



# Research Report 7 Land Registration in Maputo and Matola Cities, Mozambique

**Denise Malauene, Arlindo Chilundo,  
Boaventura Cau and Marlino Mubai**

Securing Land Rights in Africa

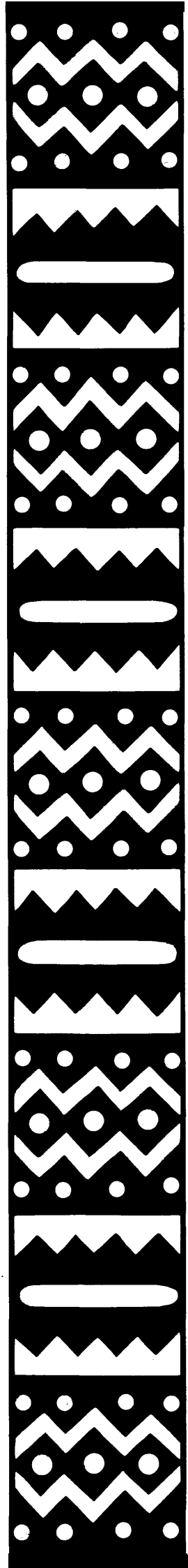




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# ACRONYMS

DINAGECA	National Directorate of Geography and Land Registry
DMAS	Municipal Directorate of Water and Sanitation
DMCU	Municipal Directorate for Construction and Urbanisation
DUAT	Land Use Rights
GIS	Geographical Information System
IIED	International Institute for Environment and Development
LT	Land Law
MC	Municipal Council (City Hall)
NET	Land Studies Unit
NLP	National Land Policy
TVM	Mozambique Television
UEM	Eduardo Mondlane University

# 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 Marginalized 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 was written within the scope of the project *Securing Land Rights in Africa: Can Land Registration Serve the Poor?*, under the auspices of the Land Studies Unit (NET) of Eduardo Mondlane University in cooperation with the International Institute for Environment and Development (IIED).

The purpose of this study is to examine the land registration process in the peri-urban areas of Maputo and Matola cities in the four neighbourhoods of Magoanine “C”, Zimpeto, Matola Gare and Matola Cobe and to assess its constraints for the low income population. In a more general way, the study intends to ascertain whether the registration of land in the selected research sites serves the low income population. The study also discusses the dynamics and implications of the land market, considered to hinder people’s adherence to land registration processes.

We argue that the land registration process serves poorly the low income population in the peri-urban areas of Maputo and Matola cities. This is due to several reasons: lack of regulations for urban land; cumbersome bureaucratic procedures and the slowness of the agencies responsible for the registration process; high costs of the process; lack of information available to low income groups about the registration procedures; and the land market.

Research data was gathered through interviews, life stories, observation and measurement of land, and general observation in the research sites. Additionally, the preliminary results of the study were discussed in national and international seminars.

## 2. STUDY AREA

The study area covers the four neighbourhoods of Zimpeto, Magoanine “C”, Matola Gare and Cobe, on the periphery of Maputo and Matola cities. In the context of this study, the peri-urban areas are distinguished from the urban areas because they are on the periphery of cities, the population continues to practice agriculture, and there is still a strong presence of rural houses. These areas are also referred to as informal settlements<sup>2</sup>.

Magoanine “C” and Zimpeto neighbourhoods are part of Urban District nº5 (DU5), in Maputo city, the capital of Mozambique, in the far south of the country. Magoanine “C” (commonly known as Matendene) is a new neighbourhood, set up to accommodate victims of the floods of 2000. The Matola Gare and Cobe neighbourhoods are in the Machava administrative post in the Matola Municipality, about 15 kms from Maputo city.

The above-mentioned neighbourhoods were chosen because of the following factors:

- They show far reaching changes in the landholders and the ways of using physical space. This situation results from the shortage of space in urban areas, faced with the constant increase in population, which leads to a great demand for land in peri-urban areas, motivating land transactions, usurpation and conflicts, the appearance of “luxury” constructions, the increase of waste ground etc.
- A great dynamic in the land market, where land transfers and speculation are frequent.
- Constant questioning, appeals and discussions about irregularities in access to urban land.
- Openness on the part of the stakeholders, civil society and the government to approve a specific regulation for urban land, in order to avoid ambiguities in land management and use.
- Many different types of land disputes, dual authorisations for land use, illegal occupation of urban land, and land transactions without the knowledge of the municipal authorities.
- Failure to comply with existing urbanisation plans, and deviations from the initial land use purposes, among other aspects.

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<sup>2</sup> The Ministry of State administration defines peri-urban areas in Mozambique as the areas in cities that present rural characteristics of land use – plots large enough for people to practise agriculture and the growing of fruit trees – and where rudimentary forms of sanitation are used. (Ministry of State Administration, 1997).

## 3. METHODOLOGY

### First stage

The first stage consisted of studying the official documents such as the National Land Policy (PNT) 10/95, the Land Law (LT) 19/97, municipal by-laws on land use, maps, reports, and research articles on various aspects related to land. The objectives of this phase included:

- Gaining a deeper knowledge of the land legislation in force for the management and use of urban land;
- Identifying the concepts and general theories to support the research; and,
- Understanding the current land registration process for later comparison with the reality on the ground; in order to assess the constraints of the process, the implications of the land market, and to identify the main beneficiaries of the land registration process.

### Second Stage

The second stage consisted of field research through contact with individuals directly involved with land questions in the neighbourhoods under study. These individuals are officials of the Maputo and Matola Municipal Councils, Administrative Post authorities, *Secretários*<sup>3</sup> of Magoanine “C”, Zimpeto, Matola Gare and Cobe neighbourhoods, community leaders, members of agricultural cooperatives, members of peasants’ associations, and some households chosen at random. Data was collected through semi-structured interviews, mapping, and observations in two phases.

In an initial phase, three students who were preparing dissertations for their degrees undertook individual research, and drew up their research reports. The first of these reports analysed spatial variation in land use in the areas of new urban incorporation in Matola city, with a focus on Matola Gare, Cobe and Matlemele. The methodology consisted of data gathering from interviews, surveys, observation, and measurement of selected plots. Spatial samples were used, from which fifty land use sites were selected. These included 42 which were household agricultural use, six of commercial agricultural, and two of pasture or land left fallow. The points observed were geo-referenced which allowed for spatial analysis.

The second report analysed the implications of the land market on the spatial arrangement and use of land (buildings, housing, farmland) in the peripheral neighbourhoods of Matola city. From across the neighbourhoods, 171 households were selected and were interviewed using a semi-structured format. In addition, direct observation compared existing maps (current) of land use and spatial arrangements with the situation in the field. Differences between what was planned and what was happening in reality were noted, such as new buildings, roads, forms of settlement. Maps were drawn to show the changes, photographs were taken and the findings from interviews and observation were compiled into a report.

The third report discussed the socio-economic implications of the peri-urban land market in Maputo city, with a case study of Zimpeto and Magoanine “C” neighbourhoods. In these neighbourhoods, 69 households were selected to be interviewed using a semi-structured format.

Subsequently, the three reports were merged. During this period, certain aspects of the reports were clarified, and a further 73 semi-structured interviews were undertaken, existing and new respondents, plus some key informants who had not been subject to earlier interviews. This was a purposive sample chosen to explore in more detail issues raised by the three reports. Though the sample may not be representative, it constitutes an indication of the scale of the problems.

### Third Stage

All the data gathered were compiled in order to analyse the four problem areas: urban land management; the land registration process in urban areas; the dynamic and implications of land markets; and the most frequent land disputes.

### Fourth Stage

The fourth and final stage consisted in drawing up a research paper comprising the preliminary results. This was later presented and discussed in several forums, notably the workshop convened by IIED in Maputo (November 2003), the national seminar organised by NET (September 2004), and the Ghana workshop convened by IIED (February 2005). This process ended with the finalising of the present research document.

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<sup>3</sup> Neighbourhood *Secretários* are the representatives of the Government administration in the neighbourhoods. They respond directly to the District Administrator. In the neighbourhoods they work with the chiefs of the blocks of houses, which are an informal structure elected by the population for the coordination of a block of houses.

## 4. LEGAL PANORAMA OF URBAN LAND IN MOZAMBIQUE

The laws and regulations on land published after independence have been of little help to many Mozambicans, since what is written down is often not implemented in practice, or is out of line with the reality experienced in various regions, particularly in urban areas. The current Constitution of the Republic (2004) and the Land Law passed in 1997 are clear that land belongs to the State and that the sale of land is forbidden.

