

**PEOPLE AND
PROTECTED AREAS
IN MOZAMBIQUE**

***Discussion Document
on Policy Options***

Pauline Wynter
Sr. Natural Resources Policy Analyst

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ACRONYMS

- BANPBazaruto Arquipelago National Park
- CA..... Conservation Areas
- CBNRM..... Community Based Natural Resource Management
- CBO.....Community Based Organizations
- CG.....Comite de Gestão (Community Management Committees)
- LNP Limpopo National Park
- P. &P.A. People and Protected Areas
- P.A. Protected Area
- PEDFFB..... Política e Estratégia de Desenvolvimento de Florestas e Fauna Bravia
- QNP..... Quirimbas National Park
- GRM.....Government of the Republic of Mozambique

ACKNOWLEDGEMENTS

1. POLICY OPTIONS FOR PEOPLE AND PROTECTED AREAS

1.1 *Background on the present Scope of Work*

The Direcção Nacional de Areas Conservação (DNAC - National Directorate for Conservation Areas), oversees all national parks and protected areas in Mozambique, under the Ministry of Tourism. Each of these parks and protected areas is home to local communities, a situation at odds with IUCN designation criteria for protected areas such as National Parks. One of the most recently declared parks, the Limpopo National Park (LNP – former Coutada 16), forms the Mozambican portion of the Great Limpopo Transfrontier Park. The LNP has between 15,000-20,000 residents, indicating an urgent need for Mozambique to undertake a thorough review of its policies related to people residing within protected areas, to determine their options and to make an informed decision about this situation and its resolution.

Another aspect leading to this review at this time is the SADC Protocol on Wildlife Conservation & Law Enforcement to which Mozambique is a signatory¹. As a part of the national ratification process, member States have been conducting internal reviews of their wildlife conservation laws and policies, with the objective of identifying gaps and seeking harmonization of policies with neighboring countries. One of the seven specific objectives of the Protocol is to “facilitate community-based natural resources management practices for management of wildlife resources”.

The Minister of Tourism, through the DNAC, requested technical assistance from the Great Limpopo TBNRM Initiative in analyzing the national protected areas policies regarding people living within parks, and to present to the Government results of such an analysis so that an informed decision may be made toward bringing national policy in harmony with the Wildlife Protocol as well as the policies of Mozambique’s partner States in the Great Limpopo Transfrontier Park & Conservation Area. The policy reform effort would be developed for immediate application in the Limpopo, Banhine, and Zinave National Parks, but also for eventual application nationwide throughout the protected areas system under DNAC jurisdiction.

Two complementary assignments by the Great Limpopo TBNRM Initiative are providing technical and analytical support to other aspects of the issue of people in protected areas, including one on developing a private sector integration strategy that might incorporate community economic development opportunities outside of the protected areas, and another on the specific sociological and economic analyses required for integrating community and government priorities with the ecosystem potentialities into viable management plans for Banhine and Zinave National Parks.

The overall institutional strengthening support, including strategic planning for DNAC, led by the LTITA Institutional Strengthening and Ecological Monitoring Specialist, completes the package of support. Special emphasis is being placed on building capacity among DNAC staff members who serve as counterparts to the Great Limpopo team. Each of these assignments has key deliverables specified in their respective Scopes of Work. For this assignment, the key deliverables are specified below.

1.2 *Specific Tasks*

The purpose of this assignment is to facilitate a process of stakeholder consultation, review, and analysis of options on the issue of people living within protected areas (especially National Parks) in Mozambique, resulting in recommendations to the Minister of Tourism for the potentially most viable

¹ All SADC heads of State have signed this protocol. Each country including Mozambique is working on national level ratification of the protocol.

course for both establishing national policy and conforming to the SADC Protocol on Wildlife Conservation and Law Enforcement as well as other relevant international conventions.

1.3 Methodology

The review of people and protected areas is based on extensive consultations and review of existing documentation. The report is based on

- a) Review the report of the proceedings of the workshop on Options for Local Communities in Protected Wildlife Areas in Mozambique, held in Maputo in April 2002;
- b) Review and analysis of relevant national legislation and policy documents and of the SADC Wildlife and Law Enforcement Protocol;
- c) Extensive interviews and discussions with key stakeholders in government, NGOs, consultants of related projects in Maputo, administrators and private sector operators of selected Protected Areas, and with provincial government and NGO officials;
- d) Development of five management options and discussion of same at a DNAC Protected Area Administrators' meeting in Maputo;
- e) Circulation and review of preliminary draft of this document and preparation of this draft final version for discussion at provincial workshops to be led by IUCN.

1.4 Recommendations from a Workshop on Options for Local Communities in Protected Wildlife Areas in Mozambique, held in Maputo, 5-16 April 2002

The workshop defined two management models for People and Protected Areas: community retention model and the second the community relocation model (Munthali, 2002). The recommendations related to these two models are summarized in this section since they form the starting point for this Discussion Document.

In relation to the retention of local communities in P.A.s, workshop-working groups recommended:

- Avoidance of development of social amenities in parks
- Zoning PAs is a pre-requisite
- Creation of the category of biosphere reserves
- Promotions by DNAC of inter agency approaches to development outside of P.A.s to encourage and provide incentives for P.A. residents to relocate outside of the P.A.
- Promotion of co-management of natural resources
- Identify alternative and complementary income generating activities for local communities
- Dealing with P.A.s on a case-by-case basis.

The workshop participants recognized two threats to residents of P.A.s:

- Human/wildlife conflicts
- Population growth on biodiversity

In relation to relocating residents, the workshop participants recommended that

- Compensation be a pre-requisite
- Re-located residents retain title over previous lands and rights and benefits from previous lands
- Economic alternatives be developed outside protected areas.

The workshop had four recommendations for legal changes necessary to facilitate retention of local communities in P.A.s. They are as follows:

- Multiple land practices must be allowed
- Communities should be given title over land resources
- Infrastructure in P.A. should blend with the environment
- Re-define parks according to zones and allocate title, i.e. de-gazette settled areas.

The recommendations of the workshop represent the most recent thinking on people and protected areas by a broad spectrum of conservation stakeholders in Mozambique, many of whom have been working with local communities resident in national parks and reserves. The next section is a snap shot of that experience.

1.5 Overview of People and Protected Areas Experiences

National Parks and Reserves in Mozambique, in practice, have had people resident in the parks throughout their existence. Although efforts have been made to restrict people to certain areas and certainly to try to restrict their activities especially the use of fire and hunting, human populations are important factors in the day-to-day management of every P.A. Table 1 below gives an overview of population distribution for seven of the eleven national parks and reserves and summarizes recent P&P.A. management efforts.

