The 'New' Communities: Land Tenure Reform and the Advent of New Institutions in Zambézia Province, Mozambique.

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Sustainable Livelihoods in Southern Africa:
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Through work in southern Africa this research programme has explored the challenges of institutional, organisational and policy reform around land, water and wild resources. The case study sites have been in Zambezia Province, Mozambique, the Eastern Cape Wild Coast in South Africa and the lowveld area of southeastern Zimbabwe. Three broad themes have been explored:

- How do poor people gain access to and control over land, water and wild resources and through what institutional mechanisms?

- How do emerging institutional arrangements in the context of decentralisation affect poor people's access to land, water and wild resources? What institutional overlaps, complementarities and conflicts enable or limit access? What new governance arrangements are required to encourage a livelihoods approach?

- How do the livelihood concerns and contexts of poor people get represented in policy processes concerning land, water and wild resources in local, national and international arenas? What are the challenges for participation in the policy process?

Summary

Recently, new community-level institutions have emerged in Zambézia province, Mozambique, through land rights registration. Numerous rural groups have delimited their acquired land rights and established community-level management systems. This paper assesses the rise of these 'new' institutions and whether they have replicated, replaced, or been added on to the existing pattern of state and non-state institutions and processes. The paper examines the relationships between these micro-level processes of land delimitation and macro-level processes of decentralisation, and identifies some initial outcomes from a livelihoods perspective. The new communities have registered large swathes of land, but have had had a limited impact on development processes. They are not yet recognised by the state as legitimate actors in planning land and resource use, adjudicating disputes, or allocating rights. Existing traditional authorities and/or local government have largely maintained their roles and legitimacy, even in areas with new institutions. The new community groups face a dual challenge: from a state reluctant to deal with implications of devolution, and from their own constituents familiar with and respectful of traditional mechanisms.

Introduction*

Over the last few years new community level institutions have been emerging in Zambézia province, Mozambique, through the implementation of the land rights registration processes introduced by the land law of 1997. A number of groups in the rural areas of the province have delimited the extent of their acquired land rights and have established community-level management systems to oversee these in the future. This paper tries to assess how these 'new' institutions have arisen and whether they have replicated, replaced, or been added on to the existing pattern of state and non-state institutions and processes. The process of land delimitation, at a micro-level, has been accompanied by macro level processes of decentralisation, as the state moves to devolve powers to lower levels of government and society. The paper looks at the relationships between these processes and, although they have only begun to be implemented recently, attempts to identify some of the initial outcomes from a livelihoods perspective.

Background to the case study

A broad programme of support for tenure reform through a DfID-funded agricultural development project covering three districts in Zambézia has been in place since 1998, implemented by an international NGO, World Vision UK. The Land Tenure Component (LTC) of this project is based on a partnership arrangement between a branch of the provincial government services (SPGC), a national NGO (ORAM) and World Vision UK, through which there was to be joint implementation of a programme of community land rights delimitation and registration.

As part of the partnership, both the ORAM and SPGC received programme funding for activities and equipment, whilst planning, training, and delimitation processes were conducted jointly with teams from each organisation. While ORAM has received particular support for the information dissemination activities, the SPGC have received technical and financial support to enable them to improve the quality of their information management and mapping systems.

Although the partnership agreement for the community land delimitations was centred on the three districts of Nicoadala, Namacurra, and Guruè, both the SPGC and ORAM also operate in other districts of the province, using central government funding, in the case of the SPGC, or other foreign donor finances, in the case of ORAM. This case study largely focuses on the tenure reform activities undertaken in the three pilot districts but also draws on fieldwork and experience from other parts of the province and examines some of the wider processes being undertaken as part of the new approach to land tenure adjudication.

Some historical background

The history of Zambézia, in common with large parts of the southern African region, is one of colonial conquest and dispossession. By the early 16th century a series of conquests saw the Portuguese dominating the trade entrepots from the coast of the province of Zambézia, with well-established fortresses and trade fairs along the Zambezi and on the plateau, where Africans came to exchange ivory and gold for beads and cloth. After 1541 Portuguese residents at these outposts elected representatives who were delegated certain powers by the *Mwene* (ruler of) Mutapa. Individual Portuguese and Goans were granted land and judicial rights from local rulers, which enabled them to extract tribute from the local populations. African land holdings within these areas were governed by traditional rules, but subject to the control of the land grantees.

These early grants formed the basis of what became known as the *prazo* system of landholding. Between the 17th and 19th centuries, *prazeiros* became immensely powerful players in local African politics, creating an Afro-Portuguese society in the lower Zambezi valley independent of either African or Portuguese jurisdiction. Tribute, forced labour, and

taxes formed the backbone of these institutions, with family production limited to ensure labour availability.