The Land Law<sup>4</sup> was approved on 1 October 1997 with the aim of bringing the legal framework into line with "... the new political, economic and social conjuncture, and guarantee access and security of land tenure, both to Mozambican peasants and to national and foreign investors ...".<sup>5</sup> Although some analysts have argued that the present law did not seek, or was not oriented, to provide norms for land use in urban areas, but only for rural areas,<sup>6</sup> an analysis of the Land Law leads us to conclude that it does not exclude urban areas from its scope, although it is more concerned with questions linked to land in rural areas.

The regulations that should guide the mechanisms for granting land rights in urban and peri-urban areas have not yet been approved. The draft went to public debate in 1999. It envisages that access to land in urban areas should be by customary methods or through public tendering<sup>7</sup>. In the first case, the occupants of an area subject to an urbanisation plan (see section 6) should have a maximum of five plots for themselves and for their sons and daughters. The public tender should only take place after the original occupants have been settled in the customary manner. In this case, it is also envisaged that the local authority institutions or the local public administration should launch a public tender to select the beneficiaries of the remaining plots. In each case, the public tender will set the fees to be paid by the bidders. This sum corresponds to the costs of providing basic urban infrastructure, such as opening roads, putting in public lighting, drains for storm water, piped water supply, etc.

The proposal also indicates the possibility that occupants of areas subject to urbanisation plan may lose their Land Use Rights (DUAT)<sup>8</sup> if they do not accept and respect the rules of the urbanisation plan<sup>9</sup>.

The lack of specific regulations for Mozambique's urban and peri-urban areas creates insecurity in land tenure in these zones. Added to this problem is the absence of any legal provision that obliges compliance with the established laws. A study undertaken by the Maputo City Municipal Council (CMCM), in 1999 noted the absence of human, financial and technical resources sufficient for the institution to carry out its duties, resulting in operational inadequacy, inability to provide the public with an adequate service, the destruction or loss of documents and case files, irregularities in office procedures, illegal constructions, etc.

Since the regulation on urban land was neither approved nor promulgated, and in order to overcome the blockages or delays in replying to the requests made of the municipal services, the Maputo City Municipal Council in July 2003 drew up the "By-Law on Land Use Rights". This by-law "...recalls the relevant legal content concerning municipal land and its use, and establishes norms to discipline the reception, analysis and decision on requests and complaints about land that are approved by the Municipal Assembly"<sup>10</sup>.

One of the concerns addressed in the by-law is deadlines for land requests. A maximum of 90 days was set for a reply to be given to the applicant. Furthermore, article 19 tries to prevent situations in which plots of land already belonging to other people are allocated, by establishing coordination with at least three people in the community

<sup>4</sup> Law No.19/97. This will be referred to in this paper as the Land Law.

<sup>5</sup> Preamble to the Land Law.

<sup>6</sup> Bruschi and Carrilho, 1998. This position was strengthened when the new Land Law regulations were approved, through Decree n°66/98, of 8th December. According to article 2 of these regulations, they "... are applied to zones not covered by the areas under the jurisdiction of the Municipalities that possess Municipal Surveying Services ..."

<sup>7</sup> Articles 22 and 23.

<sup>8</sup> DUAT are Land Use and Benefit Rights. The Land Law defines DUAT as "the right that individuals or corporate persons and local communities can acquire over the land within the requirements and limitations of the(...)"

<sup>9</sup> Article 22(4).

<sup>10</sup> Preamble to the by-law on Land Use and Benefits Rights (DUAT).

affected by the attribution of the plot to the applicant. However, in article 13, the by-law maintains the content of an earlier law<sup>11</sup>, which grants powers to the local municipalities to expropriate the rights and space of the target population in the city's expansion, with or without consensus. Those who have land expropriated will be paid compensation in the terms fixed by law.

The by-law also makes it possible to present a certificate of provisional authorisation or title that can be shown to credit institutions (article 31), when applying for loans. Despite the definition in the by-law, we do not know of any case where a certificate has been used for a loan.

Despite the existence of this by-law, which to some extent facilitates the management of urban land, there is an urgent need to draw up specific legislation for the use of urban land, and the legal provisions which enforce compliance.

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<sup>11</sup> Article 28 of Law no.11/97 of May 31st (of Finances and Patrimony of the local authorities).

## 5. FORMS OF ACCESS TO LAND IN THE PERI-URBAN AREAS OF MAPUTO AND MATOLA

The Land Law defines various ways of acquiring Land Use Rights (DUAT) such as:<sup>12</sup>

- Occupation by individuals and by local communities, according to customary norms and practices which do not violate the constitution;
- Occupation by Mozambican individuals who, in good faith, have been using the land for at least ten years;
- Authorisation of the request presented by individuals or collective bodies in the form established by law.

Furthermore, the National Land Policy (PNT)<sup>13</sup> envisages the transfer of land use rights depending on the type of land use defined. Thus, the state recognises two types of transferring DUAT between users:<sup>14</sup>

- Transfer by inheritance without distinction of sex.
- Transfer by sale of the infrastructures and improvements on the ground, through a public deed, preceded by state authorisation. In this case the transfer is annotated on the respective title deed. In the case of urban buildings, when the building is transmitted, so is the DUAT.

However, in the areas studied, access to land is characterised by the coexistence of the official sectors and the parallel informal land market. Negrão (2004) noted the coexistence of four main forms of land allocation: the State, the customary systems, simple occupation, and the land market. The allocation of land by the state is the most frequent form in areas following urban expansion, or to respond to emergency situations, as with the case of the Magoanine “C” neighbourhood, set up to accommodate victims of the floods of 2000. Simple occupation is frequent in suburban areas and in the green belts around the smaller cities, together with the customary land allocation system. On the other hand, the market in land is important in the suburban areas and green belts around the major urban centres such as Maputo and Matola (Negrão, 2004).

The process of urban expansion and development is not well planned by the municipalities. The Municipal council can decide to urbanise a “free” area to allow urban expansion by preparing an urbanisation plan. The plan establishes the layout, design, concept and boundaries of urban areas including occupancy and building parameters, patrimonial assets to be protected, areas destined for installation of equipment, open spaces as well as the schematic diagram of roads and main infrastructures. This form of urban development rarely happens as people usually occupy the land ahead of the council’s plans.

The Municipal council can also decide to urbanise existing areas with informal settlements and population already living there, but facing problems of access (roads), sanitation, and water. These are the most common situations. For these areas the Municipal council has to decide to introduce the above mentioned urban infrastructures, to respond to the need on the ground.

<sup>12</sup> Article 12, Law 19/97 line a, line b, line c respectively.

<sup>13</sup> Resolution n° 10/95 of 17 October.

<sup>14</sup> Article 16, paragraphs 1, 2 and 3 of Law 19/97.

# 6. LAND REGISTRATION IN MAPUTO AND MATOLA

The Land Law states that Land Use rights may be requested by:

- Mozambican collective bodies and individuals, both men and women, as well as local communities<sup>15</sup>, and a regime of joint title holding may be adopted. This regime is obligatory in the case of communities, but individuals within community can apply to register individually held land;
- Foreign individuals, as long as they have lived for at least five years in the Republic of Mozambique<sup>16</sup> and have an approved investment project;
- Foreign collective bodies, as long as they are constituted or registered in Mozambique<sup>17</sup> and have an approved investment project.

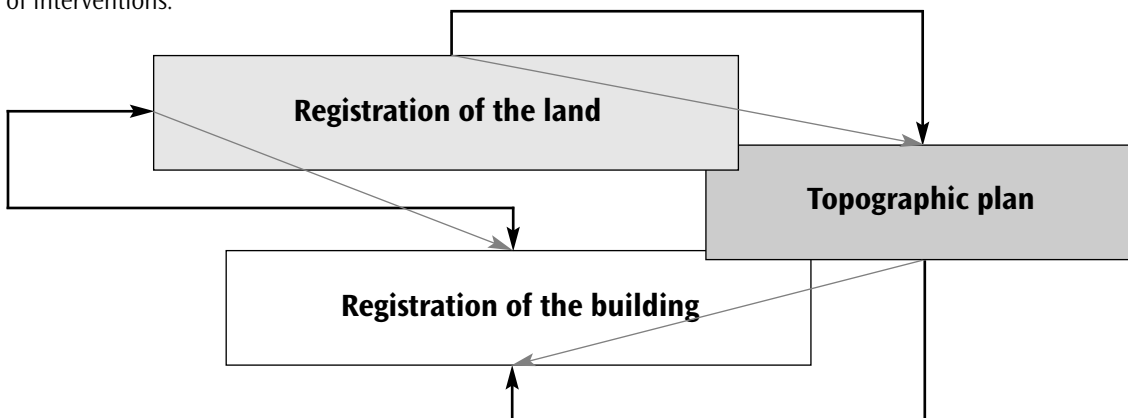
Applications to registering DUAT vary in accordance with the size of the plot and the purpose of the intended project (for example: building of single family dwellings, agricultural or livestock use). Under the Land Law, there are two main phases in the authorisation of applications. An initial phase involves presenting the application for land use. The provisional authorisation is then issued for a maximum period of five years for Mozambicans, and for two years for foreigners<sup>18</sup>. The second phase involves the definitive authorisation and the issuing of the title, as long as the operational plan has been complied with within the period of the provisional authorisation<sup>19</sup>. The definitive authorisation and the title are issued by the general or urban Public Land Survey Services. However, the absence of a title does not prejudice land use rights acquired by occupation<sup>20</sup>. According to Article 14, paragraph 1, of the same law, the constitution, modification, transmission and extinction of Land Use Rights are subject to registration. However, paragraph 2 of the same article states that the absence of registration does not prejudice land use rights acquired by occupation.

