

SECURING LAND TENURE FOR WOMEN UNDER MOZAMBIQUE'S LAND ADMINISTRATION PROGRAMME (TERRA SEGURA)¹

POLICY BRIEF 57

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This policy brief reports findings from a study undertaken by researchers at the Institute for Poverty, Land and Agrarian Studies (PLAAS) at the University of the Western Cape (UWC) investigating the formalisation of customary land and its implications for women's livelihoods and the security of their land tenure in Mozambique. The research was conducted in two villages in Nhamatanda District, Sofala Province between 2021 and 2022. A total of 63 women in Siluvo and Metuchira villages were reached through in-depth interviews; coordination to learn their life histories; and focus group discussions. In addition, a survey of 140 households across the two villages was conducted.

KEY MESSAGES

1. Poor community consultation in the implementation of the Terra Segura programme has created significant information gaps among the intended beneficiaries and has exacerbated the marginalisation of already disadvantaged groups, particularly women.
2. The registration officials, mainly men, have tended to impose their patriarchal beliefs on the local communities involved in the programme and actively excluded women from registering DUATs in their names under a de facto government policy that assigns leadership of households to men – although 74.3% of households in Nhamatanda District were found to be headed by women.
3. Women, who are generally quite unaware of the possibility of joint registration of land, have been deprived of independent access to land, with the land rights being assigned to the male members of their households, including their husbands.
4. The cost of registering a DUAT, which is about USD400 for a 2-10 hectare plot, is prohibitive for indigent families.
5. The registration of DUATs excludes common property and common resources and so may prevent communities from accessing such resources and land, which include forests, rivers and grazing land.
6. Present land administration systems are not context-specific and are not designed to reduce the gender gap in relation to security of tenure, leaving the process vulnerable to patriarchal abuse after land rights have been registered.

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7. The registration of DUATs fosters a perception of greater security of tenure and reduces the potential for conflict, with the new rights holders expressing confidence that they can enforce their rights against investors and other community members as necessary.
8. Lessons learned from the Terra Segura programme should inform the national land policy-making process, particularly in relation to ensuring broader, more effective consultation and including women's voices in policymaking.

CONTEXT

The Mozambican government considers the formalisation of customary tenure to be a key factor in promoting secure land rights; fostering economic development; and improving livelihoods. Formalisation includes surveying the boundaries of customary land, and registering and documenting customary land rights which otherwise tend to be undocumented. Mozambique's 1997 Land Law and the country's 1998 Regulations on the Land Law provided for the recognition of customary land rights and good faith occupation of land. The legislation established a number of mechanisms through which individuals, communities and investors could register land-use rights, including a *Direito de Uso e Aproveitamento da Terra* (DUAT), which comprises a right to use and benefit from land that may be held individually or jointly. In formalising land rights, the expectation was that there would be greater security of tenure and a reduction in the number and scale of land-related conflicts. To this end, the Mozambican government launched a land administration project, Terra Segura (or "safe land"), in 2015 supported by international public agencies. The programme aimed to register the land held by 5 million individuals and 4,000 communities within five years. This target was never achieved. Nevertheless, the programme continued to receive support from Western donors, such as the World Bank, which, in December 2018, approved USD100 million to support the programme (World Bank Group, 2018). With this support, a new goal was set for the programme: the registration of two million individual DUAT rights and 1,200 community

land delimitation certificates in 71 selected districts (45% of the 157 districts in Mozambique) by the end of March 2024 (World Bank Group, 2018). Women were to comprise 40% of the intended beneficiaries of the programme (World Bank Group, 2018).

Against this background, this policy brief outlines the implications for women's land rights of the Terra Segura programme and offers policy recommendations for how it may be implemented in Nhamatanda District – recommendations which may be used to inform nationwide implementation of the programme.