From the late 19th century, the *prazo* system began to come under attack from modernising elements that were keen to see a more strictly commercial involvement in the colony. In the 1870s there was a noticeable growth in small-scale agricultural activities, mainly as a result of the Labour Code of 1878 (which stated that no African could be compelled to contract his labour) and various colonial government directives that permitted the free trade of locally grown crops. Peasant production therefore flourished in some areas, as the newly 'liberated' were able to barter freely with a large network of merchants keen to purchase agricultural surpluses, including vast quantities of peasant-produced copra (Vail and White 1980).

However, not long after, this brief period of free production and trade by the local population was squeezed out by the advent of the 'company system', where commercial entities were encouraged to take up large land grants (the old *prazo* areas, now re-classified) and to 'stand between the people and the government, providing … workers with a company store, housing in enclosed compounds and a daily food ration dependent upon the satisfactory completion of the days work' (Vail and White 1980: 77-8). The private sector was encouraged to apply for concessions and provided with incentives to exploit 'new' areas.

In the 1900s more and more land concessions accrued to large companies and the law of 1918 facilitated the issuing of land titles to concessionaires. In subsequent years, the plantation economy of the province – centred on tea, coffee, rice and copra production – came to be firmly entrenched. In the districts of Nicoadala and Namacurra, close to the provincial capital of Quelimane and comprised largely of low-lying wetland areas, the plantation crops were dominated by copra production, with several large blocks of land also utilised by colonial companies for beef production. Extensive tea plantations and further blocks of grazing land were situated in the northern mountainous area of Guruè district.

Companies such as the Companhia do Boror, the Sociedade Agrícola do Madal, and the Companhia do Murrua extended and consolidated their considerable land holdings during the middle part of the 20th century. Individual African land holdings were nominally protected through legislation, even at this time, but some instances of cynical and forced removals took place at the behest of companies that wanted exclusive control over local resources and needed reserves of cheap labour. Several contemporary land conflicts have their origins in the events of this period (Norfolk and Soberano 2000). Research from the mapping phase of the SLSA project in the Administrative Post of Bajone reveals the extent to which local land resources in the coastal strip were taken up by three major plantation companies (see Nhantumbo et al. 2002b).

A year after independence, in 1976, these concessions and all other private land holdings, were nationalised. The ensuing large-scale flight of colonial landholders meant that land areas that had been in private hands were available for use by local populations and in many areas they took advantage of the better-located and higher quality land. The plantation areas, however, became state-managed entities. Burdened by debt and crippled by mismanagement these new enterprises did not fare well. In the face of the civil war and the growing insecurity in rural Zambézia in the mid 1980s, they all virtually collapsed and were abandoned. Communities displaced by the war moved closer to the district centres and occupied surrounding land, including the former plantations, often with formal permission from the FRELIMO authorities.

The end of the war and the consequent return of displaced populations in the early 1990s proved the durability of traditional institutions of land allocation and adjudication: the re-establishment of legitimate and widely accepted land holding patterns (between groups and individuals that had remained in the countryside, those that had returned, and those arriving to new areas) occurred within the framework of customary rules of the rural populations. The process occurred largely without conflict and required little intervention from formal authorities.

Since this time, former 'family sector' agricultural plots have been re-established and new areas of cultivation have been cleared – the mechanism through which land was allocated to rural dwellers was (and remains) dominated by traditional and customary practises. The rules of allocation and inheritance vary from region to region, as do the relative importance of traditional and formal institutions, but they are characterised by the much greater predominance of the 'local' over the 'foreign'.

At the same time there have been increasing numbers of applications for private land concessions once again. Some are re-establishing the former plantations through a restructuring of the state-entities that took over from the colonial companies, but there is also considerable interest from local companies and individuals in re-establishing old Portuguese family concessions or occupying newly accessible areas of resource-rich land. Within the framework of an agricultural development programme and a Poverty Reduction Strategy that are based upon attracting direct commercial investment into rural areas, this is a process encouraged by government.

The events of the latter half of the 20th century, therefore, have meant that the issue of tenure reform in the province (and the country generally) is of a different nature to that in many other ex-colonies in the region. In these countries the issue of land reform is dominated by demands for the restitution of specific land rights lost through colonial occupation or the redistribution of land on a large scale to rural populations squeezed into barren communal areas. For Zambézia and many parts of Mozambique, contemporary land policy-makers have

instead been looking to foster the regeneration of the rural economy through outside investment, whilst securing and protecting the existing rights of the rural populations and assisting them to realise the full potential of the natural capital available to them. This is not to say that there are no conflicts regarding access to land or other resources and no demand for additional land to be made available in some areas. Conflicts exist and new ones are arising, largely because of the gap between contemporary policy and the practise of land administration systems in the country. However, the dominant theme in land reform in Mozambique is the recognition, registration, and formalisation of the tenure rights of groups of people presently using and occupying land.

Contemporary livelihoods in the study area

Of the three districts that form the major focus of the study, Namacurra and Nicoadala are neighbours, with similar characteristics, whilst Guruè lies to the north of the province and is culturally and geographically distinct. The brief descriptions that follow are based on the information collected during the mapping phase and the district development profiles compiled by the UN in the mid 1990s.