Table 1: Park Population and P&P.A. Experience

Name	Size (km ²)	Popn.	Pop Activities	Institutional links for P&P.A.	P&P.A. Activities	Key Stakeholders
Banhine NP	7,000	2000	Agric., animal prod. Small animals and cattle, fishing, palm wine,	NGO-technical support to community.	Community tourism, potential for ostrich farming	IUCN
Bazaruto NP	1,600	3500	Fishing, small animal prod, agric..	NP—Hotels (Park Entry Fees)—Community Based Organizations	Social infrastructure, cash to CG, local fishing rights protected, employment in NP, potential employment in tourist industry	NP, WWF, EWT, Hotels, CG in NP
Gorongosa NP	5,370	15,000	Ag, fishing, small animal prod.hunting,	NP-SPFFB provide technical support and training to community members through CGs, NGO support for acquisition of certificates of occupation in buffer zones	Diversification of resource use in buffer: Bee keeping, charcoal prod. Cultural hunting in NP.	SPFFB. ORAM. District Admin, CG in Buffer

Name	Size (km ²)	Popn.	Pop Activities	Institutional links for P&P.A.	P&P.A. Activities	Key Stakeholders
Maputo Reserve	700	5000	Ag, fishing, small animal prod., hunting	NGO technical support, institutional capacity building, acquisition of certificates of occupation in buffer zones. Project funds.	Diversification of resource use in buffer zone: improved agric, bee keeping	CG in Buffer, IUCN
Niassa Reserve	42,200			Private Sector technical support and investment in communities located in the Reserve	Social infrastructure	SRN
Quirimbas NP	7,506	55,000		Provincial Gov, NP, NGO's and communities determine basic zones of NP	Community participation in NP land use zoning.	WWF
Zinave NP	6,000	2,000				IUCN

Source of statistics: **Table of P.A., Size and People, DNAC, 2002**

The experience of the P.A.s which is summarized in Table 1 raises a number of pertinent issues for any P&P.A. policy:

1.6 Local communities inside Protected Areas

All protected areas in Mozambique have residents -- some recent and some with a much longer history. Studies are needed to determine into which group each settlement falls. Gorongosa National Park, for example, has a population that is swollen from in-migration during the war. This may mean that there are present residents whose land and traditional structures are elsewhere. Only a baseline sociological study of these communities would be able to determine the origins of the different settlements. However, any citizen that has occupied a particular site for 10 years is deemed to have occupational rights to the site. So after 10 year the in-migrants have the same occupational relationship to the land as historic residents.

Local communities are occupying areas that are in fact the core biodiversity areas of the P.A.. This is the case in Banhine as well as Gorongosa. So even if there were some changes in the policy and law to allow people to stay legally there would have to be at least internal relocation to another part of the park or the buffer zone.

Some communities occupy prime tourist development sites that could bring them, or the P.A., much more revenue if developed for tourism than the communities can make from the land. This is the case of Bazaruto Island where one of the hotels would like to acquire the sea front land that one of the communities now occupies.

1.7 Incompatible activities

Cultivators in P.A.s are competitors for scarce water resources, riverbanks and the edges of wetlands - the same areas that are almost invariably the sites of high biodiversity. In addition any resources that can be marketed will be marketed: medicinal plants, game, fish, firewood, charcoal. People will seek to construct household economies out of the resources at their disposition.

Roads are a double-edged sword. There is evidence in Gorongosa district that people are moving to be closer to the new road. This may in fact reduce the number of people living in the Gorongosa National Park but roads also allow for the sale of forest and P.A. products that previously had an insignificant market. The answer to incompatible activities lies either in relocation of residents and stringent guarding of the P.A. and/or in identifying other alternative activities for people. In pilot projects in Matutuine, IUCN is assisting communities to improve their agricultural yields through better cultivation methods and seed, and by facilitating and training interested individuals in the alternative forest activity of bee keeping. Introducing new or improved activities needs is dependent on covering the costs of technical input, training and materials and projects however cannot be expected to cover those costs indefinitely. Other government rural development agencies have to be brought into the equation.

1.8 Buffer zones

Buffer zones around some parks provide an area where acceptable production activities are allowed under regulated conditions. Buffer zones take the exploitation pressure off P.A.s but still require technical management input from P.A. staff to regulate and manage the allowable activities. In the forested buffer zone of Gorongosa, communities are able to delimit their land with the assistance of the NGO ORAM. SPFFB provides technical assistance in identifying allowable activities in the forest (community forestry, bee keeping) and provision of commercial forest licenses. The P.A. provides training for community guards who monitor activities in the forests on community-delimited land. This is an example of inter-governmental and NGO cooperation in relation to a P.A.

Buffer zones differ from the P.A. itself in that communities may have their occupation rights recognised but the P.A. continues to have regulatory responsibility in the area and responsibility for improving the capacity of residents to use resources sustainably. The advantage of buffer zones is that it protects the P.A. from incursion by giving regulatory authority for a determinate area outside of the P.A.

In the case of linked P.A.s in the TFCA's the narrow corridors, or interstitial areas should be managed as a special type of buffer zone.

1.9 Community Zones and Multiple Use Zones

Limpopo National Park (LNP) and Quirimbas National Park (QNP) both have zones where some use is implied. These are the community zones in Quirimbas and multiple use zone in LNP. The main distinction with the buffer zones is that the latter are clearly outside the P.A. while the CZ and MUZ are inside the P.A.. CZ's and MUZs appear to modify the definition of total protection of the P.A. by implying that use is permitted.

It still remains to be seen the extent to which community zones in the new Quirimbas National Park will be regulated, and the extent of restrictions on community developments in those areas. Using the community participation outlined in the regulations to the Land Law, QNP has been successful in involving communities in key Protected Area management decisions particularly in the determination of core zones. QNP communities have agreed that community activity will cease in specified core zones. In the QNP case, participation is being used to increase the likelihood of protection for core high biodiversity areas. The question that remains is what does the community perceive as the benefit to themselves for such self-restraint?

If sustainable use is achieved through the community zones, multiple zones and buffer zones then the argument is that the number and abundance of species in the P.A. should increase. The management issue is what benefits if any should accrue to communities that begin to see conservation success --

increased wildlife, improved habitats. Should communities in P.A.s and buffer zones receive benefits, and on what basis?

1.10 Institutional overlaps in Protected Areas

All P.A.s have district and P.A. administrative jurisdiction overlapping. In the P.A., District administrators may or may not be implementing programmes in contradiction with P.A. objectives. In addition P.A.s may have one or more NGOs implementing projects in the park, which may or may not be in line with park objectives.

All P.A. administrators spend a significant amount of their time ensuring that district officials are aware of the P.A. programmes and try to minimize contradictory information that goes to the communities.

In order to address this problem, the Ministry of Tourism has proposed that P.A. administrators be promoted to the level of provincial service directors and participate in the provincial administration. This would place them in a position hierarchically senior to the district administrators (?).

1.11 Managing Protected Areas with resident human populations

All P.A. managers are spending significant amounts of time on P&P.A. issues. In a few cases, namely Bazaruto, QNP, MGR, and NR the P.A. has had a trained community manager in the P.A. or buffer zone through the funding from a project or NGO. But once the funding stops, then not only the expertise but also the institutional memory fades. In other words, DNAC is responsible for a set of P.A.s that have resident populations most of which will never be relocated but the qualifications and management capacity is not reflected in the organizational capacity of the national office.

