapo, a district bordering on Meconta, there are reports of land conflicts involving communities. These conflicts reveal the continuing importance of land and other natural resources in the livelihoods of the rural population.

Interviewees in Nhafuba community in Zambezia said that they had conflicts between 2000 and 2002 with individuals coming from Malei community in Namacurra district, and from Murrua and Munhonha in Nicoadala district. According to them, some people had come to the Nhafuba area to use the forest without requesting authorisation. Another conflict involved the Nhafuba community and the neighbouring community of Bruma in Mocuba district. This conflict broke out when in 2001 the Madal Group company announced that members of the Nhafuba community would receive some benefits if they identified and located commercially valuable timber trees in the concession area. Following this promise, people from Bruma came into the Nhafuba area to locate the trees. The inhabitants of Nhafuba opposed the location of timber-producing trees in their territory by people from Bruma, as this would reduce their own chances of benefiting from forestry operations in their territory<sup>47</sup>.

Control over land was also the source of differences between neighbouring communities of Murrua and Mutange at the time of the boundary marking in the land registration process. Following negotiations among the parties, moderated by ORAM, the two communities came to an agreement over the boundary line.

### **5.6.3 Between registered communities and private operators**

Relations between registered communities and private operators take on distinct characteristics in the four communities studied. In Koma Koma and Nipuro communities there is no significant influx of private investors. We only found two cases, both of individuals. In one case a woman cattle owner requested land for pasture. The land was granted but the process did not observe the correct procedures<sup>48</sup>, as the community was not consulted. The interviewees were horrified at the presence of cattle in the community, and alleged that they were invading the fields. This experience seems to have paved the way for people to raise barriers against new private operators: *“If anyone interested in exploiting the land arrives here I will refuse the request. A woman with cattle arrived and promised something for the community. She has done nothing up to now, and the cattle are damaging people’s fields”*<sup>49</sup>. The other case, in Koma Koma, involved the sale and resale of the same piece of land, and has not yet been resolved<sup>50</sup>.

A prevailing theme in Nhafuba and Murrua communities is that land registration took place due to the local population’s state of insecurity with regard to land tenure. This was confirmed by the fieldwork, and is also supported by other work done in the study areas<sup>51</sup>. Assigning community land or other natural resources without adequate community consultations lay at the root of the problems. In the case of Murrua community a private operator was about to acquire a large area of land. After negotiations involving the government administration the land area requested was reduced and the conflict was resolved. In Nhafuba the community also had a conflict with another private operator (see Box 4).

<sup>47</sup> Interview in Lino settlement, Nhafuba community, 21 July 2003.

<sup>48</sup> Law 19/97. The request had gone through the District, the Administrative Post, the *régulo*, the *cabo* and those providing the land.

<sup>49</sup> Interview in Nipuro community, July 2003.

<sup>50</sup> Interview with *Régulo Nipuro*, Nipuro-Sede settlement, July 2003.

<sup>51</sup> See ORAM 2000; 2001.

**Box 4. Conflict and cooperation between the forestry company and Nhafuba registered community over the use of forest resources**

The Madal Group possesses a forestry concession the area of which covers Nicoadala, Morrumbala and Mopeia districts, all in Zambezia province. The concession's biggest area is in Nicoadala, within the Nhafuba community. The total concession area is 98,000 hectares (DNFFB, 1997). According to interviewees in Nhafuba, this concession began to operate there in 1996, without having consulted or informed the local inhabitants. The community felt threatened by the prohibition on entering the concession area and by rumours that a barrier was going to be built that would prevent them from continuing to use the forest for their various subsistence activities. A conflict thus arose between the community and the company. When the Rural Mutual Aid Association (ORAM) went to the community to publicise the new Land Law, the community saw that what the company was doing was contrary to the spirit of the law. The land committee wrote to the district administration and the District Directorate of Agriculture to report what was going on, and then requested the registration of community land use rights. The community contacted the company to demand respect for their right to use the forest for subsistence activities. The conflict was resolved after negotiations with company representatives.