## 6.1 Land Registration in Maputo

In Maputo City Municipal Council, the current process of registering land and the improvements made on it in can be broken down into three fundamental procedures:

1. The registration of the land;
2. The request for a topographic plan;
3. The registration of the building/ request for a building licence.

But this process is complex because several departments are involved, and each of them undertakes a large number of interventions.



<sup>15</sup> Article 10, paragraph 1.

<sup>16</sup> Article 11, line a.

<sup>17</sup> Article 11, line b.

<sup>18</sup> Article 25, paragraphs 1 and 2 of the Land Law.

<sup>19</sup> Article 26 of the Land Law.

<sup>20</sup> Article 13, paragraphs 1 and 2.

### **Registration of land**

This process begins with a request addressed to the director of the DMCU which may be remitted either to the secretariat of the DMCU or to the administration of the municipal district. There then follows a phase of consulting the grassroots structures (neighbourhood Secretários and external brigades of the DMCU). In addition, the administrator gives his opinion on the request, and the correspondence is then sent to the DMCU, where final processing is undertaken for purposes of the dispatch. The steps in the final processing are shown below:

1. Compiling the request for registration by the applicant;
2. Delivery by the applicant of the request, accompanied by declarations from his/her neighbourhood and workplace in the DMCU General Secretariat;
3. The request is sent by the DMCU General Secretariat to draw up the file at the land registry;
4. The land registry draws up the case file;
5. The land registry sends the file to the DMCU brigade member;
6. Information on the physical state of land occupation by the DMCU brigade member;
7. The DMCU brigade member sends the file to the secretariat of the Municipal District administration;
8. Opinion from the Municipal District Administrator;
9. The Municipal District Administrator sends the file to the DMCU administration;
10. The file is received and its entry registered at the DMCU secretariat;
11. The file is sent by the DMCU secretariat to the Land Registry;
12. Reception at the Land Registry. Information on the registration of the parcel or plot of land, and the attribution of the number;
13. The Land Registry sends the file to the design room;
14. The design room issues the location plan;
15. The design room sends the file to the Town Planning Sector;
16. Opinion from the Town Planning sector in accordance with the partial plan of the zone;
17. The file is sent by the town planning sector to the secretary of the head of the urbanisation department;
18. Formalisation of the proposal by the head of the Urbanisation Department. This implies accepting or rejecting the request, based on the proposals made by the other sectors.
19. The file is sent by the secretary of the head of the Urbanisation Department to the Secretary of the DMCU;
20. The DMCU Secretary delivers the file to the DMCU analysis commission;
21. The DMCU analysis commission delivers the file to the secretary of the DMCU general director;
22. "Seen" stamp from the DMCU director;
23. The secretary of the DMCU Director delivers the file to the DMCU analysis commission;
24. Dispatch issued by the DMCU analysis commission;
25. The DMCU analysis commission delivers the file to the Information Systems Office of the DMCU;
26. The DMCU Information Systems Office draws up the dispatch to the applicant;
27. The DMCU Information Systems Office informs the applicant of the dispatch.

### **Request for the topographic plan**

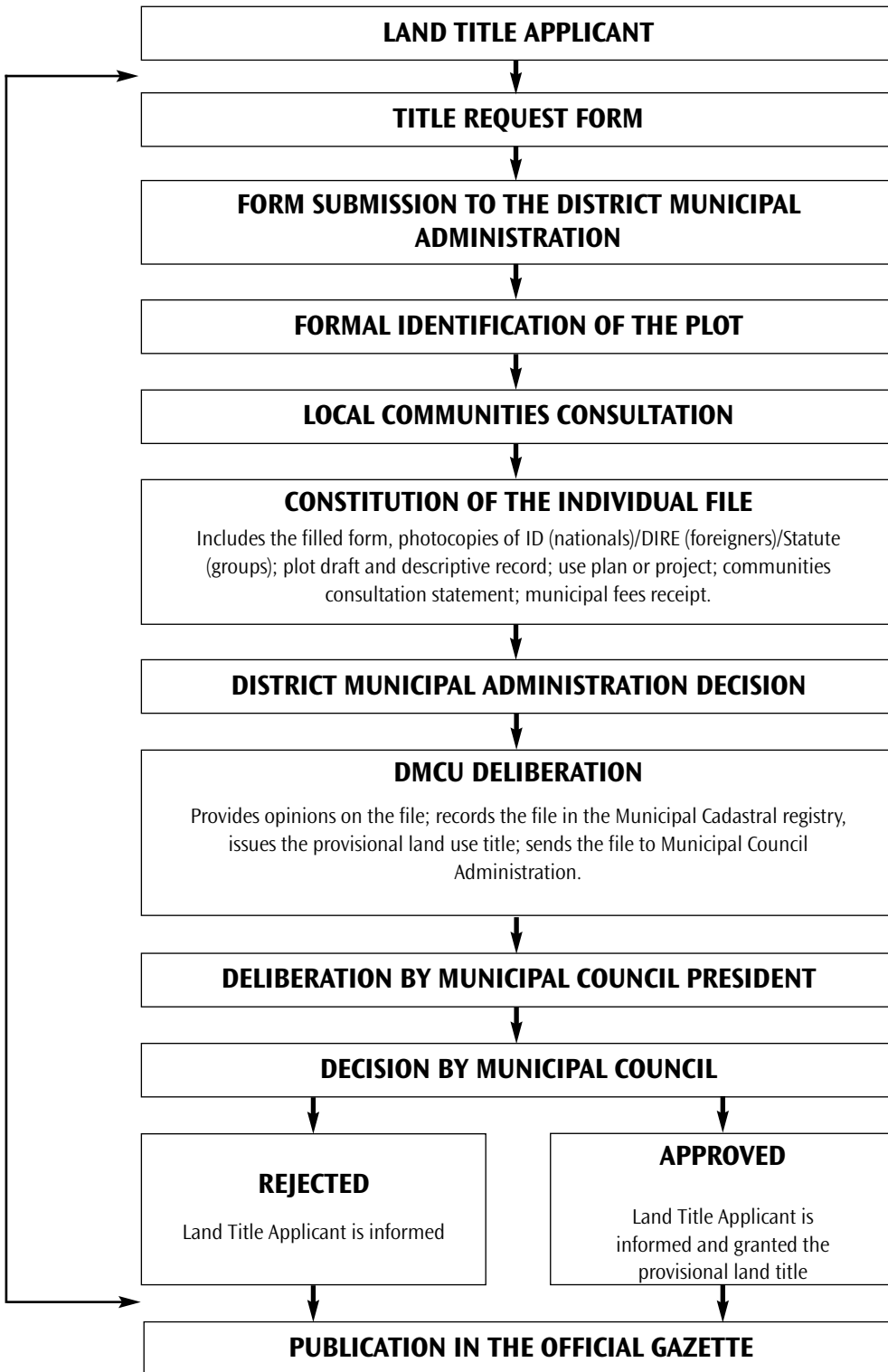
The issuing of the topographic plan is interconnected with the registration of the land and of construction, and is a condition for the definitive registration of the land use rights (DUAT)<sup>21</sup>. The process involves about nine fundamental steps which range from the submission of the request by the applicant to the delivery of the topographic plan, according to the following procedures:

1. Submission of the request by the applicant to the General Secretariat of the DMCU;
2. Appending the file to the request and verification of the registration at the Land Registry;
3. Survey of data and quantification of the area by the topographer in the survey department;
4. Design of the topographic plan by the designer in the design room;
5. Indication of the public drain on the topographic plan in the Municipal Director of Water and Sanitation (DMAS);
6. Visit by the town planning brigade member to the site to verify the data;
7. The topographic plan is stamped "seen" by the director of the urbanisation department;
8. The director of the DMCU sees the plan and gives the final dispatch;
9. The topographic plan is delivered to the applicant in the General Secretariat<sup>22</sup>.