In Nicoadala and Namacurra, crop production in the family sector relies primarily on household labour and practically no external investments are made in this sector. Manure, fertilisers, non-household labour or farm machinery are rarely used. In common with most of the rest of the province, game meat and fish are important items in the household diet. Since both districts have a coastal strip, fish is available from the sea. The most commonly hunted animals include gazelle, bush pig, rabbit and field rat.

The main fruit trees in these areas are mango, orange, tangerine, banana, lemon, pawpaw, coconut and guava. Roughly half of rural households own mango trees, with smaller percentages having banana trees, pawpaw trees, guava or lemon trees. Some families have coconut palms. Fruits and products made from fruit are sold locally and to traders from the provincial capital.

Wood and other locally available materials are used by the population of the district to build houses. Firewood and charcoal are the main sources of energy used by the households, and there is an established market for both products.

Non farm-based income consists largely in the production and sale of traditional beverages and seasonal labour, followed by sales of livestock and handicrafts and fishing. Another significant source of income for the households in these districts is wage labour with the private company Madal, which employs around 800 workers. Coping mechanisms adopted during periods of food shortage include, in decreasing order of importance, the purchase of food products, seasonal labour, and support from relatives or friends. Some households gather wild fruits or hunt,

while others simply eat less or seek food aid. Food may be bought within the district, in the neighbouring districts or in the town of Mocuba. According to local officials, the most important foods for household food security include fruits, game meat, cereals, vegetables and root crops.

Most commercial activity in Namacurra and Nicoadala is connected to agriculture and is restricted to local markets. Even so, some traders come to both district headquarters from neighbouring districts to buy local products. Local markets offer basic products, but people from Namacurra often go to markets in the neighbouring district of Nicoadala, in Quelimane, or in the town of Mocuba.

Guruè is in a high rainfall area and has good agricultural potential. Average household food stocks measured in months are relatively high in this zone and the proportion of the population expecting to experience a period of hunger before the next principal harvest is the lowest in the country at 54.5%. The harvest takes place mostly in July and some households may face a period of hunger after October until the secondary harvests and the cashew crop, or wage work is found during land preparation for the coming season. However, production from the principal harvest is usually sufficient to cover staple food needs in the zone diminishing the relative importance of other income sources such as secondary harvests, non-farm income or coping mechanisms. Wage labour on the newly rehabilitated tea estates is also growing in importance.

The staple food crops for the family sector in Guruè are cassava, maize, sorghum, beans, groundnuts and millet. Cassava is the most commonly cultivated crop, followed by maize sorghum and cowpeas. The main cash crops are maize, cassava, beans and rice. An important cash crop prior to the war was groundnuts, which are still grown on a smaller scale. Goats, pigs, chickens and ducks are the most important domestic animals for commercial and household use but household livestock assets are only now being re-established.

In all areas of Zambézia, access to land, water and grazing rights are predominantly mediated through traditional structures of authority, primarily the village headmen. Kinship ties primarily govern access to land. In some cases a payment may be made to relatives for land use, a transaction considered largely symbolic rather than commercial. Both sons and daughters may inherit land, although in some areas this may be restricted to the male line only. Male relatives of the head of the household and male members of both sides of the family may also inherit.

Internal relationships: land delimitation and the advent of 'new' communities[1]

There are 31 communities in Zambézia that have registered delimited rights and to which certificates have been issued, or which are in the final phases of the process (see Table 1).

Table 1: Delimited communities in Zambézia

Project	Phase	District	Community	Nº	Area (ha)
ZADP	Completed	Guruè	Covela	1	3,682
			Hapala	1	3,897
			Injabo	1	6,567
			Namacala	1	3,255
			Nanzua	1	5,417
		Mopeia	Mungoma	1	210,013
		Namacurra	Humpiua	1	8,265
			Muehiua	1	3,488
			Mutange	1	10,485
			Zezela	1	3,885
		Nicoadala	Mucelo Novo	1	5,855
			Mugrima	1	22,414
			Murrua	1	12,777
			Nhafuba	1	74,645
			Terepano	1	37,249
	Total Completed			*15*	*411,895*
	Under registration	Gurue	Nahetxe	1	2,587
		Namacurra	Muibo	1	6,196
	Total undergoing registration			*2*	*8,782*
	Under verification	Mopeia	Conho	1	80,614
		Namacurra	Batela	1	4,521
	Total undergoing verification			*2*	*85,135*
Total ZADP				*19*	*505,812*
Other	Under registration	Alto - Molocue	Nipaia	1	6,852
			Nivava	1	25,731
		Gile	Khayane-Naphito	1	70,976
			Muiane	1	6,172
			Nanhope	1	75,856
		Maganja da Costa	Capitão	1	22,416
			Ingive	1	14,353
			Missale	1	35,908
			Morla	1	6,781
			Mulemba	1	6,883
		Milange	Belua	1	45,856
			Carico	1	25,550
	Total Undergoing registration			*12*	*343,335*
Total other				*12*	*343,335*
Grand Total				**31**	**849,147**
				Average	**27,392**

Source: ZADP (2000).