The reality is that P.A. managers are managing parks with resident communities. They are trying to solve P&P.A. issues on a daily, ad hoc basis. They are doing it without benefit of policy or national technical support. They have neither the power to relocate people nor to allow them to feel settled in the P.A. nor to effectively restrict specifically damaging practices. The uncertain authority of P.A. managers vis a vis P.A. residents is also seen in other members of the provincial government and NGOs. It is precisely here that a P&P.A. policy could help.

1.12 Benefits to P.A. residents

Benefits under P&P.A. can take many forms. Some examples are:

- Special rights (not given to all citizens) of admission, to harvest certain products, or to receive meat from commercial hunts
- Employment
- Specific benefits set aside for communities in joint ventures
- Authorization to engage in commercial joint venture
- Authorization to operate a specific business in a P.A. such as a guiding service or a campsite
- Training and institutional capacity building.
- A say in the management of the P.A.
- Cash

Benefits are determined in a negotiation process with communities and it is not always cash. Niassa Reserve (NR) and Bazaruto NP have both supported communities with social infrastructure. In the case of Lazaretto, the financial benefits came from park entrance fees. In the case of NR, the financial benefits came from the commercial operations and fund raising efforts of the company managing the P.A. In both cases, most of the money went to the building of schools and clinics and in the case of BNP, some cash also went to the community management committee for community-determined distribution or re-investment. Both cases had problems that are useful for other P.A.s and for the P&P.A. policy:

- Neither SPSaude and SPED were involved in determining the type of structures to be built consequently they now complain that they are not up to standard.
- One hotel in Bazaruto was dissatisfied with the distribution of money by the CGs and discontinued collecting entry fees.
- The CG's say that their function is to manage the money and no connection to conservation education or they manifest sustainable use.
- The connection between P.A. management and sustainable activities of residents is poorly understood by district, provincial and national authorities consequently they are unable to respond appropriately when residents complain that they are not receiving financial support. Neither side realizes that support is about changed behavior.
- Tchuma Tchato is reported to have the problem of not quite knowing what to do with the money they receive.

The IUCN CBNRM project in Matutuine has communicated its objectives to the CG in an exemplary manner. The CG chairperson described the benefit to the community from the IUCN programme as *technical support* to improve their own production activities². Protected Areas management planning and policy formulation

1.13 People and wildlife

Communities are justifiably anxious about increases of wildlife in their areas. This will happen with better management as well as through re-stocking. Experiences in the region show that spill over of wildlife outside of the parks on to community land can be the basis of small lucrative annual hunting quotas for the benefit of the community. The risk of crop damage or attacks of domestic animals or people is also a reality. In parks with high population densities such as Kruger National Park or Madikwe National Park, the answer has been a secure perimeter fence. This is the best guarantee of separating wildlife and people; however, such a fence has not always been the answer. The communities in the Chobe Enclave situated on the Chobe River in Northern Botswana are surrounded on three sides by the Chobe National Park. Elephants and buffalo are a daily feature in the Enclave. There is crop damage, which the government compensates, and a programme to ensure that domestic animals are corralled at night. In addition, in compensation the community has hunting rights to an annual quota, which it can use as it sees fit.

It has to be noted that although non-fenced communities in wildlife areas are attacked and do suffer from their proximity to wildlife, they generally do not move because they also expect to benefit from the wildlife. They may be allowed community hunting for small species in the buffer zone, and they may benefit from safari operations in the area. When asked if increased wildlife in Maputo Elephant

² It has to be said here that in this project the CG had the benefit of a member who was an articulate respected person (ex-teacher) who understood the sustainable use approach that IUCN was trying to promote.

Reserve and no promise of a fence would force people to move, the P.A. Administrator thought they would absolutely not move because increased wildlife is a benefit not a disincentive.

1.14 Employment, Skills and Education

Although the solution for decreasing the number of people using park resources directly lies in their finding alternate employment, there is a general perception that residents have the skills required for P.A. tourist related employment. In fact the P.A. itself is, in almost all parks, a significant employer of local residents. Every effort has been made by P.A. managers to provide training for local residents so that they can work effectively as rangers, wardens and other park personnel. This suggests that efforts by tourist operators to train park residents for more jobs in their sector might do more.

In Bazaruto, one hotel operator reports that locals return to fishing after a short time working in the hotels. Is this an issue of remuneration, working hours in tourism versus fishing, or a romantic attachment to the sea? Providing alternate employment in new industries will probably work better with young people rather than with adults who have already developed their own rhythm of work. And for this education is essential.

1.14.1 DECENTRALIZATION

Recognize that each of the P.A.s have had a very different history of use and management and let them be run at provincial level with significant policy input from the stakeholders of each park.

2. THE KEY LEGAL INSTRUMENTS FOR LOCAL COMMUNITIES IN PROTECTED AREAS

Jorge Chicue has reviewed the legal framework for P&P.A. (Chicue, 2002), annexed here in Annex 1. He refers to four pieces of legislation in addition to the Constitution of Mozambique that regulate in some way actions of local communities in protected areas. These are: Lei de Terras, Lei de Florestas e Fauna Bravia, Lei do Meio Ambiente and the Lei 10/99, de 7 de Julho (Joint Ventures). In addition there are the Regulations for these Acts and there are Policies, in particular the policy for the development of forests and wildlife. The next seven tables consists of excerpts or points from policies and laws that form the legal framework for managing protected areas. They would be the starting point for any options for managing local communities in protected areas. They are presented here in chronological order.

Table 2: Excerpts from a Política e Estratégia de Desenvolvimento de Florestas e Fauna Bravia, esolução 8/97, de Abril de 1997

1.2.3. Recursos faunísticos

21 . . . “Devido ao longo período de abandono, estas areas requerem reavaliação em termos de limites, objectivos e categorização.”

3. 46. A PeEDFFB enquadra se no Programa do Governo estabelecido pela Resolução no. 4/95 de 9 de Maio da Assembleia da Republica e na Política Agraria e Estrategia de Implementação aprovada pelo Concelho de Ministros em Outubro de 1995.

3.47”*O Governo promovera a utilizçãao racional e sustentavel das Florestas e Fuana Bravia de modo a servir a economia do Pais em geral, e os interesses das comunidades nelas inseridas, em particular*”

4. 55. (viii) Neste processo (safaris) encorajar-se-á o diálogo entre o sector privado e as comunidades locais na partição dos beneficios inerentes;”

4.56 O objectivo relativo ao envolvimento das comunidades locais no manejo e conservação dos recursos florestais e faunisticos sera alcançado atraves:

Implementação da rede de areas piloto com participação da comunidade

Da capacitacao a todos os niveis para o desenvolvimento participativo dos projectos comunitarios. A participação das comunidades na gestão de fauna bravia potência a redução de caça furtiva pois, as comunidades terão dispositivos legais para a prática da fiscalização;

Estabelecimento do Comites de Gestão de Recursos com a participação das autoridades locais do Estado, comunidades locais

Introdução de mecanismos legais que progressivamente garantam o acesso aos recursos . . .faunistos as comunidades locais;

Acções de educação

4.57 O objective concorrente á sustentabilidade ecológica no uso dos recursos naturais, sera materializado fundamentalmente e atraves:

vi da revisão dos limites dos Parques e Reservas

vii da criação de Areas de Conservação de Transfronteira, com o envolvimento de sector privado e comunitário.