<sup>21</sup> Carrilho, Di Nicola and Lage, 2005: 22.

<sup>22</sup> Ibid.

**LAND USE RIGHTS (DUAT) REGISTRATION PROCESS AT THE MUNICIPAL DIRECTORATE FOR CONSTRUCTION AND URBANIZATION (DMCU) (MOZAMBIQUE)**



### **Registration of the building / request for a building licence**

Registering the building is done after registering the land, and the issuing of the topographic plan and the building licence, and it involves different sectors of the municipal management. The entire procedure must obligatorily go through the Construction Secretary before passing onto the next sector, to update the registration<sup>23</sup>. This process is complex, it encourages corruption and leads to land disputes between the Municipal Administration and individual applicants. This process may be summarised in the following steps:

1. Submission of the request (architectural project) by the applicant to the Construction Secretary;
2. Verification of the existence of the number of the building file in the building secretariat;
3. Verification of the concession and registration of the plot at the land registry;
4. Visit by the DMCU brigade member to the site and information on the physical state of land occupation;
5. Technical information and opinion (Plans, regulations, by-laws, resolutions, etc.) by the Construction Department technical commission (architect, physical planner);
6. Opinion from the health authorities and the fire brigade (depending on the complexity of the project) sent to the DMCU Outside Ordering Technical Commission;
7. The head of the Construction Department gives his proposal based on the preceding information;
8. The building secretary draws up the dispatch;
9. It is seen by the Deputy Director of the DMCU who gives his considerations;
10. The DMCU director makes the proposal to accept or reject;
11. Final dispatch by the councillors (3 of them) of the Licensing Commission;
12. The dispatch communication is drafted (acceptance or rejection of the architectural project);
13. The Dispatch Communication Note is delivered to the applicant by the general secretariat;
14. Submission of complementary projects (structure and hydraulics) by the applicant to the building secretary;
15. Incorporation of the complementary projects into the Building Plans, now approved by the building secretary;
16. Verification of the hydraulic project by the technician of the Municipal Directorate of Water and Sanitation (DMAS);
17. Verification of the structural project by the stability technician from the inspection sector (technical commission);
18. Measurement of areas for payment of fees by the technician from the inspection sector (technical commission);
19. The Coordinator of the Technical Commission gives his "seen" stamp;
20. The Head of the Building Department gives his "seen" stamp;
21. The building secretary draws up the dispatch;
22. Seen by the Deputy Director of the DMCU who gives his final considerations;
23. Final dispatch (licensing) by the Director of the DMCU;
24. Communication of the dispatch to the computer section;
25. Delivery of the note communicating the dispatch to the applicant by the general secretariat;
26. Payment of fees at the DMCU accounts department, and reception of the building licence;
27. Appointment of the work inspector
28. Copies of the approved project supplied by the applicant to the DMCU inspection department are stamped<sup>24</sup>.

Obtaining the building licence constitutes recognition or acceptance of the operational plan. From this moment, the applicant should undertake the building work in the exact terms of these two documents, on pain of losing his or her land use right<sup>25</sup>.

Following the legal procedures described earlier, the applicant should present the documents mentioned below in the following table.

Furthermore, the applicant must pay fees charged by the Municipal Council related with the issuing of the topographic plan, demarcation of the land, land use fees and the issuing of the dispatch certificate<sup>26</sup>.

<sup>23</sup> Ibid.

<sup>24</sup> Carrilho et al., 2005: 23-24.

<sup>25</sup> under Article 18/1° line a) of the land law.

<sup>26</sup> These taxes are also paid at the Municipal Council of Matola.

**Table 1. Documents needed to register land.**

Type of document	Place acquired	Purpose
Land registration file	Municipal Council	Information on the adjacent plots
Declaration of intent to develop the land	Municipal Council	Confirms implementation of the project
Descriptive account	With the civil construction technician	Location and building plan
Inspection document	Municipal Council	Confirmation of use of space
Occupation form	Municipal Council	Size of household
Neighbourhood declaration	Neighbourhood	Confirmation by the head of the neighbourhood that the plot is not in use and belongs to the applicant

Source: Adapted from Adamo, 2003.

## 6.2 Land Registration in Matola

In the Matola City Municipal Council, applications to grant and register land go to the Administrative Post of the area desired, and the Administrative Post sends the correspondence, already worked on (with information from the inspection and the town planning opinion) to the General Secretariat of the Matola City Municipal Council in order to open the land registry files. The General Secretariat of the Municipal Council receives the land applications only when there are plots available, that is, spaces duly demarcated on the urbanisation plan for the purpose of industry, commerce, housing, etc.

Once the file is formed, it is sent to the General Secretariat, which, after analysis sends it to the territorial planning department for verification and placing in the land survey. The information is then sent for the dispatch of the Mayor. When the dispatch is issued, the file is sent to the General Secretariat, to issue the communication of the dispatch and publishing the respective notification of the dispatch which is sent to the administrative posts.

After the communication of the dispatch, the applicant goes to the General Secretariat where he requests the topographic plan and the certificate of the dispatch. According to estimates of the Matola Municipal Council, this process takes more or less a month<sup>27</sup>.

The granting of building licenses is preceded by submitting the plan for the building projects to the General Secretariat which then draws up the relevant file. This is sent to the Territorial Planning and Urbanisation Department for purposes of analysis and approval. The measurement stage then follows, after which the file is sent to the General Secretariat for issuing the license. Once the Head of the Territorial Planning and Urbanisation Department has authorised the building licence, the applicant pays the corresponding fees to the Municipal Council treasury. The process should take about 8 to 10 days<sup>28</sup>. According to a councillor for construction and urbanisation, Matola Municipal Council had granted about 11,000 building licences by June 2005.

## 6.3 Constraints in Land Registration in Maputo and Matola

Land registration can guarantee security of tenure. However, a large part of the population does not benefit from the process, for various reasons: lack of institutional capacity; bureaucracy and corruption at municipal level which make the process expensive, time consuming and difficult; constraints among the public such as low levels of awareness of the process or its benefits; and also external factors such as the land market.

At the institutional level, the Maputo City Municipal Council faces constraints during the land registration process.

<sup>27</sup> A councillor for construction and urbanisation in Matola Municipal Council refers to about 33,000 land concession files processed by mid-2005, most of them for building purposes (Interview July 2005).

<sup>28</sup> Interview with councillor, July 2005.

**Table 2: Problems of the land registration process**

<b>Step</b>	<b>Problems</b>
Step 1: Compiling the application for registration	In this phase, the applicant faces difficulties in drawing up the request, in accessing the notaries and payment for the services they provide, as well as signature difficulties. This situation arises from the inaccessibility to the target population of the information document (in terms of language etc.); from the absence of notaries in the informal areas, and from the low income of the population.
Step 2: Delivery by the applicant of the request accompanied by a declaration from the neighbourhood and a declaration from the work place in the DMCU General Secretariat.	In this phase, the applicant faces difficulties in travelling, since the DMCU is a long way from the areas studied. S/he also finds difficulties in correctly identifying and attending the various municipal services in the municipality, due to the failure to publicise the location and functions of the municipal services, deficient signposting within the institution; defective training of the staff who attend to the public; and the slowness of the mechanism for consulting files.
Step 3: The DMCU general secretariat sends the request for the file to be drawn up at the land registry.	This phase is characterised by the slowness of the internal procedures; by the deficient sorting of documents; the long time taken in analysis; and the poor internal distribution of work. This situation is caused by the shortage of trained staff to do the work, and the lack of pre-established procedures to analyse the registration process.
Step 4: Formation of the file at the land registry.	
Step 5: The land registry sends the file to the DMCU brigade member.	The main constraints at the level of the municipality in this phase include the inadequate nature of the technical ordering commission which does not have skilled staff as planning technicians, topographers and <i>Secretários</i> ; slowness in producing information and lack of coordination with the neighbourhood <i>Secretários</i> , due to insufficient means of transport and lack of recognised coordination links with the grassroot level authorities.
Step 6: Information on the physical state of land occupation by the DMCU brigade member.	In this phase, often the information sent is uneven because there are no objective means of gathering information, and there is no procedural guide about the type of information to be provided.
Step 7: The DMCU brigade member sends the file to the secretary of the Municipal District Administration.	
Step 8: Opinion of the Municipal District (DM) Administrator.	In this phase, the pertinence of the administrator's opinion is questionable, since it is not necessary for the administrator to know each of the cases in his area of jurisdiction. Furthermore, the judgement made by the administrator does not go beyond what the brigade member tells him.
Step 9: The DM administrator sends the file to the DMCU administration.	In this phase there are delays in sending the file to the DMCU due to the lack of the administration's own means for doing so. There is also undue favouring of some files to the detriment of others because of unclear criteria for selecting the files to be sent to the DMCU.
Step 10: Reception, and recording entry into the DMCU secretariat.	In this phase, the problems are linked more to the defective internal processing, weak inspection of the documents, excessive time spent on analysis. This situation arises from lack of definition of specific internal procedures concerning registration of land, shortage of skilled workers involved in this work, and the poor quality of the materials used to form the file.
Step 11: The file is sent by the DMCU secretary to the land registry.	
Step 12: Reception and information on registering the plot and attribution of a number by the land registry.	The land registry archive is disorganised. This is because of lack of control and of compliance with the established rules, the inadequate nature of the archive premises, lack of archive equipment and lack of skilled technical staff (jurist and archivist). This situation leads to insecurity of the files (fires, intrusion, thefts, and deterioration of files), disappearance of files, and lack of confidentiality.