As a result, in 2001 the company instructed community members to locate valuable timber trees in the concession area and inform it. It then took its employees to cut the logs. The timber was measured and a coupon given to the person who had located it, and he or she would be paid for their efforts according to the number of trees located. The payment was divided into two: part for the community member who had located the trees and part for the community fund. According to the chairman of Nhafuba locality, people who located the valuable trees had already received 1,000,000MT (around USD 43), 2,000,000MT or even up to 4,000,000MT each, depending on the quantities. The money destined for the community fund was then handed over to the community. In 2003 the community had 5,000,000MT, plus 3,000,000MT that would be used to buy zinc roofing for a school that was being built (interview with the chairman of the locality, 21 July 2003). However, this operation of community members searching out valuable trees was halted in 2003. The Nhafuba locality chairman said that the company had contacted him to tell him that it would not continue because the money for the community resulting from exploitation of the forest would now be discounted at central level through State institutions. Meanwhile, the company informed the population that it could use branches left from its logging operations to produce charcoal, which the company would then buy. However, in 2003 production of charcoal had not yet begun.

Under the Forest and Wildlife Law and Regulations (Law No. 10/99 of 7 July and Decree No. 12/2002 of 6 June) it is the duty of a forestry concession operator to permit local community access to natural resources needed for consumption. The same law and regulations also provide that 20% of any forestry or wildlife tax is destined for the benefit of local communities in the area where the resources were extracted. Notwithstanding this, in 2003 the Nhafuba community had not yet received the said 20% of the forestry exploitation tax.

A recently approved Ministerial Diploma determines the mechanisms for the channeling of the 20% of tax destined for the benefit of local communities according to the forestry and wildlife legislation (Ministerial Diploma No. 93/2005 of 4 May). In order for the community to receive the amounts owed to them, they must (i) create and register a community management committee, (ii) open (within 3 months) and administer (by at least 3 committee members) a bank account in the name of the community which is liable to be audited, (iii) produce an annual report to the community.

The publication of the ministerial diploma is a step toward the implementation of the forestry and wildlife legislation in Mozambique. However, there are issues of concern. In areas where forestry and wildlife exploitation licenses have already been issued, the time period given to communities to organise themselves could be difficult to meet. It is doubtful that communities have received information about the requirements, or that they could carry them out within the required time.

*Source: Group and individual interviews held in Nhafuba community in July 2003 and Ministerial Diploma No. 93/2005 of 4 May*

## 6. ISSUES & CHALLENGES FOR THE LAND REGISTRATION PROCESS

In this section we shall begin by looking at the driving forces behind community land registration and examine in more detail the involvement of NGOs as facilitators. We shall also identify the key constraints and concerns raised about the process. Finally we will assess the outcomes of community land registration both through people's perceptions and more generally in terms of the impacts it might have for local development and on vulnerable groups.

### 6.1 Community land registration – the driving forces

The requests to register community land in Nampula and Zambezia Province arose when the local population found out about the 1997 land law, as various organisations involved in the land campaign were disseminating information<sup>52</sup>. Even after the land campaign was over, some of these organisations such as the Rural Mutual Aid Organisation (ORAM) and Kulima continued to publicise the land law, and later, the new law on forests and wildlife. During these awareness-raising meetings, community leaders were advised of the importance of registering land in order to guarantee security of ownership.

Sometimes it was the existence of land conflicts between the community and private interests that led to the desire for the community to register its land. This was the case in the Murrua community in Zambezia<sup>53</sup>. In Nhafuba, also, an imminent land conflict between the community and a forestry concession helped to precipitate the collective land registration.

#### ***Box 5. The background to Nhafuba's request to register community land***

*"After a team from ORAM came here once to publicise the new Land Law, the population saw that what Madal [a company with a forestry concession in the area] was doing wasn't in accordance with what the community had been told. So the community consulted ORAM to ask whether Madal had already made a legal request. ORAM said yes, there was a legal request. Then two letters were written. One to the administration [Nicoadala district administration] and the other to the Directorate of Agriculture, to report what was going on. Especially the forbidding of people to enter. They had already even begun to make a barrier to close off the concession area. This was a threatening signal. Because of this the population asked to register their land rights".*

Member of the community land committee, Lino settlement, Nhafuba, July 2003

Registration in the Koma Koma and Nipuro communities in Nampula, on the other hand, resulted from a combination of the land law information campaigns and land conflicts in neighbouring communities<sup>54</sup>. Another contributing factor was the acquisition by a private operator, on the eve of the new Land Law being approved, of a large area of community land. The land was acquired without community consent<sup>55</sup>.

In trying to assess the level of community involvement in the decision to request registration, it must be asked whether disadvantaged or poor inhabitants with no education understand the need to register their rights to land that is largely governed by customary law. We have seen that it is mainly local leaders and those living closest to the meeting places who know most about the registration process and those living further away may not even know about it. The results of the interviews, at least in Nampula, suggest that the process is largely driven by the NGOs.