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[1] Several community land delimitation exercises have been completed in Zambézia and the delimited land rights have been recognised with government certificates, issued in the name of the respective community. These certificates confer co-title on the holders (who are all the members, present and future, of the particular community). The registration of these rights in the name of community <u>groups</u> presupposes the existence (or establishment) of community level land rights-holding institutions that are capable of recognition as legal entities. The new land law has introduced this possibility and although the group may already exist and is merely being accorded legal recognition for the first time, the process of land delimitation is in many ways creating a 'new' community.

Each of these 31 communities will have established a management structure referred to as a 'land committee'. Many of the delimitation exercises have taken place over periods of up to a year and most of those shown in the table were initiated before there was complete clarity on the steps contained within the Technical Annex of the land law. There has been uncertainty throughout many of these processes, therefore, and this may well have had an impact upon the legitimacy and efficacy of the resulting institutions. The delimitations are also generally characterised by the fact that they are large land areas (on average over 27,000 hectares), containing considerable populations.

The process of delimiting and registering community land can, at the least, define with more certainty, and may indeed change, the composition and practises of the community institutions responsible for land and resource rights management. Internally to a group, such processes often bring change. Externally, the relationships between community groups and the outside world can be changed more radically, with the group obtaining recognition and standing within the world that it did not possess before. In this section and that which follows, we examine the initial impact that the delimitation of land is having on these internal and external relationships.

What choices for community institutions?

Policy makers have been keen to highlight the flexibility of the land law and technical annex and how it can be applied to a wide range of possible 'communities' in differing social, economic and cultural environments. Training and information dissemination materials underline the fact that the community (as an entity that can register land use rights) need not necessarily be a group that pays allegiance to a traditional paramount chief (*regulo*), and that the boundaries of delimited areas need not follow old 'traditional' boundaries from the colonial period, nor present-day administrative divisions. The 'community' can choose its own name, define its membership according to broad and flexible guidelines and appoint its own representatives, free of any stipulations in the law. The challenge of 'how to (legally) recognise a group without converting it into something else' (Fingleton 1998) seems to have been an important consideration in the framing of the law.[2]

Implicit in the stipulations that the new communities need not necessarily conceptualise themselves around traditional authority definitions of 'community' was a recognition that although these traditional institutions remained extremely important in the lives of most rural people, in some

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[2] Underpinning this policy were also assumptions regarding the durability and flexibility of traditional land adjudication mechanisms at a community level, and the impossibility of creating a new legal form of institution, at this level, which could accommodate the wide range of situations in which land rights registration might be undertaken.

areas they carried a stigma of repressive authority,[3] and represented institutions whose practises were discriminatory and undemocratic.

In other cases, claims to traditional lineage were a myth and local leaders derived their legitimacy as 'traditional' leaders rather from political appointment. These appointees may have managed to entrench power since the colonial period or been 'anointed' by either FRELIMO or RENAMO. The policy approach to this issue seems to have been an attempt to ensure that the process of delimitation involved a contemporary confirmation of the community institutions that enjoyed legitimacy in the eyes of the community. To ensure that this confirmation was a true reflection of local wishes, the delimitation regulations introduced a process involving widespread dissemination of the law and its implications, the holding of open and transparent meetings, and participatory exercises with various groups from the community.

How thoroughly these exercises are conducted in practise and the degree to which there is a community-wide affirmation of the validity of these 'new' institutions will obviously affect the outcome considerably. In some cases this appears to be questionable, as is illustrated by the following note of some interviews with a community that had already completed delimitation of their land and had elected a group of representatives as part of this process:

> *Among those who have no formal connection to the land committee we heard a variety of different things. One man told us that the only committee related to land that he knew of was "the committee of FRELIMO". It was clear that people do not yet see the land committee as the forum where their land problems can be resolved. Most problems are sorted out at the local level, as and when they arise, generally between the* chefes da zona *and elders.*[4]

The almost total absence of delimitations at levels other than a traditional grouping (despite a policy that permits and even encourages this) may, on the other hand, merely reveal the durability of these institutions in the face of new procedures that appear to require something 'different'. In other cases from Zambézia, even where a new group of representatives had been chosen, the traditional authorities, rather than local government structures, normally retained a high level of recognition and legitimacy, even with the new representative group themselves. As one community member from Mutange told us, 'The people on the land committee will

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[3] Traditional authority in Mozambique refers to a lineage-based system that was created (although based partly upon indigenous forms of organization and authority) by the Portuguese empire as a form of secondary administration. The position of *regulo* was part of this system, which, more broadly, was referred to as *indigenato*, a 'dualistic system of local government under which Mozambican subjects were governed by chiefs (*regulos*) and Portuguese citizens by administrators; a corresponding legal system under which Mozambicans were subject to customary law and citizens to Portuguese civil codes; a dualistic system of land tenure … and of labor regulation' (O'Laughlin 2000: 16).
[4] Wrangham (2001).