**Table 2 continued**

<b>Step</b>	<b>Problems</b>
Step 13: The land registry sends the file to the design room.	In this phase one notes unclear criteria for selecting the files to be processed (disorganisation, undue favouring, illicit payments). Due to the lack of equipment, there is no guarantee of rigour in the quality of the work.
Step 14: Issuing the location plan in the design room.	
Step 15: The file is sent from the design room to the Town Planning Sector.	The main problems in this phase concern the lack of minimum elements to identify the basic territorial unit in which the plot to be described is located (the parcels of land currently defined are very large, and do not respect article 23 of the Land Law regulations, which states (i) the identification of parcels of land shall be standardised so as to facilitate dealing with them ... (ii) as far as possible the parcels shall have a regular shape...).
Step 16: Opinion of the Town Planning Sector in accordance with the partial plan of the zone.	
Step 17: The Town Planning Sector sends the file to the Secretary of the Head of the Urbanisation Department.	In this phase there are delays because the staff are overburdened with work caused by interference from requests for other kinds of work that compromises internal actions. Decisions are taken slowly.
Step 18: Formalisation of the proposal by the Head of the Urbanisation Department.	
Step 19: The secretary of the Head of the Urbanisation Department sends the file to the secretary of the DMCU.	
Step 20: The Secretary of the DMCU delivers the file to the DMCU analysis commission.	In this phase the main constraint is the slowness of the analysis commission to take decisions. This commission consists of Councillors, hence the possibility that the slowness is caused by an excessive burden of work on the commission members.
Step 21: The DMCU analysis commission sends the file to the secretary of the DMCU General Manager.	
Step 22: "Seen" from the DMCU director.	
Step 23: The Secretary of the DMCU Director delivers the file to the DMCU analysis commission.	
Step 24: The DMCU analysis commission issues its dispatch.	
Step 25: The DMCU analysis commission delivers the file to the DMCU computer secretary.	
Step 26: The dispatch to the applicant is drawn up by the DMCU computer secretary.	In this phase, the following step is communicating the dispatch to the applicant. However, there are further delays due to slowness in communicating the dispatch to the applicant, and due to poor attendance on the part of municipal staff. This situation is fed by the defective training of staff, and their lack of motivation for work.
Step 27: The DMCU computer secretary communicates the dispatch to the applicant.	

One of the main problems is that the current land registration process applies mainly to areas with urbanisation plans (partial plans and parcellings), while the areas in this study can be considered to be informal settlements. On the other hand, decision making in the Municipal Council is centralised; there is a generalised repetition of steps while processing the application for registration, which results in more time spent in responding to the requests from municipal citizens. There is a plurality of procedures in dealing with and assessing applications, as the criteria for granting and registering urban land are not governed by clear norms or regulations (Carrilho et al., 2005). In practice, the lack of regulations means that the officers that work on the registration process take decisions in different ways.

Carrilho et al. (2005) go further in detailing the problems the Municipal Council has with the informal peri-urban areas. In these areas there are various forms of land occupation, which make it complicated to establish a simplified and standardised system or scheme of registration on the part of the municipality's administrative structures. As there are no specific regulations for urban land, there is an inability of the local administrative authorities to analyse, interpret and apply the Land Law.

Furthermore, there is no land use plan that legitimises and acts as a reference point for land registration.

Carrilho et al. (2005) discuss the various steps in the process of land registration from a more internal DMCU perspective, and the main constraints faced by the public and by the Municipal Council itself.

This weak institutional capacity, together with cumbersome bureaucratic procedures, makes the process more difficult and slow, forcing citizens to engage in corrupt practices in the hope that this will speed things up. However, this practice is accessible to only a limited segment of the population – those who are better off and better connected. In addition, it is apparent citizens do not have access to clear information about using the process and the benefits that may derive from this (Carrilho et al., 2005). Some officials involved with land registration have a calculated attitude of concealing information. This situation benefits only those who have economic power and influence on the municipal services.

The costs of registering a particular plot of land are an obstacle to large-scale participation. Apart from the purchase sum, and the basic fees to be paid to the Municipal Council, there are additional costs that should be paid during the registration process. For example, in demarcation, the applicant should pay a certain sum for the topographic plan, for the cement and stone used in demarcation, and to make available, borrow or hire transport for the technical staff whenever necessary, since these staff claim that the municipalities do not have enough vehicles. Other mechanisms used to locate and demarcate the various areas are maps, aerial photos, GPS, etc. incur additional fees.

## 6.4 Who Registers Land in Maputo and Matola?

Given the picture described in the previous section, it is legitimate to ask who benefits from the process, who does not and what mechanisms are planned to increase participation by low-income populations.

In Maputo and Matola cities we can point to some groups that benefit:

### ***Upper and middle class individuals and private investors***

These individuals know about the mechanisms to register land. They possess the resources to deal with the process of obtaining DUAT, and are motivated to take precautions against land scarcity in the peri-urban areas, and against disputes, to guarantee the security of the space that belongs to them, or even obtaining compensation in the event of appropriation by the state or other bodies. Private investors belong to this group. Most private investors in the areas studied, possess land use titles.

### ***Small farmers organised into associations***

Farmers in the green belts, who are organised into peasant associations, request collective title of the plots they cultivate<sup>29</sup>.

<sup>29</sup> The green belt is an agricultural zone around Maputo city in the margins of the Infuleni River. Smallholder farmers grow vegetables, flowers and fruits, and also raise poultry and produce eggs to feed the urban and peri-urban areas. These farmers are organised in 9 associations comprising 1684 farmers, 80% are women producing in an area of 139,9 ha. There are also 12 cooperatives that belong to the General Union of Cooperatives (UGC) that mainly raise chicken, grow fruit trees and produce eggs. This union comprises 435 members, also 80% women. The private sector comprises 148 farmers, producing in an area of 399,1 ha. There are no houses in the area of production (margins of the river) but at the limit of the production areas there are houses, belonging to the farmers and other people.

The “Strength of the People” peasants’ association in the George Dimitrov neighbourhood already possesses a collective land use title. The other associations have submitted their requests and are awaiting the DMCU’s reply<sup>30</sup>. This strategy is used to guarantee security of land tenure, and as a precaution against usurpation.

#### ***Middle and high income women from the urban areas***

Another group that stands out are women from the urban area (albeit still in small numbers) who obtain the land individually, not accompanied by their partners (boyfriend, husband, etc.). This situation is most frequent in places where there is a strong market in land, since women’s access to and tenure of land is on an equal footing with that of men. These women from the urban areas are better informed, and tend to register the land in their own names in order to guarantee security of tenure.

#### ***Low-income women, land registration and traditional practices***

Although the Land Law says all people have the right of land access regardless of gender, skin colour, religion and other aspects, some traditional practices deprive women of that right. The study found that a great number of women had acquired land during the process of subdivision and allocation by the State in order to accommodate victims of the 2000 floods; as members of the peasants’ associations; by inheritance from parents or in-laws who have abandoned agriculture because of fatigue, illness, old age, and lack of interest; and through marriage or by purchase.

