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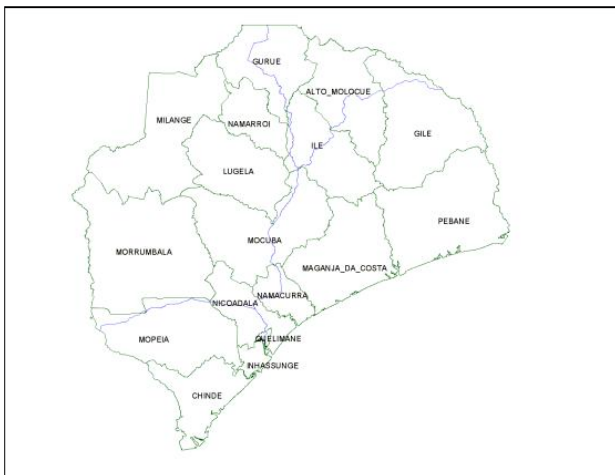


**Natural Resources and
Sustainable Livelihoods in
Mozambique: Policy and
Institutional Framework**

Introduction

This briefing note contains an overview of the policy and institutional frameworks that govern access to and use of land, forest and wild resources in Mozambique. Most of these have undergone substantial recent revision. The note also undertakes some initial analysis of most important policy concepts guiding reforms.

Map showing Zambézia province and study sites of



Morrumbala and Maganja da Costa

The research sites for this project are in the province of Zambézia in two separate study sites. The first, in the district of Morrumbala, is located in the central forest belt running across the province from west to east and allowed an examination of the natural resource aspects of the livelihoods of forest-dwelling communities. The second study site is located on the coastal strip in the northern part of the province in an area where there has been a long history of conflict regarding natural resource use, particularly between large land holding private sector entities and the local communities (see Research Briefing 2 for an overview of livelihoods contexts in these two sites). This note looks at emerging policy frameworks governing access to land and forest resources.

Land

The development of new policies regarding the holding of rights to land in Mozambique began with the adoption of a Structural Adjustment Programme in 1987 and was given further momentum by the new Constitution of 1990. The revision process, overseen by an Inter-Ministerial Land Commission appointed by the president, has culminated in the formulation of a new land policy (adopted in 1995), a new land law (1997), new regulations to the law (1998) and a technical annex to the new regulations (1999).

The changes introduced by the new policy were significant: for the first time there was a recognition that customary rights existed over land and that there was a place for local traditional authority in the prevention and resolution of conflicts. In addition, the policy highlighted the importance of a flexible Land Law, which over time would induce a “formalisation of the informal”, principally in respect to land rights and holdings in the family sector. There seemed to be some appreciation within this policy that local landholding systems did not consist of rigid rights and precise rules and that customary law in respect to land use was by nature ‘procedural’.

The central declared intent of the new policy was to “safeguard the diverse rights of the Mozambican people over the land and other natural resources, while promoting new investment and the sustainable and equitable use of these resources”. Accordingly, as well as providing legal recognition of customary rights, the new policy and law provided mechanisms through which private citizens and foreign and national companies could apply for long-term land concessions. Although the state remained the *de jure* owner of all land, a process of privatisation of the economic use of land was embarked upon. Procedures were developed that were designed to allow for the award of land use rights by the government to third parties through a process that would ensure consultation with any local communities that might have customary rights over the land in question. The objective was to ensure that existing rights were

safeguarded and that local communities would have an opportunity to negotiate the conditions under which those rights were privatised, or indeed to veto transfer of the same.

In addition to the procedures that were developed for the privatisation of land rights, the new legal framework also made provision for the formal registration of customary rights in the national land cadastre, a process referred to as delimitation. Although this process is not required in order for customary rights to be recognised (and protected by law) it is a necessary step in order for legally binding agreements to be entered into between community groups and third parties that wish to obtain land use rights over 'community land'.