### 6.2 NGO involvement

NGOs are extremely important actors in community land registration. All the communities had NGO support through training people to disseminate the Land Law, contributing to the costs of registration and giving legal

<sup>52</sup> See Negrão, 1998; 2002.

<sup>53</sup> See also ORAM (2000); Norfolk & Soberano (2000).

<sup>54</sup> In the neighbouring community of Mpuchiwa some farmers who were in conflict with a private operator were arrested and beaten up by the police.

<sup>55</sup> Statements by representatives of the 7 de Abril Administrative Post, and *Régulo Nipuro* during the local seminar to present the preliminary research results, 14 July 2004.

advice. The main NGOs working with the population on land registration are Kuluma, the Rural Mutual Aid Organisation (ORAM), the Catholic church Diocesan Land Commission (CDT), the Land Forum (FT) and other grassroots organisations that are more geared towards agricultural production.

The NGOs appear to be facilitators of the process, from awareness-raising in the community through community leaders and public meetings, through to publicising the local populations' rights and duties established by the law. It is the NGOs that provide legal advice to communities that want to register their land rights, and they participate actively in the identification and resolution of land conflicts, as well as organising meetings on environmental management and conservation.

The NGOs therefore can be seen as the powerhouses of the land registration process, but at the same time their activities bring some potential risks. Setting aside the question of communities' lack of financial capacity to pay the expenses of registration, what is the possibility of community registration taking place without an NGO intervention? There is a risk that registration is being 'imposed' by outside rather than local people being active instigators of the process.

### 6.3 Constraints and concerns about the registration process

The main constraints on community land registration are the scarcity of material, human and, above all, financial resources. We found that the definition of boundaries between one community in the process of demarcation and its neighbours has given rise to disputes about certain border areas. During one community demarcation in Monapo district, the community was allocated 12,000 hectares, but following complaints from a neighbouring community in Nacala Velha district the process was repeated and the Monapo community was left with a mere 4,700 hectares<sup>56</sup>. Other examples of conflicts related to the accuracy of boundaries were given in Muecate district, where two *régulos* argued over a river on the border between Nampula and Muecate districts; and in Ribauê and Lalaua districts, conflicts of this nature were also reported. These situations made the registration processes very protracted<sup>57</sup>.

Though the law establishes the possibility for people who are not satisfied with the certificates of collective rights to withdraw from the collective through individual land registration, implementing this legal provision is not easy for low-income people, because the law requires all individual registrations to be preceded by a community consultation<sup>58</sup>. Community consultation is expensive for most people: first, it involves paying per diems to the technicians and representatives of State authorities who are present; secondly the applicant must pay their travel expenses; and thirdly 300,000 MT (USD 12.5) must be paid to the community as an incentive.

The State itself does not possess sufficient human and financial resources to be able to fund land registration for all disadvantaged communities<sup>59</sup>.

### 6.4 Assessing the outcomes

In the two communities in Nampula province, most people perceived that registration would protect the community's land from exploitation by outsiders, but many do not have a clear understanding of the need to register rights to land that they have been using as their own for a long time<sup>60</sup>. Registration seems to have been encouraged by external actors and promoted as a way to safeguard the abundant forest resources. Two years after receiving their land titles, people see that they continue to live isolated from markets due to the poor state of the roads and do not perceive any real benefit or improvements in their living standards. As one community member stated, "*Registering the DUAT won't help to improve our living standards at all. Since we got the title nothing has changed*"<sup>61</sup>. This indicates that people were expecting land registration to have a direct and immediate benefit on their livelihoods.

<sup>56</sup> Interview with official in the Nampula Provincial Forestry and Wildlife Services, 9 July 2003.

<sup>57</sup> Interview with ORAM Northern Region Representative, Nampula, 9 July 2003.

<sup>58</sup> Article 15 (1).

<sup>59</sup> To minimise this situation, the NGOs have taken on an extremely important role in both awareness-raising among the population and paying the expenses of the registration process. In addition the planned Land Fund, also donor-funded, could help those who want to register their land but cannot do it for lack of money.

<sup>60</sup> Around 80% of interview respondents.

<sup>61</sup> Individual interview in Nampula province, July 2003.