Meanwhile some married women, although they have land access, never feel they own the plots they have been occupying for many years, not even when they become widows. They always refer to a male person (usually the eldest son) as the owner of the plot. The women’s lack of knowledge of land registration may harm them particularly if their husbands die while their children are still minors. Usurpations of land that has not been formally registered are now common practice in several study areas especially land belonging to those who are uneducated or uninformed.

#### ***Improving the accessibility of the process***

Most of the population does not possess land use titles. The Maputo Municipal Council is now working on a simplified process for registering the Maputo informal areas, in order to create a more sustainable, more secure land use arrangement, with the prospect of improving the population’s living conditions in the future. It is intended that this process should be transparent, with guidelines where the procedures are set down, and which do not leave matters to the random opinions of technical staff. The process will have fewer steps and increased input from the auxiliary staff involved in land registration. Another initiative will computerise the land registry in order to make it easier to consult and handle individual files.

<sup>30</sup> Municipal District n° 5 has 9 peasant associations, namely “25 September” in the Luís Cabral neighbourhood, “Augusto Chirruete” in Inhagóia, “19 October” in the 25 June neighbourhood, “Marcelina Chissano” in Bagamoio, “Strength of the people” in George Dimitrov neighbourhood, and “Janet Mondlane”, “Marcelina Chissano”, the OMM’s Agricultural and Livestock Association, and “Josina Machel” in Zimpeto. 80% of the members of these associations are women.

## 7. THE LAND MARKET IN MAPUTO AND MATOLA

Although the Land Law and the 1990 Constitution of the Republic state that land may not be sold, or alienated in any other way, or mortgaged or pawned, a land market exists in the urban and peri-urban areas of the major cities, including Maputo and Matola, and has been on the increase<sup>31</sup>. Even the draft regulations for the use of urban land do not envisage the sale of the land itself as a means of access, which means that the current land transactions (buying and selling) have no legal validity.

The land market may be defined as transactions in goods and acquired land rights undertaken by voluntary agreement between two people or groups of people represented by agents. Thus the market in land arises whenever there are potential “buyers” who enter into contact with potential “sellers”, who agree upon a means of exchange which may be money or anything else agreed on through negotiation (Negrão, 2004). The market is a place of an ideal, abstract meeting between sellers and buyers, where the price of goods is fixed by agreement.

The land market fits into the model of the land-population relationship presented by Prothero (1972). This evolving model points to the existence in Africa of three forms of relationship – primitive, intermediate and modern. The modern form is characterised by the economic valuing of land, as it obtains a commercial value. In this form, population density is high, individualisation of land needs demarcation and land use rights may be transferred by mortgage, rent or sale. Due to the intensification of commercial exchanges and of the communications network, as well as the real value of the land, a land market is developing.

The main characteristics of the land market in the peri-urban areas of Maputo and Matola cities are:

- Sale and purchase of land outside the official channels of the Municipal Council.
- Increased transfer of land use rights of the population to well-to-do individuals through renting, loans, sub-dividing the land<sup>32</sup> or ceding it.
- Trends to advance speculation in land. Some people are buying up plots of land from the population, but do not invest in it. They build a flimsy house to secure their rights and add value to the land, and later sell it at a higher price, in clear violation of the provision in the land law which demands compliance with deadlines for the investment plan for obtaining DUAT, as well as on the application of sanctions by the relevant authorities<sup>33</sup>.
- The market is unregulated and lacks free competition.
- The land market dynamic is strongest where there are communications (roads, etc.) and other basic economic and social infrastructures.

### 7.1 Main Stakeholders in the Land Market

According to Correia (1993), the land market stakeholders are groups of individuals or institutions who take part in the sale and purchase of plots of land and contribute to the transformation of urban land. They may have different characteristics. There are those who operate in the central part of the cities, and those who operate on the peripheries. On the periphery there are those who buy land and wait for the price to rise – “speculation in advance”. Others acquire large blocks of land and split them up into smaller plots and sell them. A third group consists of residents who acquire land by family inheritance and sell part of these plots to interested parties to build houses, or for any other kind of use.

<sup>31</sup> The growth of the land market is due to the growing demand for land in these areas as a result of several factors: including migration from the countryside into the cities, particularly during the armed conflict that ended in 1992; population increase; and urban expansion in Maputo city. Negrão (2004:3-4) states that if there was a land distribution in which all have what they need, nobody has less and nobody has more, then there would be no land market, and it is up to the State to manage the available land in order to ensure sustainable use of the natural resources. However, this situation is less and less usual, since population growth and the gradual integration of family and business economies into the market lead to an increased demand for land from those who have less land or even none at all.

<sup>32</sup> This is the process of dividing or sub-dividing existing plots into new plots. Thus plot no.78 may become no.78A and 78B. This process is frequent in Matola city.

<sup>33</sup> The inefficiency of the relevant bodies turns into a virtual dead letter article 18 which, among other provisions, extinguishes land use rights if the investment plan is not complied with, without a justified reason, within the timetable established when the request was approved.

Negrão (1997) classifies the stakeholders as informal and clandestine. The informal stakeholders are those who sell land according to customary rights, while the clandestine operations involve Mozambicans and foreigners with sufficient influence, money, decision-making power or contacts to have access to and to negotiate land titles.

The stakeholders in the land market in the areas studied fall into the following categories:

*Local population* – those who possess one or more plots, or more extensive areas which they inherited from their ancestors, or acquired through chiefs, through government guidelines (at the time of disasters in the 1980s and in 2000) or through some Ministries that reserved land for their staff. These people are willing to transmit, temporarily or definitively, the improvements and rights associated with their plots directly to others, without requiring state intervention<sup>34</sup>. They do this for several reasons including: insecurity of tenure of the plot of land (the government has acquired large tracts of land from former owners without consent); lack of capacity to invest in the plots of land that belong to them; and for financial reasons.

*Community leaders and neighbourhood Secretários* – using their contacts they sell the plots they identify in their neighbourhoods as being available for sale, either from individuals or where land has been, or is in the process of demarcation. Community leaders and *Secretários* have early access to this information. Furthermore, if the buyer acquires the plot from community leaders or through the population, at a later stage, s/he contacts the neighbourhood secretary through presenting a declaration of identity from his original neighbourhood. Although this declaration is not formal, or stamped by any authority, only after this is s/he recognised as a resident or as someone who possesses property in that neighbourhood and can be protected in possible cases of usurpation.

*Middlemen* – in general they have wide-ranging knowledge of the plots for sale and the sellers. They may or may not be residents of the neighbourhood in question. They have networks of contacts, inside and outside the neighbourhood. They inform the interested parties about the state of the plots, they contact the seller to find out the price demanded, and then add an extra margin when they fix the price for the interested party. They receive a commission from the seller for the work done. Some municipal staff and neighbourhood authorities also act in this role. There are also individuals who manage the registration process for people who do not have time to follow the procedures (this ranges from finding a plot for the buyer, requesting the registration until the issuing of the provisional title). For this service, they charge a certain fee (around USD 250).

*Well-to-do individuals* – Some acquire the plots to build large estates, or for agricultural and livestock practices. Others fence them in, without any investment, to sell them to other interested parties in the future when urbanisation and land division takes place in the neighbourhoods. These cases are more frequent in Matola city.

*Middle class individuals of medium income* – They acquire land in the desperate search for housing. These cases are most frequent in Maputo city.

*State* – the legal owner of the land. It divides and allocates land to the interested parties who request land for various purposes. The state exerts its role through the Municipal Councils or other legally established bodies. It also plays the important role of legalising any land acquired by citizens, by legal or illegal means, through the registration process.

Under these conditions, the price of the land transaction may vary depending on the agreement reached between seller and buyer. Currently a plot of land is sold for between 10 million (for a smaller size of 15x30 m<sup>2</sup>) and 60 million meticaís (approximately USD 400 to USD 2,400<sup>35</sup>), depending on several factors, such as:

- Geographical location;
- Demand;
- Size of plot;
- Value added – improvements such as buildings, electricity, water, fencing, trees;

<sup>34</sup> In this category, some individuals live in the neighbourhoods where the transaction takes place and others, while living where the transaction occurs, change their address immediately after the transaction.

<sup>35</sup> Exchange rate of 25,000Mt to the US dollar, October 2005.

- Land favourable to agriculture;
- Location within or outside town planning and demarcated areas;
- Peri-urban activities, roads and water;
- Existence of rustic buildings and delimitation for public areas;
- Existence or lack of population concentrations;
- Existence of basic infrastructure (schools, hospitals, easy access routes, access to wells, markets, etc.);
- Rights of transmission/ transfer/ transactions.