Figure 1: Study site



OVERVIEW OF FINDINGS

Consultation and information during the registration process is inadequate

Most women who participated in the research undertaken by PLAAS were unaware of the DUAT. Those who had heard about the programme had little information about the registration process. The government's Provincial Services of Geography and Land Registry (SPGC), which led the registration exercise, failed to provide prior notice about registration efforts or adequate information on the purposes of registration. Many women were unaware of the existence of DUATs or the registration process, which contradicts the programme's objective of "raising awareness regarding the importance of real property rights particularly at the community level" (National Fund for Sustainable Development, 2018). Dorca Doming John, a married woman with six children, said:

"I never heard about the DUAT and I don't know what it is."

Finicha Domingos, a married woman with five children, said:

"I heard about DUAT certificates, I was told by a civil society organisation that it is important to secure land in the case of conflicts, but I don't know how and where to acquire it."

Due to this lack of consultation, communities failed to understand the significance of acquiring and holding DUATs for land on which they had previously lived for decades without any need for papers to prove ownership. As one community member said:

"I just don't know why I have to get a DUAT now. I've lived and cultivated here with my family for many years without any documents."

This failure to inform and consult exacerbated the discriminatory nature of the registration process, under which, for a number of reasons, more men than women were likely to register a DUAT in their name.



Participants at a community meeting to produce a policy declaration in Nhamatanda. Date: 25/10/2021. Picture credit: Phillan Zamchiya.

Women are disproportionately excluded from the registration process

Most women in Nhamatanda only have secondary rights to land through their male relatives. The implementation of the Terra Segura programme has entrenched these inequalities through discriminatory registration practices and high registration costs. Although land in Mozambique is owned by the state, local leaders (regulo) control much of the land in some regions. These local leaders allocate land along gender lines, under the assumption that men are head of households. However, the PLAAS survey found that 74.3% of households among the surveyed population were female-headed. In stark contrast to the relatively high proportion of households headed by women in Nhamatanda District, only 800 or 26.6% of DUATs in this area were registered under women's names, according to Lorenzo Mavunguire, the chief of Siluvo locality. This is more than 13% below the 40% target for DUATs to be held by women set by the World Bank for the Terra Segura programme.

The registration process not only discriminates along gender lines but also in relation to women's marital status. The survey found that divorced, married, and single women were less likely to hold a DUAT than widowed or cohabiting women. Also, notwithstanding the recognition of women as co-title owners of land under the 1997 Land Law, the number of jointly registered DUATs was quite low.

Even when women spoke up and asked to register land in their names, government officials insisted on registering the land in a man's name.

As one married woman in a focus group discussion said:

"I wanted to register the land in my name but the government agents told me that I should register in my husband's name because he is the head of the house."

Women who have been subjected to years of patriarchy may also themselves uphold cultural practices that view men as the head of households. One married woman participating in a focus group discussion said:

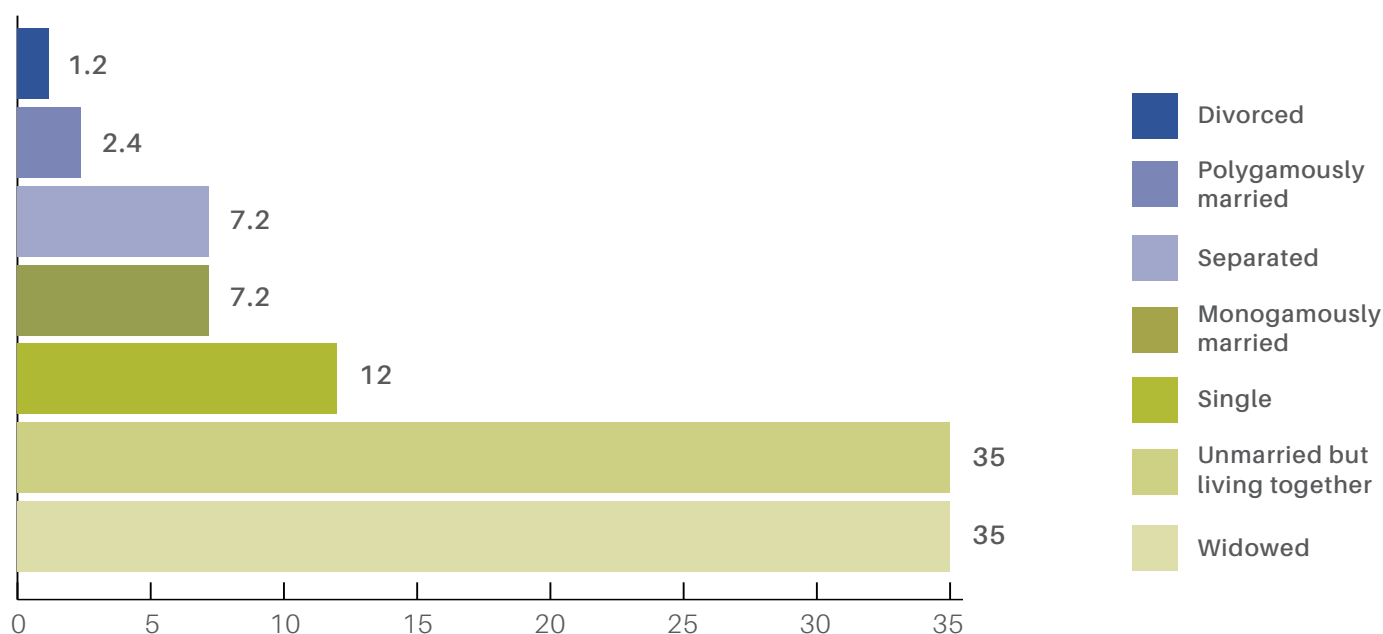
"Although my husband was not around when they came to register the land, I registered in his name because I respect him and he is the owner of the house."

Prejudice against women in accessing land rights under the registration process was enacted despite international law promoting equal land rights for both men and women as a human right and national support for such rights under the Constitution of the Republic of Mozambique, which established the principle of gender equality and prohibits discrimination based on gender.

The cost of registration is prohibitive

The PLAAS research found that it costs about USD400 to register 2-10 hectares of land, far beyond the targeted cost of USD35 per DUAT originally set by the programme. This represents a prohibitive cost for the majority of the population, including for women whose access to finance tends to be particularly severely restricted. A total of 64% of respondents earned less than MZN1,000, or USD15, a month, placing the USD400 USD required for land registration beyond reach. The high cost of registration exacerbates economic inequalities, allowing well-resourced elites to accumulate productive and valuable land and relegating rural residents to peripheral and unproductive land. In addition, the coercive nature of the present registration process, which obliges residents to obtain DUATs or face exclusion from state-funded programmes, such as those subsidising farming inputs, breaches their human rights and contradicts the provisions of the 1997 Land Law which do not require compulsory registration. Communities face exclusion from the use of common property resources

Figure 2: DUAT holders by marital status (%)



Communities face exclusion from the use of common property resources

At the sites studied by this research, DUATs were only issued for residential land, not for arable land or common resources such as forests. Lidia Waite said:

“The government is not giving us DUATs for our farmlands, only for residential land.”

The selective registration approach has led many residents to fear that they may lose access to common tracts, including farmland, and has raised concern among community members that they may find themselves unable to protect themselves against large-scale dispossessions. Many women fear that they will lose access to resources such as firewood, medicinal plants, charcoal, and grass for thatching. Florinda Sibanande said:

“The government might give DUATs to foreigners or investors in the forest where we collect resources every day. This will not be good because we will be blocked from accessing our daily living resources. For us to access them, we will have to walk a long distance.”

By excluding arable land and common resources from the registration process, the formalisation programme effectively threatens the livelihoods of community member in Nhamatanda, who rely on agriculture for subsistence. In this context, there is a significant likelihood that the fears expressed by Florinda Sibanande will be realised.