### **Box 6. Benefits of land registration for Murrua community**

*A long time ago influential people came into this side of the district [Murrua]. We just found ourselves being pushed off our land. We were told: Get out of here, this [the land] doesn't belong to you. And we had no alternative. We were ruined. Now, with this done [community land registration], when an influential person comes he has to come to see us, to talk to the community. If he is well intentioned we will ask: what will you do for us? And then he will say. When the community accepts that we want this [i.e. what the private operator proposes] then we will find an area to assign him and there won't be a problem because he talked to the community. But in the past this did not happen.*

Traditional leader (*muene*) of Awande settlement, Murrua community, July 2003

In Zambezia province, the study also showed that the benefits of land registration centre on strengthening of community land tenure. Box 6 shows an example of how this is expressed within the community.

It was noted in Nampula province that there had been a fall in the number of small conflicts since community land registration. It is clear that even though there are few conflicts in some of the communities studied, there are enough examples of conflicts in neighbouring communities, and other districts for land registration to be seen as advantageous if it minimises the risk of conflicts occurring. In many examples the conflicts refer to 'use of the forest' either by members of neighbouring communities or private operators. Offering more security for this common pool resource should be beneficial for all community members and the vulnerable in particular.

It appears that there has been some increase in level of community organisation. In Koma Koma there has been an increase in number of peasant associations since land registration and increasing numbers of people joining them<sup>62</sup>. These associations are dedicated to producing for the market and teach production techniques. This implies that more people are interested in increasing their incomes from agriculture and are looking for ways to do it. In Nhafuba also, a carpenters' association has been formed (see below).

## **6.5 Impacts for local development and on vulnerable people**

A prominent feature of the new National Land Strategy currently under debate is partnerships between investors and local communities. It is clear that the legislators were concerned to use land registration as a means of local development and a mechanism for attracting investments. A counter argument also exists, that land registration, designed to protect community land tenure, will be an obstacle to the goal of attracting investors and developing land in rural areas (Norfolk and Liversage, 2002).

As the level of outside investors in our study communities is low, we have looked at examples of local initiatives from within and from other districts to assess whether land registration will act as a conduit or be an obstacle to local development.

Few users of land from outside the communities have formal rights. Murrua community has 11 areas registered in the name of private users who are not members of the community. Some of them received land use rights before the community land was registered, and those who were granted land rights after the registration went through the respective community consultation. In both Murrua and Nhafuba communities some land requests from private operators were being processed even before the communities' own land registration<sup>63</sup>. On the other hand, in Koma Koma and Nipuro communities we found eight cases of requests for land, made by private operators from outside the community, dated after the new land law. Two were being processed and one had been cancelled<sup>64</sup>.

Other local initiatives to derive benefits from community land registration should likewise be mentioned. Some members of Nhafuba community came together to form a carpenters' association that produces various kinds of furniture for sale within the community. This association received tools on credit from the National Social Action Institute – *Instituto Nacional de Acção Social* (INAS). Associates pay 300,000MT per month until the debt has been repaid. Also in Nhafuba, community members tried to get involved in forestry exploitation under the simple licence scheme<sup>65</sup>, in an area out-

<sup>62</sup> Interviews in Koma Koma, July 2003.

<sup>63</sup> See for example Norfolk & Soberano (2000: 13-16).

<sup>64</sup> Data provided by the Nampula Provincial Geography and Land Registry Services, July 2004.

<sup>65</sup> In Mozambique there are two ways of exploiting forest resources. One is "simple licensing" (1-year licences aimed at Mozambicans), and the other is through a forest concession contract (open to Mozambicans and foreigners, with a maximum duration of 50 years, renewable) [Law No. 10/99 of 7 July and Decree No. 12/2002 of 6 June].

side the concession. However, they did not manage to meet the legal requisites required for this type of activity<sup>66</sup>.

Experience from other districts in Nampula province show that, after registering their lands, some communities are benefiting either through their own efforts (building a shop and a school in Lalawa district<sup>67</sup>) or where a private operator is building facilities in fulfilment of obligations (a health post and school in Matos community<sup>68</sup>).

As mentioned above, one of the major potential benefits for vulnerable groups is better conservation of common pool resources. As we have seen, those without primary rights to land (such as migrants) can be disadvantaged. For these groups, collectively held lands can offer a wider range of livelihood strategies and improved management of the commons will provide particular benefits. The land registration process in the communities studied was accompanied by educational meetings stressing the benefit of both combating uncontrolled fires for land clearance and indiscriminate cutting down of valuable timber trees for charcoal making. Meconta district in Nampula province is main supplier of firewood and charcoal to the provincial capital so the risk of deforestation is serious. The recent forest and wildlife law<sup>69</sup> may also help in this respect as local forest and fauna management committees are in the process of being established.