5. O papel dos diferentes intervenients na implementação da política e estratégia

5.3.64 A população rural foi sempre o principal utilizador dos recursos naturais. Assim e para garantir a utilização e conservação ds recursos de flora e fauna é fundamental que os principais utilizadores e beneficiários participem activamente em todas as fases de planificação da utilização destes recursos.

5.3.66O beneficio economico directo para as comunidades no seu envolvimento na gestão

dos recursos naturais sera a principal estratégia.

A colaboração entre o sector privado e comunidades locais serão encorajados para potencial a viabilidade de empreendimetos privados sem prejuizo dos interesses da comunidade.

Table 3: Excerpts from the Lei de Terra, 19/97, 7 de Outubro de 1997

Article 6: Zones of Total and Partial Protection

1. Total and partial protection zones belong to the public domain.
2. Zones of total protection are areas to be used for nature conservation and protection activities and areas for State defence and security

No rights of land use and benefit can be acquired in total and partial protection zones, however special licences for specific activities may be issued.

Table 4: Point from Regulamento de Lei do Meio Ambiente 20/97, 7 de Outubro de 1997

Re: EIAs must be carried out for sites where communities are to be relocated.

Table 5: Excerpts from the Lei de Florestas e Fauna Bravia, 7 de Julho de 1999

Article 10

1. Protection areas are demarcated territorial areas, representing the national natural heritage, meant for the conservation of bio-diversity and of fragile ecosystems or of animal or plant species.

Article 11.

2. The following activities are strictly forbidden in national parks, except when they are prompted by scientific reasons or by management needs:
 - a) Game hunting within the boundaries of the park;
 - b) Forest agriculture and mining exploration or animal breeding;
 - c) Any activity that tends to modify the land aspect or vegetation characteristics

Article 35.5

A specific diploma establishes the percentages of the values resulting from the fauna and forest exploration fees, for the benefit of the resident local communities in the respective exploration areas.

Table 6:

Excerpts from the Regulamento da Lei de Florestas e Fauna Bravia 12/02, 6 de Junho de 2002 Secção IV

Auscultação ás comunidades locais

Artigo 95, 96, 97

Conselhos locais, Personalidade, Atribuições do Conselho Local de Gestão de recursos Florestais e Fanísticos (COGEP)

Artigo 102 Benefícios para comunidades locais

Vinte por cento de qualquer taxa de exploração florestal ou faunística destina-se ao benefício das comunidades locais de área onde foram extraídos os recursos

Table 7: References to Local Communities in Decree Establishing the Parque Nacional de Quirimbas (2002)

Establishes community zones for existing residents.

The Constitution of the Republic of Mozambique establishes the right of the State to determine the access and protection necessary for land, and the liberty of citizens to reside in any part of the country except where the particular site is necessary for other uses in the public interest. In the latter case fair indemnity³ will be provided.

2.1.1 COMMUNITY RIGHTS AND PROTECTED AREAS

It is the clear intention of all the laws that they be implemented with respect for the culture and rights of local communities. Both the PEDFFB and the Regulations for Forestry and Wildlife include a process of community consultation, development of community management institutions, and the provision of benefits all designed to protect the rights of local communities concurrently with the management of the protected areas. Furthermore, the laws leave room for management to make decisions about the prohibitions delineated in the law. The above laws support three management options for local communities in protected areas.

2.1.1.1 Local communities relocated from Protected Areas

Relocation:

Relocation may be necessary in the public interest;

Indemnity:

Those relocated must be indemnified;

EIAs:

The Regulations of the Environment direct that the site for re-location must have an EIA.

Residual benefits of the relocated:

The Regulations for Forestry and Wildlife determine that 20% of the rights of exploration (concessions fees) goes to communities who are local to the land where the exploration takes place.

2.1.1.2 Local communities staying in P.A.s

Residency:

The Lei de Terras, Lei de Florestas and Fauna Bravia are silent on the subject of residency of local communities in protected areas. The Decree for Quirimbas National Park recognizes the presence of

³ The dictionary definition of the term “indemnity” is compensation for damage or loss sustained.

local communities within the new park boundaries. There appears then to be no prohibition against residency in protected areas if it is compatible with conservation management objectives.

Prohibited activities:

The law prohibits hunting, agriculture and livestock in Protected Areas but gives discretionary power to the management authority to determine what use is appropriate including prohibited activities. It also provides for authorization of specific activities. It appears that activities need to be addressed as management issues and determined on a case-by-case basis.

Obligations for local communities:

The PEDFFB and the R. de FFB both recognize the guardianship role of communities in protected areas.

Benefits for local communities:

Twenty percent of the exploration rights are for the communities who are local to the land where the exploration takes place.

2.1.1.3 III. Local communities excluded from P.A.s:

Re-evaluation of P.A. boundaries:

The PEDFFB envisaged that parks abandoned for extended periods should have their boundaries, their objectives, and the category of protection re-evaluated. For local communities this could mean that P.A. boundaries are adjusted to exclude community land from the P.A.

3. THE BROADER CONTEXT FOR P&P.A. POLICY

3.1 *International context*

Three documents are particularly relevant to the P&P.A. policy: the IUCN definition for protected areas, the SADC Protocol for Wildlife and Law Enforcement, and the agreements for Transfrontier Parks.

Mozambique does manage its National Parks and Reserves in a culturally and historically specific way. But a close look at the IUCN definition for National Parks suggests that Mozambique is not completely outside of the definition:

“Protected area managed mainly for ecosystem protection and recreation. Natural areas of land and/or sea, designated to a) protect the ecological integrity of one or more ecosystems for present and future generations, b) exclude exploitation or occupation inimical to the purposes of designation of the area, and provide a foundation for spiritual, scientific, educational, recreational, and visitor opportunities, all of which must be environmentally and culturally compatible.” (IUCN 1994)

Although this definition does envisage the exclusion of “occupation inimical to the purpose” of the protection, it also argues for spiritual opportunities and cultural compatibility. The challenge for Mozambique if it continues to maintain local communities within P.A. boundaries is to achieve their conservation objectives. This will take clear, creative management approaches and real commitment to sustainable development from the communities. Achieving conservation aims with park residents and/or park neighbors will continue to be the major challenge even if new protected area categories are developed.