It should be noted that, during the land transaction, priority is given to verbal agreement rather than a written document as proof of the transaction.

## 7.2 Implications of the Land Market

The land market has implications for land use and occupation, and for the population's well being. In general, Bruce (1992:6) points out that the land market "...will lead to increased concentration of land in the hands of some people, depriving others even of opportunities for subsistence".

### ***Implications for land use and occupation***

As the process of land sales advances, so certain households will move to where land is uncultivable or inappropriate for housing.

At the level of spatial arrangement, we note that the new wave of building and construction contrasts with the formal urbanisation plans for these areas. The peri-urban areas of Matola city are illustrative examples of this situation, where plots of land intended for farming are passing into new forms of use, ending up as residential spaces.

In some cases, the plots sold are located alongside the houses of the old dwellers. The new buyers erect buildings that change the former uniform style of organisation, creating contrasting features: older style reed or block houses with shrub fences, alongside new houses with high walls.

### ***Implications for security of land tenure***

In the context of a land market where usurpation is frequent, the lack of a land title creates insecurity in land tenure in the places where many citizens live. Box 1 shows how the lack of DUAT title resulted in the loss of land where 50 farmers had been producing for over 10 years in the Infulene Valley in Zimpeto neighbourhood.

#### ***Box 1: Conflicts over title in peri-urban Maputo***

In Zimpeto, located in the Infulene Valley in peri-urban Maputo, 50 smallholder farmers who belonged to an association lost the land they had tilled for over 10 years, and to which they had user rights. The area they worked, 100x150m, was 'sold' by an intermediary, who claimed to represent the farmers. The present 'owner' turned up with a provisional title for the land and claims that he paid Mt. 120 million (about US\$5000) to a committee that represented the peasants who were farming there. Members of the association were evicted and they did not have the resources to take the case to court. Although there are local dispute resolution commissions, these usually involve the same local leaders who are consulted before certificates are granted.

### ***Implications for the well-being of the population***

Land markets have negative implications for the population, both in social and economic terms. Individuals without land use titles are the most vulnerable. Citizens who just sell adjacent plots, and manage to keep their house in the neighbourhood have to travel longer distances in search of land to cultivate. There are other cases where people have sold their land and had to move to areas vulnerable to flooding or unfit for habitation, or in places reserved for purposes other than housing. Furthermore, there are frequent cases of fraud and/or unscrupulous sellers selling the same land twice. Some citizens do not use the money gained from the sale of plots to generate new sources of income, thus casting a shadow over their own social progress and reducing the possibility of access to land in future for other members of their family. In some of these cases, dispossession of land can lead down the path towards destitution.

But there are positive aspects to the land market. In the short term, it allows access to a piece of land for Mozambican citizens who are unable to access land through government institutions. Furthermore, we observed that some citizens who acquired plots during accommodation of flood victims in Magoanine “C”, sold those plots after the floods, and returned to their neighbourhoods of origin where they still had their old houses, and earned money from the process. Others, managed to use the income from the sale of one plot of land to buy another, more distant from the city at a lower price, to re-sell later at higher prices.

The land market also encourages urbanisation, with the emergence of cement buildings replacing precarious reed structures. It also leads to the emergence of high and middle income people living in the peri-urban areas, in contrast with those who previously lived there. However, there are psychological implications of this new reality, such as constant tension between the newcomers and the local population, characterised by the coexistence of houses with high walls and houses surrounded by hedges, houses with more than one floor and single floor houses with bathrooms outside which are sometimes uncovered; and high-income individuals with a high standard of living, alongside low-income individuals with a lower standard of living.

## 8. LAND DISPUTES

In Maputo and Matola cities, land disputes occur at two levels: (i) between private interests, (ii) between the municipal administration and individuals and groups applying for land registration. Some happen after the authorisation of the DUAT, and others during the land registration application process.

The main factors contributing to conflicts involving the municipal administration in the areas studied are the following<sup>36</sup>:

### **Dual or multiple authorisation of DUAT requests by the Municipal Council.**

These situations occur at the level of DMCU. The land registry and the survey department are not organised, which makes the management of urban land difficult.

### **The problem of registering DUAT.**

This problem is linked with informal settlements and spontaneous occupations with no title – that is, without any request and subsequent authorisation by the competent authority. This situation is characteristic of the areas studied, but, as mentioned by Chiziane (1999), the fact that these occupations and buildings are illegal would imply orders to leave the land and to demolish the buildings. But this solution would be against human rights, since housing is a vital and constitutionally enshrined need (Chiziane, 1999). It is up to the municipal bodies to undertake the official procedures to register these forms of occupation so as to take care of the interests both of the municipality and of the individuals involved, and to start rigorous compliance with city urbanisation and development plans.

### **Non-compliance with land use plans**

Many areas in the cities are today allocated to individuals who are not immediately interested in using them. However, failure to use the land, or under-using it, is sometimes accompanied by revoking the applicants' land rights, and the speedy attribution of the plot to a second applicant, thus creating disputes between the municipality and the individuals involved.

### **Occupation of reserved areas**

These buildings occur spontaneously or through the purchase of land rights in places reserved for purposes other than housing (industrial, social, environmental etc.) and are unsafe, leading to medium and long term negative consequences. In general these spaces are not divided into plots and are outside the minimum standards (15x30mÇ). Houses are even built across roads, consciously or unconsciously. The removal of 16 households from the Magoanine "C" neighbourhood because they built their houses on a site reserved for the Methodist Church<sup>37</sup>, and the withdrawal of plots from six people in Zimpeto are examples that illustrate the consequences that can flow from these actions. Solutions for this kind of dispute involve destroying the improvements erected on the ground, or transferring the occupants to another area. Refusal by the occupants to abandon these areas leads to generalised violence against the administrative authorities. Furthermore, the buyers who manage to stay on the land, suffer other consequences that range from insecurity and discomfort to the lack of facilities such as electricity and access to the road network, as can be noted from the following statements collected at Zimpeto Neighbourhood:

*...I arrived in this neighbourhood in 1994. I paid soldiers 550,000 meticaís [...] I didn't get a title for my land because they told me it was an industrial area [...] I don't have electricity because this space isn't on the map (approximate size of 15x30m²)...<sup>38</sup>*

*... I arrived in 2001[...]I came to stay here because of my divorce. I spoke to a relative who showed me this space [...] I am in the middle of a street, and I don't know when I will be thrown out. I am worried, because I don't feel good here and have nowhere else to live. [...] I paid 3.7 million meticaís in two instalments... (approximate size of 5x7m²)<sup>39</sup>*

<sup>36</sup> This analysis is based on the survey of cases recorded in the Municipal Administration of District n°5 (Maputo) in 2002 and 2003, in the Machava Administration (Matola), and on life stories collected on the research sites.

<sup>37</sup> The director for resettlement added that this occupation was due to illegal purchases of land (TVM, Informação Especial, 1 June 2003).

<sup>38</sup> Interview Zimpeto neighbourhood, 28 April 2003.

<sup>39</sup> Interview in Zimpeto neighbourhood, 2 May 2003.

The transfer of population from one area to another because of the construction of infrastructures to develop the area also creates conflicts, mainly in Matola city. The Municipal council uses dialogue as a method of conflict resolution, as well as the allocation of new plots of land.

On the other hand, the factors leading to disputes between individuals frequently arise from the land market, and include the following:

***The transmission of rights over a plot of land***

Transmission is the entire passage of a right or duty from the juridical sphere of one subject to that of another. This concept of transmission is used by the Municipal Council as a synonym for transmitting rights over an establishment (commercial or industrial). Although the Land Law provides for the transfer of land use rights in cases of transfer of immovable assets (subject to prior authorisation), this concept has been wrongly used by the population to legitimise the transaction of plots of land, but land is not something that can be legally transacted.

***Failure to honour the purchase agreement***

These conflicts occur most frequently in situations where a potential buyer pays part of the money to purchase the land use rights, and for some reason, he does not comply with the agreement as regards paying the other instalments. Solving this dispute involves mediation by the neighbourhood structures.

***Occupations of parts of the land of somebody else***

These situations are frequent in land purchases, mainly in areas that have not yet been divided into plots. In this case, an individual may occupy part of the land that belongs to someone else, causing conflicts that may result in the destruction of existing infrastructures on the piece of land in dispute.