DUATs foster a sense of tenure security and reduce conflicts, at least in the short term

Despite the uncertainty and fear over whether they will be granted continued access to common land, residents who hold DUATs reported a heightened sense of tenure security, particularly in relation to land boundaries. Florinda Sibanande explained:

“Now that we have a DUAT, we are safe and I am happy because at least here, in my house, no one will come to take away my farmland.”

However, this heightened sense of security was not limited only to those holding DUATs. Some land rights holders who did not hold a DUAT also expressed confidence in relation to their tenure. In other words, notwithstanding the common perception that customary land rights are viewed as less

secure than those secured through titles and deeds, many landholders believe that their rights are protected even without documentation.

In this context, this sense of security reported by DUAT holders may be attributed rather to how land boundaries are clearly defined by the DUAT, leading to reduced contestation and conflict stemming from boundary disputes. A total of 97.5% of survey respondents indicated that conflicts had reduced since the introduction of DUATs. Maria Nsosu, a mother of three children, whose land is registered in the name of her husband noted the role of the DUAT in this regard. She said:

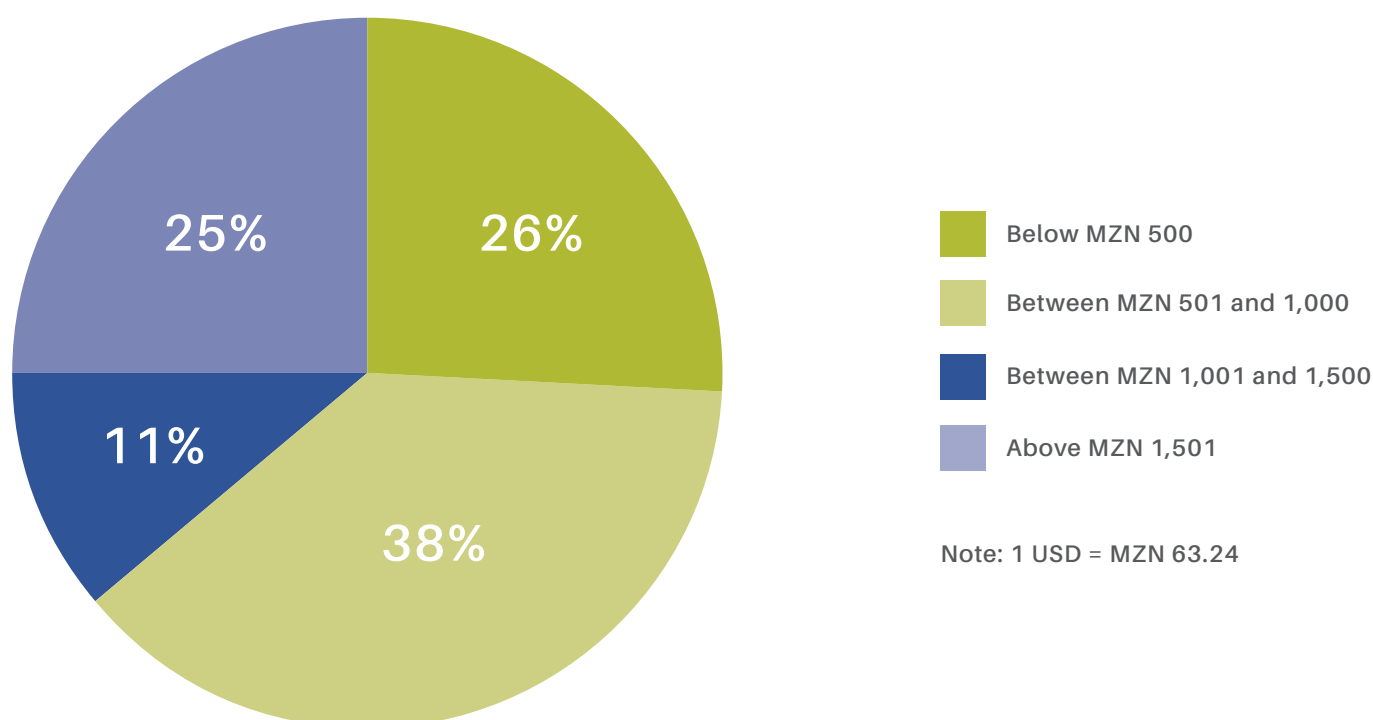
“The DUAT will resolve the problem of land-related conflict in the village. With this certificate, no one will come to claim our land.”