At the regional level SADC member heads of state are signatories to the “Protocol on Wildlife Conservation and Law Enforcement” (SADC, August 1999) wherein the desire is expressed “to establish a *common framework* for the conservation and sustainable use of wildlife resources in the region...” and recognition noted “that the survival of wildlife depends on the perceptions and development needs of people living with wildlife”.

SADC takes note of the role of local communities in wildlife conservation and specifically goes on to propose CBNRM for the region. The introduction of approaches, such as CBNRM, does not necessarily occur at the same time and in the same way in all countries. Differences in institutions are felt most immediately in Transfrontier arrangements where compatibility has to be found between differing historical approaches to conservation underlining the difficulties in achieving common frameworks. At the international level there is support for an inclusive approach to communities and Protected Areas. But it requires different methodologies and attitudes to P.A. management that have to be developed.

3.2 *On the ground – Land delimitation of community land*

An on-going national activity that is significant for local communities in protected areas is the land certification process. Its methodology for delineating community land is based on the involvement of a broad array of stakeholders, the development of local community institutions and the provision of certificates of occupation. NGOs and the Government Land Commission have developed guidelines for the process.

3.3 *Technical*

One way to relieve pressure inside P.A.s is to encourage people to live on adjacent land, especially if they claim land outside the P.A. Some national parks have buffer zones around them such as Maputo Elephant Reserve or Niassa Reserve. For other P.A.s, adjacent land falls under a land use category, such as Coutadas and Forest Reserves that allows the area to function as a buffer. This means that P. A.s and adjacent areas may fall under different agencies – DNAC and DNFFB. In the case of Gorongosa

National Park, the park administration (DNAC) maintains crucial institutional relationship with the Provincial forest service (SPFFB) for developing and implementing programmes in adjacent forests to alleviate some of the people pressure on the Park. In order to address population issues on the edges of P.A.s technical links with sister agencies are key especially at provincial level.

4. RE-THINKING LOCAL COMMUNITIES AND PROTECTED AREAS: ELEMENTS FOR A P&P.A. POLICY

4.1 *People and Protected Areas Policy as a subset of Protected Area Policy*

P&P.A. approaches for protected areas should be based on a broader policy for protected areas. Such a policy would be conceptual and focused on long term aims, and giving direction for facilitating mechanisms to attain those aims. P&P.A. policy needs to be a subset of the national policy for all protected areas. Developing a policy for P&P.A.s would flow from a Protected Areas Policy, which indicates intentions, for example, for a participatory approach to working with people. P&P.A. policy must be a subset of the broader policy for Protected Areas and might also be a subset of other policy areas such those referring to rural development, decentralization, and land policy. P&P.A. policy should be in harmony with these other policies. The following are some illustrative national Protected Area Policy objectives followed by illustrative subset of P&P.A. objectives.

Some national level aims that might frame a P.& P.A. policy

- i. Conserve the biodiversity of protected areas;
- ii. Achieve economic self-reliance for the P.A. system through sustainable development compatible with the conservation objective;
- iii. Recognize the potential of indigenous knowledge in the management (and development) of the P.A. and mitigate, if necessary, the loss of use rights and cultural links of communities relocated from P.A.
- iv. Recognize the role of wildlife-related land uses as a rural development option for local communities;
- v. Work in coordination, and in a participatory manner, with provincial agencies and NGOs to stabilize communities affected by the P.A.

P&P.A aims that flow from the above objectives:

- i. Maintain or improve habitat quality and biodiversity;
- ii. Control illegal off takes in a cost effective manner;
- iii. Based on recognition of land and resource tenure of P.A. residents engage the interest and support of P.A. residents and neighbors in the long term goals of the P.A.;
- iv. Use a participatory approach to work with communities and other stakeholders to develop sustainable management approaches to managing P.A.s
- v. Work with other stakeholders towards long-term in-park human population reduction through mandatory or voluntary re-location programmes;
- vi. Foster, where feasible, the growth of wildlife/tourism related rural activities on land marginal for agriculture, through the use of joint ventures and other institutional mechanisms;
- vii. Learn and build on the indigenous knowledge of P.A. residents/neighbors through conservation education programmes.

P.& P.A. policy would define the approach and mechanisms that DNAC intends to use in managing people and protected areas, for example, the following:

- determine the nature of the relationship between P.A.s and P.A. residents and neighbors.

- the approach to determining relocation and/or settlements in the P.A.
- the level of continuing interaction expected, if any, between former residents and P.A.s.
- types of programmes that the P.A. would engage in with settlements in the P.A.; and,
- the institutional framework requirements for those programmes.

4.2 Providing multiple management options for communities in P.A.s

Although the P.A.s in Mozambique have resident communities, P. A. staff are operating without a clear legal mandate to stabilize communities in the best compromise sites inside the P.A.s.

P.A. communities affect parks in different ways depending on the sites they occupy, the types of resources used, and methods employed. Management tools used to address the P. A. communities would differentiate between different impacts. Although re-location outside of the P.A. is an option, settlement and re-settlement within the same P.A. ecosystem may be less disruptive to peoples lives while offering an opportunity for developing mutually beneficial relationships through CBNRM and co-management arrangements between the P.A. and resident communities.

Management of communities in P.A.s should be based on ecological and socio-economic-cultural baseline studies that inform conservation activities and constraints for the park. They need to based a) on clear briefing from government on regulatory constraints if they stay; b) negotiations with communities within those constraints about allowable activities.

There is a tendency on the part of some NGOs to argue that if the communities stay in the P.A. then they should be allowed to carry on as if they were outside of the P.A. If this were the case, then essentially the community site would have become an enclave and as such exempt from all land use restrictions placed on national parks. This is not what is being proposed here. Instead this proposal is to allow certain activities if they do not interfere with conservation objectives. This then means that those individuals who want to carry on a prohibited activity would have to relocate.

P&P. A. policy could permit communities to stay in a park if an ecological evaluation showed that specific permissible activities were compatible with P.A. objectives. Community members would then be given the option to stay with restrictions.

4.3 Relocation

Relocation remains an alternative for protecting core zones. The most difficult aspect of relocation is duplicating community conditions. Rural household economies are typically based on a variety of production activities. Even agriculture is based on the characteristics of different soils and micro water regimes: soils suitable for rain fed annual crops, flood retreat sites for other crops such as rice, upland land with tree crops, pasture, forests for firewood and hunting, and fishing when and where possible. As important are sites for housing.

Site selection outside the P.A. is subject to challenge by communities outside the P.A. who claim the site. By extension this may also mean that host communities may claim compensation for accepting the displaced community on an area that they claim.

Related to relocation is the issue of delimiting land. Determining relocation sites must be done with the community to be relocated as well as with the new neighbors.

P.P.A. Policy could recognize the relevance of the delimitation process of community land that is presently in progress, and link relocation to this programme. New sites should be delimited in conjunction with the delimitation of neighboring communities. It would help establish the true status of

the new site and reduce conflicts in the future. One would want to build into the process a delay for an adjustment of limits that may become clearer as the community settles into the new site.