talk to the chief [about a dispute] if they think there is something that he should do.'[5]

Changes in a tenure regime can result in the existence of multiple tenure institutions and in the creation of new bases for claims to land, resources, and authority. Since these have the potential to become competing claims, with high risks for social instability, it is important that they are minimised as much as possible. Generally, with the delimitations that have taken place to date, it appears as if there is indeed an implicit acceptance of the 'new' institutions. Whether or not they are tolerated simply because they are perceived as having little effective power and real legitimacy is difficult to say. 'Politicians may tolerate bottom-up participatory processes in other areas, but not in matters that require them to relinquish control over land allocation' (Adams 2001), and this may hold equally true for traditional chiefs. However, the level of power held by these traditional institutions in Zambézia tends to be constrained by fairly high levels of land availability, along with kinship and traditional rules that only require 'outsiders' to obtain traditional authority permission. These factors, of course, will impose constraints upon the power of the 'new' institutions as well.

One interview, with the 'land committee' of the community of Mehuia in Namacurra district, was illustrative of this relatively conflict-free co-existence. The interview was accompanied by the local *regúlo*, even though he is not a member of the committee. It was clear during the interview and from the responses to questions that there was little tension, however, and the committee members spoke freely and openly, even at one point referring to the 'land-grabbing' activities of the son of a neighbouring chief.

An analysis of the processes

The following series of questions attempt to address some of the major factors that appear to have an impact on the internal relationships of communities that have delimited land.

1. Who has initiated the registration process and for what reason?

All of the community delimitation processes undertaken to date have occurred within the ambit of the ORAM programme in the province, funded by the Zambézia Agricultural Development Project (ZADP) in the districts of Nicoadala, Namacurra, and Guruè, and by other donor partners of ORAM in other parts of the province. The extent to which community groups themselves have initiated these registration processes is difficult to gauge, but is probably minimal given that there exists this programmatic imperative on the part of ORAM to undertake the tenure reform programme and given the widespread lack of information in rural areas regarding new policies and approaches.

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[5] Interviewee, Mutange community.

The ORAM approach has been to commence their work in an area with an extensive programme of information dissemination to community groups regarding the land law and its protective elements, leading to discussions regarding the delimitation and registration of acquired rights. A report by the ZADP in late 2001, analysing the status of the ongoing projects and the reports on these by ORAM, identified the principal motive behind the delimitation of rights as being that of 'existing conflicts over land rights with an outside investor' (ZADP 2001). None of the tenure reform projects have been initiated by government as a result of the existence of these conflicts, however, and the legal justification for the delimitation would probably be the third option contained in the policy; that is, they were undertaken at the request of the community.[6]

In a few cases, such as the communities of Murrua and Mucelo Novo, the delimitation has been requested by a community group as a result of their exposure to the process in neighbouring communities, and the ZADP report also refers to the existence of this 'domino' effect. There have been no delimitations undertaken as part of a broader development process, where outside investment has been the initiating factor for the definition of local rights. Although ORAM has continued to work with some of the land committees post-delimitation, the attempt to establish partnerships between land-holding communities and land-hungry investors has so far been fruitless. The government at all levels has been far more silent on the possibilities that the law holds for securing local tenure rights and has not invoked the provisions relating to delimitation, even in situations where a clearer idea of existing rights would have assisted with investment projects.

To date, therefore, the delimitation processes have been largely initiated and overseen by a single outside agent, ORAM. Their interpretation of policy and procedures in respect to land registration may therefore be one of the major factors influencing the nature and composition of the new land-holding institutions.

2.   *How are the communities, in terms of group membership, being defined? What impact is the process having on mechanisms of access to land?*

In theory (see above) community definition is an organic process, rooted in the reality of the community. In practise, the extent to which the group definitions reflect a clear and informed decision by those groups is potentially very limited. The entry point used by ORAM for the delimitation exercises tends to be through the locality (state) structures and the 'recognised' traditional authorities, many of which are identified through the use of old colonial-era registers or maps. Well-entrenched

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[6] For more on the options available regarding the initiation of delimitation processes, and their implications, see Nhantumbo et al. (2002a).

notions of administrative and traditional boundaries tend to be the dominant defining characteristics of the 'community groups', despite a policy framework that would allow for a much wider range of potential associations. These notions permeate all of the actors involved, including ORAM and the local administrative state structures; the more nuanced interpretations of what a community is or can be tend to be found only at the higher levels of the various hierarchies.