Land registration on its own does not bring immediate benefits for the poor. However, as some argue, land registration should not be seen as an end, but rather a stage in a process and that NGOs should not only facilitate the land registration process but also encourage partnerships between communities and outsiders. At least one NGO interviewed is quite opposed to partnerships between investors and local communities and does not carry out awareness-raising about making contacts with investors, “*A partnership should guarantee balance but the peasants are not able to go into partnership with investors on an equal footing*”<sup>70</sup>.

If land registration awareness raising continues to promote ‘security’ of tenure for communities, without emphasising other benefits that could follow, it could constitute an obstacle to, rather than an encouragement for local development.

Whether registering community land paves the way for increased investment by outside interests remains to be seen, but history has shown that many rural communities were expropriated from their land and sometimes removed to areas of marginal land<sup>71</sup>. The interviewees said that even after independence in 1975 they got little benefit from the exploitation of land and other natural resources that took place in their territories. This context, allied to the environment created by the new National Land Strategy and the recent Forest and Wildlife law seeking to increase local community participation and benefits, “arms” the community with “power” to question activities taking place in or proposed for their areas.

It has been perceived in some areas that communities that have registered their lands are “denying” their land to private operators when adequate benefits for the community are not proposed. This happened recently to a private operator who wanted 8,500 hectares of land in Mucelo Novo (a registered community). This is sometimes seen as a rejection of investment in community areas. Interviews with Provincial and District authorities mentioned that sometimes the requests for benefits have not taken into account the nature and size of the private operator who is asking for land<sup>72</sup>. Our understanding is that this forms part of a natural process of “struggle and negotiation” for the use of resources, and that it should therefore not be immediately assumed to be a rejection of private investment in the registered areas. The land registration process has already brought some benefits to registered communities. In the communities under study, benefits include security of land tenure, particularly for the communal areas, and earning some income from the use of natural resources (see box 4).

<sup>66</sup> Interview with member of the community land committee, Lino settlement, Nhafuba community, 21 July 2003.

<sup>67</sup> Interview with Kulima (NGO) representative, July 2003.

<sup>68</sup> Interview with ORAM representative, Nampula, July 2003.

<sup>69</sup> Decree 12/2002 of 6 June, chapter VI, article 95.

<sup>70</sup> Interview with the coordinator of CDT, July 2003.

<sup>71</sup> see for example Negrão, 1995.

<sup>72</sup> Interview with the head of the Provincial Geographic and Cadastral Services (SPGC) in Zambezia, Quelimane, 10 July 2003, and with the Nicoadala district administrator, Nicoadala, 28 July 2003.

## 7. CONCLUSIONS AND RECOMMENDATIONS

The Mozambican Land Law was designed to serve both low-income populations and national and foreign investors. The law provides a pioneering step forward as it recognises and safeguards customary rights to land acquired traditionally through occupation and inheritance. At the same time, it opens doors for investment by allowing for partnerships between local farmers and investors. It also enables local community representation and oral testimony in land registration processes, and acknowledges equality of rights between men and women in relation to land.

The findings of this study, evident in the literature and national debates and also in the case studies, point to serious challenges in the implementation of the land registration process. The main criticisms are that community consultations are often inadequate and there is little supervision to ensure that land development plans, which are presented as part of the registration process, are implemented in practice. Community consultations are a key element of land registration. Through them, land which is a crucial resource for low-income groups can be secured as an asset. Furthermore, consultations with local communities could be part of a process to promote rural development. If the land registration process is aimed at making the process serve low-income populations, the concerns about community consultation and the implementing of development plans need to be addressed. Other concerns raised were expense of the process, that it is centralised and dependent on external funding. This reality frequently limits the possibility of low income population groups obtaining the benefits that could come from registering their land rights.

In all the communities studied, inheritance continues to be the main form of access to land followed by gifts and loans. Migrants, therefore, are at a particular disadvantage as they are unable to plant medium or long term crops or trees on borrowed land. In Nhafuba and Murrua communities in Zambezia province, we found cases of sales of land, which are rare in the communities studied in Nampula. Land purchase in Murrua was indicated as the main form of acquiring land after inheritance. We noted informal mechanisms for land registration, mainly in situations of “buying and selling” land, where written declarations testifying to the transaction are issued. In other cases land sales are conducted clandestinely.