***Double sales of land***

In general, the seller receives the money and does not deliver the land promised. This situation is worsened by the absence of any document proving purchase, since verbal trust is prioritised to the detriment of producing documentation that proves the transaction. In these situations, a large number of buyers end up losing both the land and the money, since the purchase of land is illegal. However, some purchasers of land, even when identified by the authorities, remain on the plots they purchased. These cases are resolved either through application of the law and sending the case to the municipal district administration, or solving the dispute through the neighbourhood authorities (Box 2). In Magoanine “C” neighbourhood there is a Commission for Hearing and Solving Social Disputes composed of chiefs of the neighbourhoods, representatives of the population and the parties to the conflict. This commission meets twice a week to hear and solve problems related to land.

***Box 2. Case of resolution of land dispute by the Magoanine “C” neighbourhood authorities, involving Ms G. and Mr. M.***

After selling a plot 15x30m<sup>2</sup> to Ms. G, in block n°18, for five million meticais, in January 2001, Mr. M. again sold part of the same land to an individual whom he called his son. Ms. G refused to take the money back, and the Magoanine “C” Commission to solve Social Disputes decided that the first buyer should remain owner of the space, while the second buyer, who had begun to build, should withdraw and reach an understanding with Mr. M.

*Case presented to the Commission for Hearing and Solving Social Disputes in the Magoanine “C” neighbourhood, on 11 March 2003).*

## 9. CONCLUSION AND RECOMMENDATIONS

The purpose of this study was to examine the land registration process in the peri-urban areas of Maputo and Matola cities and its constraints, in order to assess whether the registration of land in the selected research sites serves the low income population. The study also discussed the dynamics and implications of the land market, considered to be an obstruction to people's adherence to land registration process.

The process for registering land use rights (DUAT) should serve low-income people and guarantee security of land tenure. However, we conclude that in the peri-urban areas of Maputo and Matola cities, the land registration process poorly serves the low income population, for several reasons:

- Lack of specific regulations for urban land.
- Additional costs for land registration which makes the process more expensive and inhibits the public. These additional costs include the sum for “purchasing” the land use right (DUAT); traveling from the neighbourhood to the administration or to the Municipal Council to deal with the procedure; acquiring cement and stone for demarcation; transporting surveyors who complain of lack of transport in the municipality; aerial photographs, GPS (Global Positioning System), etc.
- Red tape and slowness in the state institutions responsible for issuing land use titles, which encourages citizens to become involved in corruption, which only a small portion of the public can afford.
- Lack of knowledge among the public of land legislation and of the procedures for land registration. This benefits those who hold economic power and have contacts and can influence in the municipal services (usually those in the private sector).

However, the main problem is the land market in the research sites. Land transactions in the peri-urban area are motivated by economic need, lack of capacity by the people to invest in the land they own, and insecurity of land tenure. They have implications for land tenure, for the spatial layout and land use of the peri-urban area, but mainly for the well-being of the population.

When land is sold, some groups of people are forced to move to inadequate areas for agriculture and even for housing. This situation worsens where large proportions of the population are reliant on agriculture for their livelihoods. They have to walk long distances to practise agriculture in other places. For others, the money resulting from the sale of the plots is not applied to generating new sources of income. This creates difficulties in terms of survival strategies in the medium term and can lead to destitution in the longer term.

In order for land registration to bring real and practical benefits to low income population groups, and improve their standard of living the following actions are recommended:

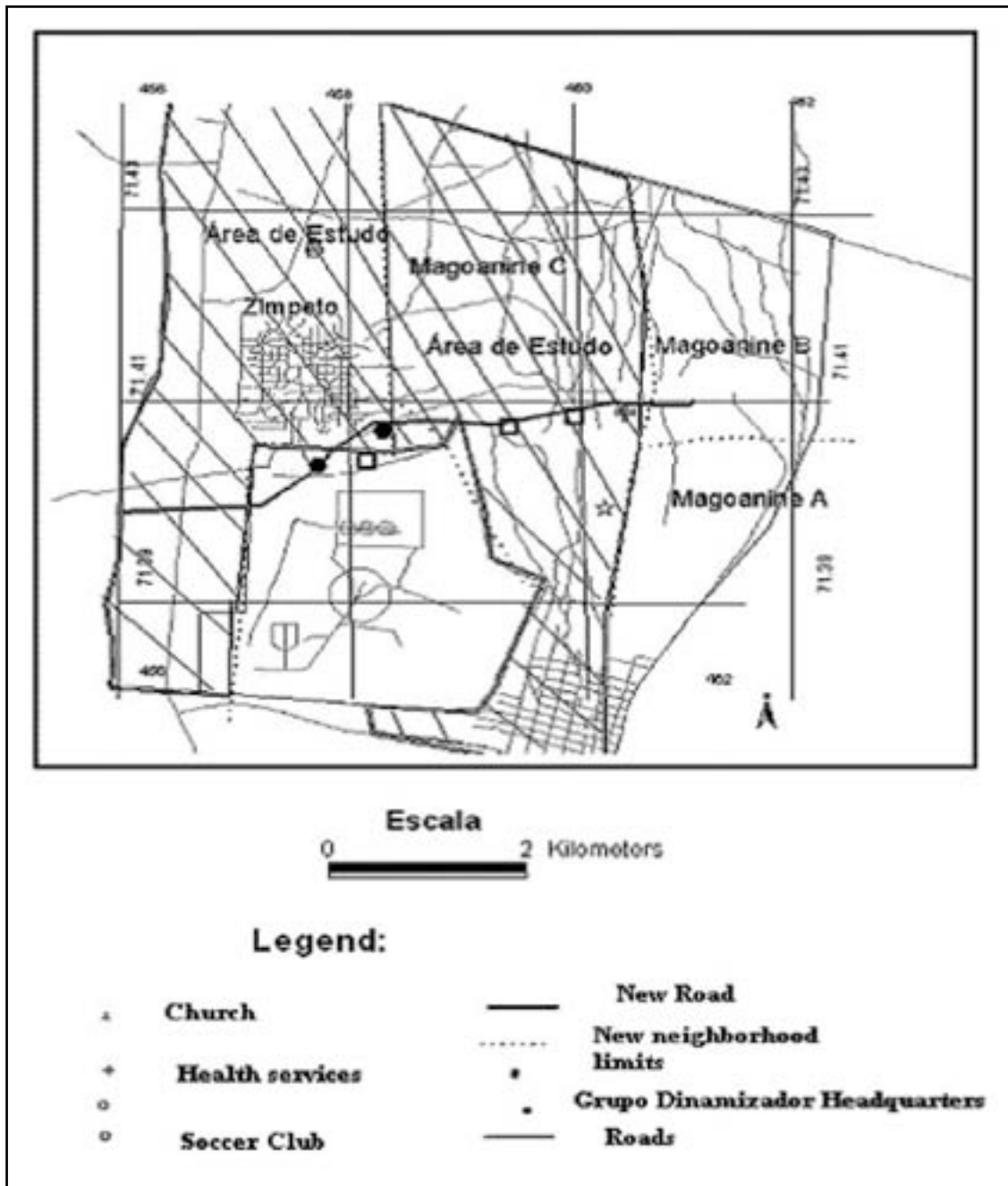
- The approval of national regulations for urban land, despite the existence of instruments and strategies that regulate the use of urban land in the various towns of the country.
- Improved land registration procedures, including simplifying and clarifying these procedures, and widespread dissemination to urban and peri-urban communities.
- Regulating the land market.
- A more active role by the Municipal Council in land allocation, parceling up plots of land through an active mechanism that consists in demarcating and allocating plots for specific uses that have been planned in advance.
- Making the public aware of the need to register their land use rights.
- Creating a link between access to land use titles, and access to financial resources, such as credit, particularly for young people.

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Map of the study area in the municipality of Maputo



Source: DINAGECA database 2000/ Geography Department GIS-UEM/ Ernesto Macaringue

Map of the study area in the municipality of Matola



**Land Registration in Maputo and Matola Cities, Mozambique** assesses the process of land registration in peri-urban areas and its outcomes for poor and marginalised groups. The research shows that there is little awareness of land registration processes on the part of low-income groups. The 'individual' registration process is slow and bureaucratic with high transaction costs and corrupt practices on the part of state institutions. Unlike the case of rural land, specific regulations governing the use of urban land are not yet in place. Some farmer associations have used community registration processes to secure their land rights but high levels of organisation and persistence are required to do so. Individual registration is beyond the means of low-income households and mainly serves high income, well connected groups and private companies. This situation is exacerbated by active informal land markets which are transforming peri-urban land use. There are real concerns that farmers, and low-income groups in general, may be losing access to land through registration processes which favour applicants who are well-connected and wealthy. Regulations governing urban land, the simplification and dissemination of registration procedures and improved governance are required for land registration to serve the majority.

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