The extent to which the existence of different options is made explicit during the facilitation process is questionable. It is doubtful also whether the implications of such options are broadly understood. In any event, the fact that the process must be accompanied by government and NGO personnel, rather than falling entirely under the control of the community itself, means that additional pressures (time and costs) are brought to bear. In this situation, the adoption of the quickest and easiest approach is more likely and these tend to be those that are familiar. Most groups are therefore 'defining themselves' along the lines of a paramount chieftaincy, formerly known as a *regedoria*.

Where there is a departure from this pattern, in every case the resulting delimitation has covered areas that *exceed* old traditional patronage areas and boundaries, rather than defining smaller groups within such areas. What lies behind these particular cases is unclear; it is impossible to gauge from the reports available whether they represent attempts by some traditional groupings to somehow subsume other neighbouring groups or whether there was a clear consensus from all the traditional groupings involved that identification with each other for the purposes of delimiting community land was the most appropriate response.

The community referred to as Mongoma, for example, has delimited land that extends beyond locality areas, covering more than one administrative post in two separate districts and containing within it a number of old *regedoria* areas. The area is vast, covering over 200,000 hectares and the delimitation process was carried out in an atmosphere of uncertainty regarding the authority of various traditional groups in the area. In fact, during one meeting in this area that was observed by the SLSA team, a dispute arose concerning the status of one of the subordinate chiefs.[7]

This aspect of the delimitation process holds important implications for the future cohesiveness of the groups and how well the 'new' land management institutions are able to function. Undoubtedly, the existing traditional authorities have been able to successfully manage a period of considerable change and upheaval regarding access to land in their areas and are regarded by the vast majority of rural inhabitants as being the legitimate authorities in matters concerning natural resource use. This holds true for new arrivals to an area as well as previous occupants. One man interviewed, who originates from Alto Molocué District but had

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[7] Strangely, this dispute was settled by the ORAM facilitator who stated that a recent decision of the district administrator had demoted the chief in question.

returned after the war to open a *machamba* (a small farming plot) in Namacurra, explained,

> *If you are in an area that is not your home, you must ask the* regulo *for his permission to open a* machamba. *If you do this there will be no problems and if there are problems you can ask for his help in the future.*

In Bajone, by contrast, land for agriculture appears to be accessed more through friendship and kinship networks than by formal approaches to the various levels of chieftainship. This is an area where the occupation of land by plantation companies is extensive and local inhabitants have been forced to look beyond their 'traditional' area to find land for cropping. However, the mechanism for access to land in this 'foreign' area appears to have been through a form of blanket negotiation, covering all those from Bajone who wish to open *machambas*. The actual identification and clearing of land occurs as a result of contacts between those who have already established themselves and the new arrivals. One informant told us, 'When you want to open a *machamba* in that area you speak to someone you know who is already there and they help you to find a place.'[8]

It is yet to be seen what impact the delimitation of land and the creation of new institutions will have on these types of access mechanisms but it appears to date to have been minimal, either because the traditional institutions are reconfirmed as part of the creation of the new land committees or because they retain a function in parallel to them.

3.   How are the boundaries of the delimited areas defined and agreed upon?

> *The marks were, they said, put down in accordance with old colonial maps, and according to what the elders knew. The elders were mostly men, one man said because women have traditionally had little interest in land.*[9]

The above quote illustrates how, despite the stipulation that the definition of boundaries should be done with the involvement of different groups in participatory mapping processes, it appears to be the case that these exercises are dominated also by notions of colonial era definitions, the custodians of which are the traditional authorities and the elders of a group. Most of the boundary meetings appear to have been conducted with the involvement of traditional authorities from neighbouring areas and the elders. A protracted dispute between the neighbouring communities of Mutange and Murrua, straddling the Nicoadala/Namacurra district boundaries, was solved eventually by an agreement that simultaneously confirmed the old traditional boundary, whilst recognising that there was cross-boundary use of land by the community members of Murrua within the Mutange area. This return to

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[8] Interviewee, Bajone community.
[9] From Wrangham (2001).

the traditional boundary seems to indicate the durability of such notions, even where contemporary land use reflects a different reality.

A further indication of the durability of the old traditional boundaries is the fact that many of the meetings convened to confirm the delimited lands did not involve a meeting *in situ*. Explanations for this were usually that the boundary lines were 'well known' already and that they could be easily described by relating them to natural boundaries such as river courses and forest edges.

4. *Are internal land use institutions of the community identified and consolidated through the registration process or weakened by it? How are the 'three to nine' representatives chosen?*

One of the gaps in the legislation at present is the fact that there are no clear provisions that regulate the future re-election of the three to nine representatives who will form the 'land committee'. There is nothing in the technical annex that requires their re-election after a particular period of time and interpretations at the moment could be that these representatives are in some way holding office 'for life'. This was clearly not the intention of the legislation but, in the absence of guidelines in the law, this could become the case.