Formal registration of individual land rights by smallholder farmers is extremely rare in the areas studied. This may be due to several factors; either farmers are feeling secure in their land rights under the traditional system, or they feel their tenure security is enhanced through the community land registration process. Or it could be due to other factors such as the high costs of the registration process, ignorance of the bureaucratic requirements, long distances to the offices where requests are handled and lack of awareness of the value of registration.

Community land registration arises as the only mechanism by which low income population groups can reinforce their security of land tenure. In Nampula and Zambezia, the communities registered their land rights due to feelings of insecurity, combined with awareness-raising on the part of the NGOs. In the specific case of the Murrua and Nhafuba communities, they were in conflict with private operators working in their areas. In Nampula, communities requested registration as a result of NGO awareness-raising campaigns and of the conflicts occurring in neighbouring communities.

The NGOs are such important actors in the process that they could be perceived to be forcing the process of land registration, but at the same time acting in a protectionist manner with regard to potential partnerships between communities and outside investors. They are criticised as failing to follow up when community land registration is completed. This contributes to frustrating the expectations raised in the communities during the awareness-raising and registration processes.

An analysis of the registered communities enables us to see that a little over two years after registration no significant or tangible benefits have resulted. From some responses it can be seen that there was a clear expectation for this to happen. There has been some level of increase in community organisation reported in two of the communities studied, with additional farmer organisations formed since land registration, and an increased membership of existing organisations. Whether this will lead to benefits is yet to be seen. Certainly, even if there is an

increase in marketable products, much of the area will remain disadvantaged in its market access due to the very poor road conditions and lack of transport.

With respect to collectively held land, however, the reinforced security of land tenure gained through registration is fundamental. This land is very important for the population to extract various products for consumption and also for sale (mainly in Murrua) and the reinforced security prevents the land being granted to external applicants without community approval. The awareness-raising campaign also promoted conservation principles for managing these common pool resources. This, coupled with the local forest management committees being established as part of the recent Forest and Wildlife Law, should improve the level of benefits from forest resources which may assist more vulnerable groups in particular.

Community land registration seems to ensure community land tenure security in relation to other communities and to external investors who intend to use community land. However, the new legislation does not appear to take questions of an intra-family or intra-community nature into consideration, which could create insecurity within the community. There seems to be a legal assumption that customary systems of land tenure are governed by just and honest norms and practices.

Whether registering community land paves the way for increased investment by outside interests remains to be seen, but if land registration awareness-raising continues to promote 'security' of tenure for communities, without emphasising other benefits that could follow, it could constitute an obstacle to, rather than encourage local development. In this respect, it has been suggested that NGOs have a responsibility to continue their facilitative role after land registration has been completed. If, as is hoped, land registration does provide more power at the community level in dealing with external investors and private operators, rural people will be in a stronger position in the process of struggle and negotiation for the control of and benefits from their resources.

## 7.1 Recommendations

Based on the above discussion and conclusions, it is clear that the Land Law has provided a progressive mechanism for safeguarding customary rights to land there is the potential for communities to have greater power to control and benefit from their resources. However, there is still a lot of work to be done to ensure real, practical benefits that will improve the living standards of low income groups.

In order to improve the land registration process and support community development beyond this, we recommend the following:

- Improve the quality of community consultations for all land registration and land acquisition applications;
- Ensure that land development plans presented as part of the registration process are implemented in a timely manner;
- Strengthen the supervision capacity and carrying out of supervision visits by the SPGCs;
- Design mechanisms to reduce the costs for individual land registration processes;
- Develop internal mechanisms to prevent the process being dependent on external funding (the experience of contributions from Koma Koma and Nipuro towards the costs of registration provides a promising example);
- Promote rural development activities in the post-registration phase to capitalise on people's engagement in the process and meet their expectations;
- Improve and expand State services particularly in remote rural areas – improving education services would facilitate improved awareness of the importance of land rights and good natural resource management.

In general, an improved land registration programme should look at questions of improving access to remote areas and publicising the economic potential of registered community lands in order for communities to determine their own paths for local development. This process should be facilitated by either NGOs or other institutions developed specifically for this purpose. The land committees formed for the registration process could be expanded to comprise community, NGO and local government representatives to ensure support for this next stage.