The clear boundaries allow residents to protect their land from other community members. At the same time, some community members were apprehensive about how future generations would acquire land-use rights. In addition, there was fear that the protection afforded by the DUATs could not be guaranteed in the face of big land-based investments. As Saquista Jossias, a divorced mother with six children, said:

“We have heard that in Tete, Nampula and Zambezia provinces, some small-scale farmers lost their land with the DUAT in their hands to local and international investors.”

In general, while respondents reported feeling secure in the present, they expressed uncertainty about their future rights, including in relation to continued access to common property resources.

Figure 3: Income levels in Nhamatanda



RECOMMENDATIONS

1. Properly recognise customary land tenure

The Mozambican government must ensure legal recognition and respect for legitimate land rights holders – both women and men – and their rights to use, access, control, own and transfer land, whether such land is formally registered or not, as enshrined in the Mozambique Land Law of 1997.

2. Recognise rights to common property resources

The registration programme should be implemented to include common property resources and not just individual and family rights.

3. Ensure the involvement of women in the registration process

The women who are directly or indirectly affected by the registration programme must be consulted and should be given adequate information on the significance of the programme and their rights under it. At least half of those participating in consultative meetings as part of the programme must be women. The participants should include representatives of local communities, as well as district, provincial, and national representatives.

4. Streamline the registration process

There is a need for gender balance among the government officials undertaking the registration exercise. The programme should be undertaken according to guidelines that emphasise the purpose of registration; the rights of women; and the option for joint registration. Officials must provide this information to women before starting any registration and must respect the demands of women who wish to register land in their name. To ensure gender parity (or the World Bank's 40% target for the programme), clear and gender-sensitive reporting and monitor-

ing mechanisms must be included in the registration process. Data should be sex-disaggregated and constantly monitored to ensure that women are not disproportionately excluded from land registration.

5. Reduce registration fees

Affordability should not be an obstacle preventing women, regardless of their marital status, from registering land. So, the government must provide targeted support to women, including by proactively inviting them to register and by subsidising the costs of registration.

6. Deliver greater access to justice

Access to justice through effective, affordable and accessible means, including alternative dispute resolution mechanisms, should be made available to address land tenure conflicts.

7. Strengthen land administration systems

The government, civil society and donors must coordinate to strengthen the capacity of state and non-state institutions that are seeking to reduce the gender gap in security of tenure, including the relevant ministries; judicial authorities; local authorities; and traditional institutions.

8. Foster a genuinely consultative National Land Policy Review

The present review of National Land Policy, which will culminate in the amendment of the Land Law of 1997 and related regulations governing land management in the country, needs to be inclusive and consultative. Several civil society organisations have voiced their concerns over the non-inclusive approach of the Land Review Committee (Comissão de Revisão da Política Nacional de Terras – CRPNT) charged with overseeing the process. Under restrictions imposed in response to the Covid-19 pandemic,

critical voices were excluded from the consultation exercise. In particular, the representation of women at the consultative meetings was restricted. In addition, the methodology deployed by the CRPNT to canvass views was flawed. The committee's surveys asked closed-ended questions, which limited the kind of responses that could be elicited, preventing respondents, including women, from expressing

their views fully. Furthermore, the way in which the questions were framed presupposed that particular conclusions would be drawn by those analysing the responses. It is therefore recommended that a number of open, inclusive, accessible and approachable fora be established so that women can freely voice their views on land policy.

REFERENCES

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