Even the initial election of representatives appears to be somewhat clouded in people's minds, as these comments from a ZADP report reveal:

When we asked about how the members were chosen we again heard different things: some said that they had been chosen by the secretário do círculo, *others that they had been chosen by 'the community'.*

When we asked people unconnected to the land committee about the process of delimitation we were unable to get very far: 'Then the land was delimited' was about the limit of people's explanations. Who did the delimitation was also contested: one woman said that she thought it was 'segurança' *[the security services], most others thought either the government or* Geografia e Cadastro.[10]

A strong overall impression from interviews with committee members was that they considered themselves to be most strongly connected to the process of the delimitation and to ORAM as an institution. In an interview with the committee from Mucelo Novo community, when asked about the things that they felt would improve their functioning, the members put forward a request to ORAM for payment for their services, stating that the greatest call upon their time and energy was coming from this NGO. This appeared to be the case with several of the committees,

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[10] Wrangham (2001).

which have evidently not yet found a role independently of the delimitation process and the outside facilitators.

5. *What impact has the delimitation process had on the tenure security of the members of the group?*

The delimited areas capture the *outer* boundaries of a highly complex bundle of land and resource rights, some of which (for example, to family *machambas*) may be held on an individual basis and others (for example, access to grazing, thatching, and forest resources) that are shared with other members of the group. The establishment of this outer boundary has been the primary preoccupation of the delimitation exercises completed to date and reflects a focus upon securing the communal rights of the group as a whole against encroachment by third parties. Much less attention, however, has been paid to the relationships amongst group members in respect to land use rights in the area and between them and the institutions responsible for the local enforcement and adjudication of those rights.

One of the more important aspects of these internal tenure relationships is the relative position of women as holders of rights. Widows have been in a particularly insecure position and, if childless, have been required to leave their 'marital' land and return to the home of their parents. The same holds true for divorced women. Initial research into the impact of the delimitation processes on the position of women suggests that things have not changed significantly:

When we spoke to widows we therefore asked what changes they had noticed. The answer was that they had not noticed changes, suggesting that the delimitation has probably not marked a big change for most people.[11]

Disputes that occur between individual members of a community appear to follow the same processes post-delimitation as they did previously. All of those interviewed indicated that these cases would be presented to either the traditional authorities of the area or to the local state authorities. No one mentioned that the 'land committee' of a community would now deal with these problems. There was evidence from the mapping phase that local people indulged in a degree of forum-shopping in a search for a resolution to a whole range of problems, their choice of forum largely being motivated by whichever was the cheapest and easiest. Whether the land committees would become another forum on the list of potential dispute resolution options for local people may well depend on the manner in which they function and whether they would exact payment for their interventions.

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[11] From Wrangham (2001).

External relationships: devolving land administration powers to the 'new' communities

What relationships do the 'new' community groups have with the outside world and, in particular, what is their relationship to the state? Although the law and the technical procedures make reference to local level institutions ('identified' by the community and 'recognised' through the registration process) having a role in the management of access and use rights to land, the status of these institutions, their future role and how they fit into the existing jigsaw puzzle of formal and informal institutions is an issue which remains extremely unclear and subject to multiple interpretations.

The lack of clarity exists within organisations and institutions at all levels, from national level policy makers to community members. From a legal perspective the groups have all the rights *vis-à-vis* third parties and the outside world that would pertain to any other holder of a land title; that is, rights of occupation and use, rights of exclusion, and the (limited) right to transact. But what is the role and status of the new communities *vis-à-vis* state administration and land management institutions?

Decree 15/2000 - competing representatives

ORAM in Zambézia refers to the representatives as together forming the land committee for the community ('*Comité de Terra*') and defends a position that places this institution at the forefront of relations between the state and the community, at least in respect to land issues. However, the terminology of 'land committee' appears nowhere in the law; even in the 'Manual for Delimitation of Community Areas'. The Land Commission restricts itself to stating that the nomination of representatives is in accordance with the decree relating to 'community authorities', without specifying further the manner in which these representatives are meant to relate to each other and to outsiders, nor indeed whether or not they are expected to continue after completion of the delimitation.

The decree referred to is 15/2000 approved in June 2000 to 'establish the ways to link local organs of state with community authorities'. The Decree was regulated in August of the same year through a Ministerial Diploma from the Ministry of State Administration.[12] Community authorities are defined as 'people who exercise a specific form of authority over a specific community or social group'. The decree identifies three broad categories: traditional chiefs, village secretaries, and other legitimated leaders. The last category is very broad and encompasses a wide variety of potential leaders (economic, social, religious, or culturally based).

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[12] 107-A/2000

It is not clear, however, whether the land legislation establishes 'autonomous' procedures for the election of the three to nine members of a community that will be their representatives in respect to land administration matters in the future, or whether this function will be subsumed by those representatives appointed in terms of Decree 15/2000. Those outside of government tend to emphasise and support an interpretation that stresses the ongoing role of the 'land committees' as a specific entity separate to community representation as established through 15/2000. Government officials, however, see these laws as related, and the role of the 'delimitation' representatives as one that is limited to the process of registration itself, rather than involving any subsequent land management responsibilities. These responsibilities are seen as part of the broader role to be played by those representatives recognised through decree 15/2000.