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## 8. ANNEXES

Figure 1: Location of Meconta district, Nampula province

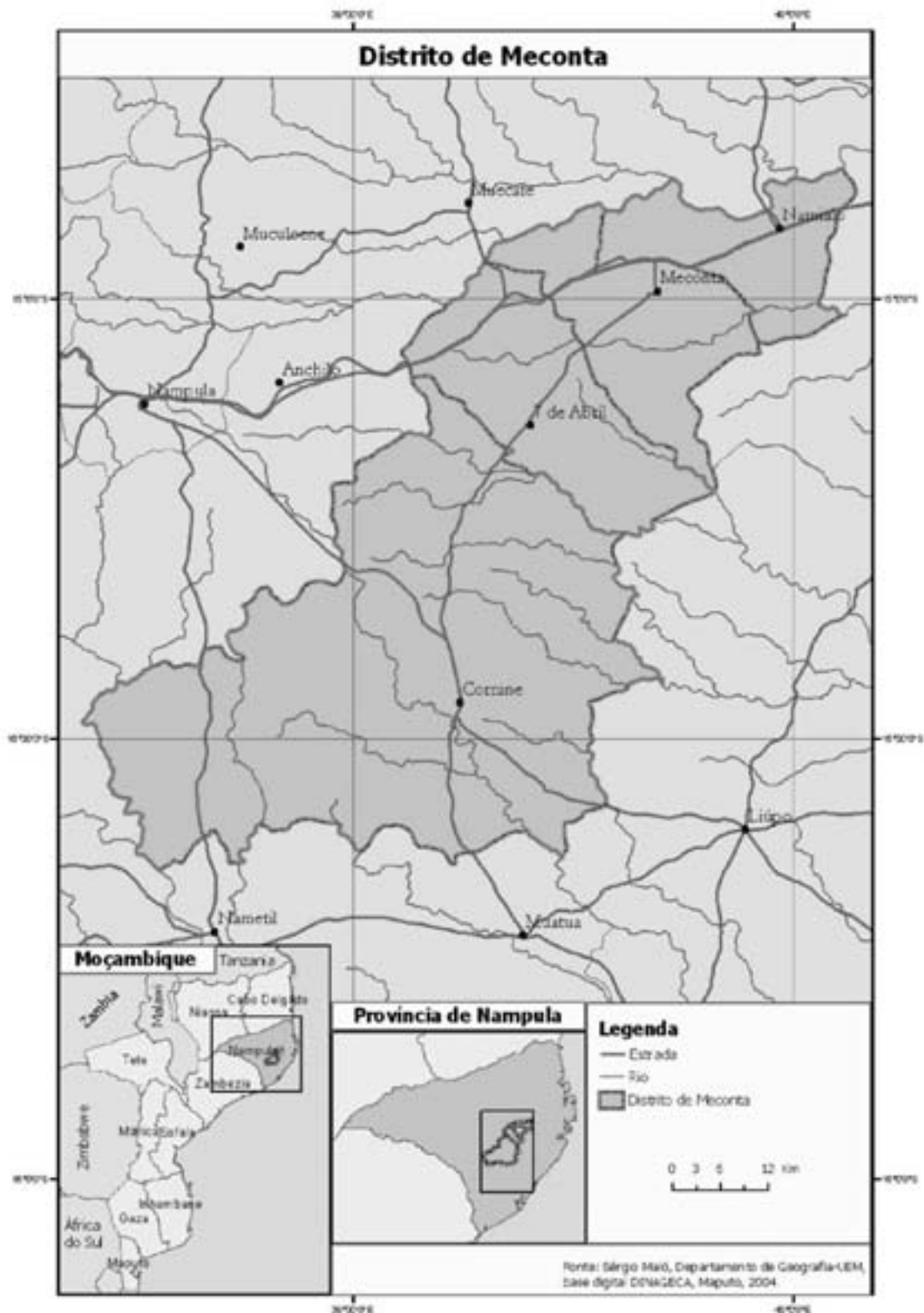
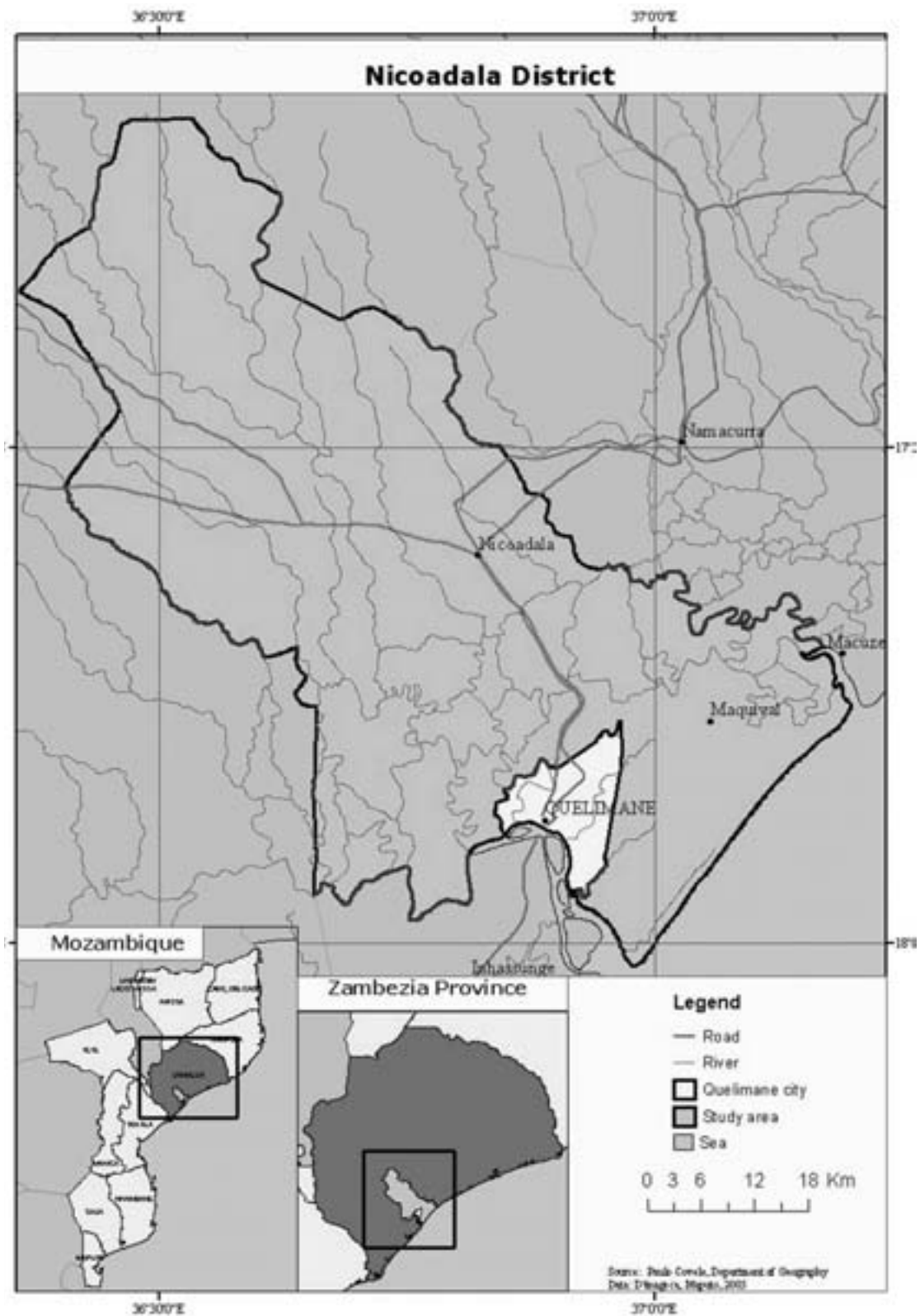


Figure 2: Location of Nicoadala district, in Zambezia province



**Land Registration in Nampula and Zambezia provinces in Mozambique** assesses the process of rural land registration in Mozambique and the outcomes for poor and marginalised groups. The research shows that community land registration, under the 1997 land law, can strengthen community rights to use and benefit from their land in relation to outsider interests in land. However, intra-community and intra-household land rights are not addressed, since it is only community land boundaries which are registered. The relatively centralised and complex registration procedures means that smallholder farmers are heavily dependent on NGOs to facilitate the process, which raises issues of continuity and sustainability. Individual registration of land is possible too, but is mainly taken up by private investors and companies. There are some serious shortcomings in this process: community consultations, required by law, are often inadequate and there is little supervision to ensure that compulsory land development plans produced by investors are implemented in practice. These issues will need to be tackled in order to for rural land registration be really pro-poor in practice.

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