4.4 Compensation and Incentives

The law requires just indemnity or fair compensation for any loss incurred. In rural areas, this includes all the activities of the calendar year that go together to make up a household economy. It is not just houses and bore holes. It is not just the visible links to the ancestors. They may be losing forever a way of life – hunting, fishing, mushroom harvesting, access to thatch –activities and resources that resolved day-to-day problems. These problems need to be taken into consideration in selecting the new site and taken into consideration in design of new activities for the relocated community.

When we think about incentives, it is useful to consider the fact that rural young people are attracted every day to the hope of cities. For them the incentive is clear it is the hope of a future – jobs and money. If there are jobs the young will go. It is much more difficult for older people and probably only the hope of medical care will encourage the very old to leave a P.A. voluntarily.

In the case where the relocation is for economic development in the vacated, site some consideration could be given to including in concession agreements payments to a fund⁴ for rural development activities in relocated communities. Other benefits such as training and jobs could also be considered in the concession agreements.

For communities in buffer zones and P.A., the feasibility of community tourism operations could be looked at. P.&P.A. policy should consider including specific guidelines for concession agreements on either community delimited land or where there are strong reasons for trying to benefit specific communities.

4.5 Park boundaries and functional buffers

P. A. boundaries are porous. It is difficult to have complete separation between the P.A. and surrounding areas. Wildlife, domestic animals, fire, hunters and gatherers all cross the boundary with little difficulty. Thus, P. A. boundaries are often the site of more intense interaction with neighboring land users than other parts of the P.A. In order to reduce negative interactions, P.A.s try to gain some say in the activities of adjacent land. The Regulations for Forests and Wildlife envision (Article) the establishment of such a buffer zone around P.A.s in Mozambique. However, whether P. A.s choose to establish such a zone or not they generally want to limit the damage to the P.A. from incursions so they need to have areas adjacent to the P.A that function as a buffer. In the case of Great Limpopo Transfrontier Park, the approach is to look at the interstitial land between the linked parks as an opportunity for land use zoning and promotion of land uses that are in greater harmony with the P.A.

It should be noted that although the negative impacts on boundaries are due to incursions from outside of the park, there is a potential bonus for P.A. neighbors from movement of wildlife from the P.A. In the GLNP model it is envisaged that some interstitial land will be able to support wildlife activities through re-stocking. Communities in these areas could then be brought into joint venture type agreements for use of land in these areas.

P.&P.A. policy should recognize the variety of land use zones that function as buffers and clarify the technical and institutional support to be offered to communities in both buffer zones or functional buffer areas such as the interstitial areas of the GLTP.

⁴ See Política e Estratégia de Desenvolvimento de Florestas e Fauna Bravia April 1997, Article 5.4 paragraph 68 for reference to creation of such a Fund.

4.6 Community land tenure: land delimitation in P.A.s and buffer zones

Recognition of land customarily used by people resident in a P.A. at the time of the creation of the P.A. could help address three issues in P.A. management. It would

- 1) establish a limited area of the P.A. that the community needs to carry out all activities, thereby minimizing conflicts over creeping encroachment into the rest of the P.A. and
- 2) determine relationships with economic investors for concessions on that delimited lands, and
- 3) establish the basic conditions for community involvement in conservation related activities – their relationship to a piece of land, their custodial responsibilities and the potential benefits from new rural economic options based on sustainable use of their resources.

The present legal framework disallows the provision of certificates of use to communities in P.A. but the approach could be the subject of pilot studies in the two parks that have little likelihood of re-locating people (Bazaruto and Quirimbas) under defined policy for the transition described in the next section. As pilots, DNAC would be able to sort out approaches and monitor the issues that would arise for delimitation in P.A.s.

4.7 Employment, Skills and Education

The fundamental problem with subsistence residents of P.A.s and buffer zones is their direct use of resources. Without education, skills and training residents cannot get the jobs that would take pressure off the resources. Bazaruto is a park with tourist development and is the perfect example where the development has not resulted in employment for locals, instead the development has meant an influx of people from outside the park to take advantage of the new opportunities. It is possible that a fisherman may find that fishing is more lucrative than the wage offered by a hotel, but it is also likely that the islanders simply do not have the necessary skills.

The great advantage of having P.A. management in the Ministry of Tourism is that the issue of training for residents of parks and buffer areas can be addressed at both the policy level and the implementation level. In order to lessen the people pressure on P.A.s, P.A. residents and former residents need preferential access to tourism training. Investments in primary school infrastructure in buffer zones (and TFCA interstitial areas) has both immediate conservation education opportunities, and long term skills training and employment differentiation that P.A. residents and former residents need in order to lessen their dependence on direct use of protected resources and to compensate for the loss of those resources, and to compensate for the loss of those resources.

P.&P.A. policy would recognize the key role education has to play in converting the children of subsistence users of P.A.s into skilled workers in P.A.s and wildlife related enterprises, and indicate the intention of the Ministry of Tourism to provide qualified children of these communities access to education and training in the tourist sector where appropriate.

4.8 Technical support in DNAC for P&P.A.

Can DNAC address the P&P.A. issue, particularly the rural development approaches proposed for the areas it manages with its existing manpower and technical profile. The capacity for community resource management has been built up over the last ten years in DNFFB for forest-based communities and some practical experience exists at the P.A. level. But this experience has not coalesced in the organizational profile of DNAC. How can this institutional gap in DNAC be covered?

The management of parks with resident communities requires different training and attitude for P.A. staff - less law enforcement attitude, more conservation education, and more rural development. P.A. staff will need to work with other agencies, private sector and NGO stakeholders to provide technical support for developing new marketable products from available resources. In some areas, the resources might be wildlife, as in the case of Tchuma Tchato; in others such as Gorongosa, it is timber and

charcoal. The kinds of activities that develop will depend on an analysis of recent in-country experiences and a rolling design approach for a transitional period. The SADC region is replete with examples of community based natural resource management (CBNRM) experiences that Departments of National Parks have used to address similar P&P.A. issues with which Mozambique is faced.

The advantage for DNAC is that it is closely linked to tourism. It has the right institutional connections for any community tourism operations in the P.A.s and buffer zones. It must build community tourism technical capacity in order to assist communities with credible, feasible operations. Unfortunately, although tourism is undoubtedly the growing development option in rural Southern Africa, growth in community tourism will probably never supplant agriculture in rural Mozambique. DNAC has to be careful not to oversell community tourism. It will gain a small niche but it will not be a panacea. Community Tourism will be, however, one area of expertise that DNAC needs to focus on for itself under a P&PA. mandate.

Given the modest reality for community tourism and the fact that agriculture, forestry and domestic animals are the main activities of most P.A. residents and P.A. neighbors, it is important, therefore, to recognize that the necessary skills and experience for agriculture and forestry exist in a number of other organizations and government departments. The challenge for DNAC is to harness that experience to address P&P.A. in a multi-sectoral approach. Thus the second area of expertise necessary for DNAC is to develop the capacity to work multi-sectorally at national, provincial and district levels. The national level would support P. A. managers with training in skills to implement such a multisectoral approach. DNAC managers involved in P&P.A. issues at all levels would seek to engage other partners, private sector, NGOs, and other provincial and district government agencies to support P.A. residents and neighbors.