Some of this 'recognition problem' may stem from the fact that the land committees tend to be set up as if in an institutional vacuum, rather than linked into other institutions of land administration, such as local government. There was some evidence from an ORAM evaluation that appeared to be pointing to increasing recognition of committee members by local government authorities, but, in general, and certainly at higher levels of government, the tendency is to look more towards party or government appointed representatives at community level, and to be suspicious of institutions created through NGO involvement or sectoral legislation.

To date, none of the land committees in the province have participated in any formal state-led process relating to development planning or the adjudication of land applications. Information regarding the composition of the committees does not even exist beyond the archives of the Provincial Geographic and Cadastral Service (SPGC) office, and this information is incomplete and disorganised. The only organisational recognition accorded to the committees so far appears to come from ORAM, placing the committees in a very precarious and nebulous position.

Macro processes of decentralisation

It is useful to situate this analysis within a broader perspective relating to decentralisation and institutional reform in the country, and particularly that occurring within MADER and as part of PROAGRI. Here it is possible to note movements towards the following:

1. *Administrative Decentralisation/Deconcentration*: the dispersion of responsibilities from national (e.g. DINAGECA) to provincial (e.g. SPGC) offices. This is still limited and, in the land sector, the SPGC offices are still required to send original titles and land parcel information to Maputo. Internal planning and budgeting functions have been devolved to a limited extent but there is no real control;

this is largely still constrained by PROAGRI and the double subordination to DINAGECA and the provincial Directorate of Agriculture. The SPGC have no powers to hire and fire. There are some capacity flows to provincial level (technicians trained and sent to provincial offices), but the district level services are still completely out of the picture.

2. *Fiscal Decentralisation/Delegation*: there has been limited downward transfer of decision-making powers over funds to the SPGC offices but only for the 12% share of the annual tax revenues collected by them. There is no district budget. Since the district has no budget and all funding decisions are taken either at the national or provincial level it is very hard for the local population to hold district officials accountable. Double subordination of district sector staff to the sector and to the district makes it very hard for the District Administrator to hold district level sector staff accountable.

3. *Political Decentralisation/Devolution*: there has also been limited downward transfer of resources and powers to lower-level authorities, which are in some way democratic. Municipal reform legislation in 1997 introduced a dual logic of local administration, differentiating between urban and rural areas. All urban areas and some rural conurbations are to be administered[13] by elected local governments (representative assemblies and mayors), with devolved powers to manage the urban environment and to provide basic urban services on the basis of their own budgets, to be funded through own-source revenues and central government funding. In contrast, rural areas (with 77% of the country's population) have been excluded from the process of political decentralisation, and are governed as part of a three-tier deconcentrated system (central government, provincial government, and district administration). There is no discussion regarding proportions of land taxes and fees to be paid to community groups within whose areas there are approved private land users, as with the Forestry and Wildlife regulations.

The role of the *localidades* (localities)

The *localidade* is the lowest level administrative unit and therefore the one that is most closely located to the new land management institutions arising from delimited community areas. However, the status of these units is unclear and confusing. In legal terms, the *localidade* does not exist as a level of government, although the boundaries of these units appear on administrative maps and the constitution stipulates that the national territory is divided into provinces, districts, administrative posts *and*

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[13] To date only 33 municipalities have been created and there is reluctance on the part of the ruling party to extend this number. The 1994 law on local government reform initially intended the transformation of all 128 districts into municipalities. However, in 1997 the law was scrapped and municipal elections were established for only 23 urban municipalities and 10 rural centres.

localities. In practical terms, there are often government functionaries operating at *localidade* level, referred to as *presidentes da localidade*. These positions, although now seemingly recognised as civil service appointments, are actually remnants from the post independence period when the People's Assemblies were created by FRELIMO. These assemblies elected presidents who became known as the *presidentes da localidade* (Serrano 2002). As Negrão (2001) points out, it is difficult to know now whether or not the *chefe* of a *localidade* is a public functionary or whether the principle of having locally-elected representatives will be maintained.

Concluding remarks

The new communities arising in Zambézia, as a result of the implementation of new tenure legislation, have had a considerable impact upon the map of land rights, with large swathes of land now formally registered in favour of their members. However, their profile and impact upon development processes in the province has to date been minimal. They live as boundary lines drawn on a two dimensional representation of the province but not yet as institutions that have been recognised by the state as having a legitimate role in the planning of land use and natural resource use or the adjudication of disputes and rights allocation. Existing institutions, in the form of traditional authorities or local government structures have largely maintained their roles and legitimacy, even in areas where delimitation processes have resulted in the advent of new management institutions. In many ways, the new community groups face a dual challenge: from the state, which is reluctant to deal with the full implications of policy objectives geared towards devolution of powers and control over land, and from their own constituents, who are familiar and largely respectful of the traditional mechanisms that exist within their communities.

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