Implementation of the law has been slow and piecemeal, with most attention being paid to the simplification of the procedures used for processing private concession applications. The National Department of Geography and Cadastre and its provincial services are responsible for registration of rights and handling applications for concessions and have been under considerable political pressure to speed up the concession-granting process. The delimitation of community lands has been undertaken only where external donor funding has been available. No community delimitations have been funded through the multi-donor PROAGRI support to the Ministry of Agriculture and Rural Development, despite the regular inclusion of activities and spending plans to do so.

Key land policy issues

- Stakeholder participation in the formulation of the land policy and legal instruments
- Rights of occupancy and customary law recognised, long-term concessions with security of tenure introduced
- Establishment of local institutions representing a community, acting as steward of community rights on land ('Land Councils' of 3 to 9 individuals)
- Community land can be delimited, demarcated and a certificate of user rights issued - costs of delimitation to be borne by communities
- Private concession applications subject to local community consultation processes
- Community 'right' to delimit land rights acquired in law remains subject to administrative veto power

Forest resources

In a similar way, structural adjustment programme also ended the central planning and the nationalisation of the forestry industry. Therefore, there was a need to design a policy framework which was more adequate for

addressing the new economic environment, and the perceived imperatives of privatisation and price liberalisation.

The need for change was recognised early with the design of a strategy for the development of the forestry and wildlife sector in Mozambique in 1990. However, it was the development of new agricultural policies, which emphasised agricultural development, based on sustainable use of natural resources and the adoption of a sectoral approach for implementation of priority policies. This gave an impetus for the development of the 1997 Forestry and Wildlife policy, followed by the law in 1999 (the regulations are yet to be approved by parliament).

In a similar way to the land legal framework, the forestry and wildlife law emphasises involvement of stakeholders, be they communities or the private sector in management of multiple use and productive forest areas. Partnerships between these stakeholders and the government are also pointed out as paramount for sustainable use and management of resources in protected areas as well as in productive and multiple use areas. As a result of this new approach, community based natural resource management (CBNRM) is a major focus in the country.

Nevertheless, there are still several challenges facing devolution of resources to communities. These include: licence or concession arrangements governing access to resources by communities; the creation of a fair benefit sharing mechanism between involved stakeholders; the role of the different local structures in the management of resources; the power over decision-making by the new institutions being established (the committees, or councils); and, the capacity of these institutions to negotiate, on behalf and for local communities with other partners.

The challenges the production side include: the establishment of clear criteria and guidelines for access to concessions and the need for a package of fiscal and commercial incentives to encourage investment in local processing. Furthermore, efficient law enforcement is essential for ensuring compliance of the various users with the law.

Key forestry issues

- From nationalisation to privatisation
- Development of a forest programme based in national priorities
- Formulation of new legal framework (policy, law)
- Role of stakeholders recognised

- Forest concessions to ensure investment on management
- Partnerships between private sector, state and communities recognized as important for sustainable use of natural resources
- Community-based natural resource management for sustainable use of resources and provision of benefits to communities
- Incentives for promoting added value of forest products,
- A sectoral programme (PROAGRI) for implementation of four main priority policy areas designed: forest production (private sector), CBNRM, ecological objective (conservation of forest and wildlife) and institutional reform

Natural resource management institutions in Zambézia Province – some key issues

Private sector pressure on natural resources

Both the Land law and the Forestry and Wildlife Law introduce new regulatory procedures for private use of natural resources; the stated intention of which in both cases is to safeguard local community interests and encourage the sustainable use of the resources.

The provincial context in Zambézia where these new regulatory frameworks are being applied is one that is characterised by an historically high level of private sector pressure on resources, a very low level of enforcement of regulations, a weak state infrastructure outside the district centres, very limited participation from civil society and a lack of clear and transparent information on land and resource use. These factors combine to produce a situation in which there are extremely high levels of unregulated natural resource exploitation (particularly forest timber) and continuing efforts from outsiders and local elites to speculate on the award of user right concessions.