Under the P.&P.A. policy DNAC would establish a unit at national level that develops and supports the implementation of community management actions at the P.A. level. It would identify training needs for its staff. It would also identify NGO and government and private sector partners and establish relationships at the national level that should facilitate P.A. level relationships.

4.9 A Community Based Natural Resources Programme for Protected Areas

All of the changes proposed above lead toward the development of a community based natural resources management (CBNRM) approach. It is based on the involvement of communities who organize themselves, with the assistance of NGOs, government or private sector partners, to engage in ecologically sustainable activities through:

- improved techniques for existing subsistence activities,
- use of a more diverse set of resources;
- the incorporation into P.A. management of community approaches that are compatible with conservation goals including the employment of locals as park rangers, the protection of sites identified by the community; and
- community participation in enterprises that *may* yield benefits for the community.

During the last 20 years a variety of people and parks approaches were tried in the region: In the 1980's many of these programmes were referred to under the rubric of integrated conservation and development programmes (ICDPs). Many I.C.D.P.s were based on the use of revenue generated by national parks. The contemporary context was one of increasing poaching and incursions into P.A. by neighboring park communities. The objective of the ICDP approach was to try to provide diversified development options for park neighbors to either provide an alternative income source to direct use of protected resources; to compensate for loss of certain resources; or to use and market an under-used resource. Though the ICDP approach is still visible in many rural projects, by the early 1990s the issue of ownership of resources emerged. The question was would communities manage their resources better if they owned them. The response to this was the emergence of a Community Based Natural Resources

Management (CBNRM) approach: It is based essentially on the legally recognized right to use (sustainably), manage and benefit from specific resources in and around P.A.s.⁵

The SADC region is replete with examples of Community Based Natural Resources Management (CBNRM) Programmes. These programmes have developed in areas adjacent to national parks where wildlife resources are relatively abundant. CBNRM programmes are said to be based on recognized community ownership or rights of use of, or the benefits from, land and other resources. Under CBNRM, various institutional mechanisms have been devised to confer legal rights and obligations on communities living in or near PAs. In practice, this has meant that communities in or near PAs have financial interests in the economic developments taking place in conservation areas. They also have risks and obligations if they choose to continue living in these areas.

CBNRM programmes in SADC have been initiated for several reasons:

- To de-criminalize and therefore reduce illegal off takes by sharing (through a variety of legal mechanisms) the revenue from land and resource concessions with communities;
- To give communities a stake in resource use in compensation for a reduced use of conservation areas for agricultural and/or animal production. More often than not, P.A. are located in areas which have marginal agriculture production. CBNRM then offers alternate activities to the community to compensate for the loss of land for agricultural production. These alternate activities include employment in the new tourist industry and the opportunity to provide goods and services to the tourist industry.
- To include communities in tourism as a new growing economic development option for rural areas by making them the prime concession holder either directly through community organizations (Namibia, Botswana, Tanzania, South Africa) or through wildlife departments (Zambia) through District governments (Zimbabwe), or through links with the private sector (Namibia).

4.9.1 DETERMINING THE COMMUNITY AND COMMUNITY LAND UNIT FOR CBNRM

Where the basis of CBNRM is community rights to use and benefit of land the land, use units and the community must be determined. Several different ways of associating conservation land use units and residents have evolved in the region -- a reflection of historical differences in approaches to land use, planning and local administration. As a result, the concept of community in the SADC CBNRM experience is often more administratively or ecologically convenient than sociologically coherent. The importance of the issue lies in the consequences for community participation in the sustainable practices being introduced. From the point of view of the P.A.s, this is the whole reason for existence of CBNRM -- to reduce human pressure on P.A. by local communities through changing their use of land and other resource.

By choosing an administrative unit, as is the case, for example, in the ADMADE programme in Zambia, the "community" includes residents who live with wildlife impacts and communities that rarely come into conflict with wildlife. However, all residents benefit equally from any wildlife/tourist transactions in the unit. As a result, all those residents who live with wildlife have less reason to conserve resources.

In Namibia the social unit is determined first and representatives of that unit determine the limits of their area. Their benefits are derived from tourist-related activities that the residents (with the support of NGOs) develop in that area (camps sites, joint venture agreements with commercial tourist operators, guides, etc.). The community determines the level of hunting (subsistence and commercial) in their area.

⁵ Annex 2 of this report is an excerpt of the key definition and features of a CBNRM programme in Botswana.

In Botswana, an existing conservation land use unit for allocating wildlife quotas, the controlled hunting area (CHA), was used for CBNRM. All residents within the boundaries of that unit are deemed to be a “community”. The unit has most relevance in determining the area in which one commercial operation can take place, based on land characteristics and wildlife density. CHA units are used whether the activity is for tourism, commercial harvesting of wild plants, photographic safaris or hunting. When there is only one settlement or village in a CHA, the CBNRM programmes are relatively straightforward to implement but with more than one village more management input is required to solve the social complexities.

In South Africa, there are arrangements between parks and people that date back to the 1980s when the parks board sought to develop a positive relationship between neighbors and parks based on co-management agreements for conservation activities on community land. In post 1990 South Africa, the first settlement of a land claim on an existing park has resulted in the development of co-management agreement between an elected community property association (CPA) and Kruger National Park.

In Tanzania, pre-existing registered village associations are the legal basis for village tourist committees (known as modules) who oversee and coordinate village and individual residents’ tourist activities.

A special people and parks relationship exists between communities whose lives and mode of living are highly linked to particular ecosystems. This is the case of the Masai and Ngorongoro National Park, the San people and Reichtersveld and the San people and Central Kalahari Game Reserve. In each of these cases the relevant conservation agency has worked out legal and practical mechanisms for the affected communities to have preferential access or the right to live in the P.A. albeit with severe use restrictions.

These models for determining social and land units for CBNRM underscore the role of land use history but also point to ways that more obvious pitfalls may be avoided within the national constraints.

4.9.2 LEGAL MECHANISMS FOR CBNRM ENTERPRISES

In order to engage in economic activities residents are encouraged and may be obliged to formally incorporate themselves as a legal entity capable of engaging in legal transactions. These entities may be associations (e.g. community property associations in South Africa); cooperatives (Botswana, Tanzania); or trusts (Namibia and Botswana). Usually it is unnecessary to develop any new category of association. The registered organization is answerable to the community and manages commercial operations on its behalf. Table 8 summarizes some of the types of rights that communities have acquired.