Pressure on land

The provincial context in which the new land law came to be applied in Zambézia was a particularly complex one. The province had registered the second largest number of concession applications under the old 1987 regulations (compared to other provinces) and these accounted for a total amount of land that was in excess of 3 million hectares (over 30% of the total land area of the province). Most of this 'claimed' land was for areas of high fertility and suitability for agriculture, either in the low-lying delta area of rice and coconut production or in the high pasture and tea plantation zones.

Pressure on forest resources

The SPFFB offices in 1999 issued 36 simple licences for the cutting of timber in logs (in apparent contravention of the regulations, these licences are issued at district level, permitting the harvesting of the licensed amount of timber from any area in the district, rather than according to a demarcated area of less than 1000 hectares).

In the year 2000 the number of licences leapt to 126 licences ceded to 30 different operators. In addition, there was a significant increase in the issuing of 'circulation licenses' (*Guia de Circulação*). The annual report from the SPFFB office states that one reason for this was the creation of the *Comissão Provincial de Exploração de Madeira*, a body that authorised an increased number of licences in order to deal with the large amount of timber that had been felled but never collected from the forests. The report states that this was a means of 'regularising' the activities of illegal harvesters, who paid the standard fees for the licences and that it led to the collection of over 10,000 cubic metres of wood.

Conflicts

Land conflicts have been arising in a variety of situations; some have been created by the re-privatisation of nationalised areas that have been occupied by local communities in the intervening period of war and instability, whilst others have their roots in historical conflicts between private right holders and the local populations. The re-privatisation of some land units, which have since lay fallow, has been a particular source of contention for local people.

In addition, it is clear that forest-based conflicts are occurring in many areas, although most local communities do not feel empowered to intervene in uncontrolled logging activities. These may be encouraged by the lack of effective monitoring and by unscrupulous behaviour on the part of some local administrative structures.

Given this context, the mechanisms that are established to resolve conflicts and the extent to which these take into account the legitimate interests of local communities will have a significant impact on the realisation of policy goals. To date the approach to conflict resolution in Zambézia has been confused, ad hoc and opaque.

Decentralisation of natural resource management powers

Where legislation is in place to allow the envisaged decentralisation of resource management powers and responsibilities to occur (as with land but not yet with forest resources), its smooth and efficient implementation has been constrained by a number of factors:

- There is a very limited understanding amongst members of the public, particularly applicants for land use rights, of the processes involved.
- There is an absence of an integrated approach between different government agencies, leading to confusion, delays and, in some cases, conflict.
- There is a general lack of resources within the provincial SPGC office and an absence of any comprehensive strategy to deal with the legislative processes (particularly community consultations) in a cost-effective manner.
- A large backlog of applications exists and there is a lack of clear information regarding these applications.
- There is an almost complete lack of information (e.g. maps, etc.) available to other government agencies, particularly District Administrations, regarding land applications that concern them.
- There is very limited involvement of civil society organisations and the private sector in assisting with some of the processes involved (e.g. community consultations, education and information programmes, etc.)

New institutions envisaged by the forestry legislation have not yet been established, largely because the regulations to the legislation are still awaited. In the meantime, the implementation of other legislation regarding the state and local representatives of communities (e.g. decree 15/2000) may well impact negatively on the achievement of some of the policy objectives contained within natural resource use sector legislation.

Future research

Based on this initial mapping of policy issues, future work will address the following key issues:

- How has implementation of the land law, in particular the recognition of community rights and the establishment of community level land rights-holding institutions, affected the livelihoods of rural people in Zambézia? [Case Study of the Land Tenure component of the Zambézia Agricultural Development Project]
- What is the impact of the new approach of the Mozambican government to the management of

forest resources - can this realise the full potential of the CBNRM approach? [Case Study of Derre Forest Reserve]

- How has the overall process of decentralization affected local access to and use of natural resources? What type of power is being allocated to whom, and what impact does this have on the emergence of new institutions? [Case study of decentralisation processes in Derre and Bajone]

SUSTAINABLE LIVELIHOODS IN SOUTHERN AFRICA: GOVERNANCE, INSTITUTIONS AND POLICY PROCESSES (SLSA)

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