Table 8: Some Legal Rights of SADC local Communities in Protected Areas

Type of right	Country
Rights to negotiate land use concessions for community land (conservancies) outside of P.A.s. Right to set wildlife quotas in Conservancies	Namibia
Rights to negotiate land use concessions for photographic safaris outside of NP but within P.A. with private sector	Namibia, Botswana, South Africa
Occupation rights in a P.A.	Botswana, South Africa
Rights of Access/Admission to NP	Tanzania
Rights to social/financial benefits from a government agency/private sector agreement for concessions on community land.	Zambia, Zimbabwe, Mozambique
Rights to use or benefit of a percentage of revenue generated in P.A.	Zimbabwe, Zambia, Tanzania, Mozambique

4.9.3 CBNRM SITES

CBNRM in SADC may be developed inside National Parks but is more generally developed on land adjacent to Parks. The programmes focus on sustainable production activities based on natural resources that complement more traditional rural activities of the community. CBNRM professionals assist communities to evaluate the development potential of land and natural resources and to determine appropriate activities.

4.9.4 CBNRM BENEFITS

For CBNRM to be successful it needs to have an impact, at least at the household level. It needs to establish the link between sustainable use changes and benefits received. This means that the community-based organizations should strive for broad participation and distribution of benefits needs to be transparent.

It is important not to over-emphasize financial benefits and to develop realistic expectations of benefits as well as obligations. As a CBNRM programme matures it might include one or several of the following:

- Special rights (not given to all citizens) of admission, to harvest certain products, to receive meat from commercial hunts in hunting zones.
- Employment in P.A.
- Social infrastructure
- Specific benefits set aside for communities in joint ventures engaged in by the P.A.
- Authorization to engage in commercial joint venture
- Authorization to operate a specific business in a P.A. such as a guiding service or a campsite;
- Training and institutional capacity building;
- Involvement in the management of the P.A. as guards and on P.A./Community management committees.
- Negotiated solutions to problem animal control.
- Cash

Broadly conceived benefits to communities in P.A's and buffer zones need to be linked to negotiated and agreed obligations and rights.

4.9.5 INSTITUTIONAL REQUIREMENTS FOR CBNRM IN MOZAMBIQUE

Key institutional requirements of a CBNRM programme include:

- P&P.A. policy to frame the relationships between protected spaces and species and their potential relationship with communities.
- Working relationships between DNAC and other government agencies with expertise in rural development and community forestry
- Community institutions interested and engaged in natural resource management
- Network of conservation and development NGOs that act as facilitators of the CBNRM process.
- Framework for private sector/community joint ventures
- Development and marketing for new products
- Community natural resource management approach and skills in DNAC staff

- Community Tourism capability in DNAC/DNT
- A community benefit strategy that links community sustainable use of resources to benefits.
- A community Development Fund based on percentage of park revenue

4.9.6 LOCAL COMMUNITIES AND EXISTING LEGISLATION

It is possible to interpret existing law very narrowly to mean almost mandatory relocation of communities from protected areas, but this is not the only possible interpretation. Instead it is important to note that neither the Forestry and Wildlife Law nor the Land Law specifically forbid occupation of communities within P.A.s, although land law does say that rights of use and benefit cannot be acquired and the forestry law forbids agriculture, hunting and rearing of livestock.

The Land Law however holds out the possibility of permission for specific activities through the use of “special licences”. It is recommended here that these two areas of the law: a) the silence on occupation and the b) special licenses for allowing certain activities be used during a specified period of transition for DNAC to develop a P & P.A. approach to park management.

5. OUTLINE STRATEGY FOR DEVELOPING AND IMPLEMENTING A P&P.A. POLICY

5.1 Short term policy change and a transition

DNAC needs policy change to allow itself the time and institutional space to develop appropriate changes in legislation for national parks. In the short term DNAC should:

- i. Decide that it will work towards a change in P.A. categories and management to allow local communities to reside in P.A.s if appropriate.
- ii. In function of the above determination, seek a decree that establishes a transition period of two to five years in which the details of the legal changes would be determined based of the results of pilot programmes and technical advice.
- iii. In addition the decree should also provide DNAC with
 - **authority** to regulate P.A.s using available management tools (zoning, adaptive management) which would allow them to permit residents in defined multi-zone areas;
 - **authority** to settle communities in P.A.s and buffer zones where harm to the biodiversity is minimal – using the “special license” provided by Land Law to permit specified activities;
 - **clarification** of the role of provincial governments in the re-location of local communities in the interests of P.A. management.
 - **mandate** to work with a broad array of stakeholders to develop and implement a CBNRM programme.
 - **mandate** for CBNRM programmes in selected P.As based on land delimitation (without certificates of occupation) where it has already been determined that communities will stay: Quirimbas, Bazaruto, and possibly Banhine. The pilots would be designed to develop the capacity of DNAC to implement CBNRM and to explore options related to community involvement in joint ventures and other relationships with the private sector.
- iv. Communities unequivocally slated for relocation should be engaged in an approved re-location process.
- v. DNAC develops technical capacity in CBNRM for communities who remain in the P.A.s or who are involved in community tourism projects. Develops, also, P.A. CBNRM guidelines based on results in the pilot projects.
- vi. DNAC establishes working relationships with other agencies and organizations such as with DNFFB for forest based communities, fisheries for coastal communities, with National Directorate for Rural Development (DNDR), and with relevant NGOs.

5.2 Long term strategy

In the long-term, protected area categories could be increased in type and number to permit different types of management regimes more appropriate to the resources and human demographics in the parks. This would allow for eventual re-classification of some parks and reserves. For other P.A.s, a change in boundary might be more appropriate for arriving at a coherent, manageable Protected Area.

During the transition period, the Ministry should consider seeking the following change:

- Establish different occupation rights for Reserves and National Parks.,
- increase the categories of protection for P.A.s for example by adding the category of Biosphere Reserves.

At the same time, protected areas with significant people/parks conflicts should be encouraged to review their boundaries as part of the monitoring process to determine if changes in boundaries are either necessary or feasible.

After a period of transition the Ministry would seek a decree reclassifying existing P.A.s to reflect a more appropriate category and/or to revise the boundaries.

THE WAY FORWARD

The basic elements for a new policy are discussed in provincial workshops to be run by IUCN in August 2002. The paper and the comments from the workshops is scheduled for discussion at a national workshop to be held in Maputo in September 2002. Following the Maputo workshop the policy document would be developed.

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ANNEX 1: AN ANALYSIS OF THE EXISTING LEGAL FRAMEWORK FOR P&P.A. IN MOZAMBIQUE – JORGE CHICUE

COMUNIDADES LOCAIS NAS ZONAS DE PROTECÇÃO

QUADRO LEGAL

Preparado por Jorge Chicue, DNFFB (Abril 2002)

ZONAS DE PROTECÇÃO

Parques Nacionais
Reservas Nacionais
Zonas de Uso e de Valor Histórico Cultural
Reservas especiais
Coutadas oficiais
Fazendas do Bravio
Concessões Florestais
Áreas de Protecção Ambiental
Zona costeira
Zonas ameaçadas de erosão
Zonas húmidas
Áreas de protecção Ambiental
Zonas de domínio público:
A Zona Marítima;
O património arqueológico;
Zonas de Protecção da Natureza;
Demais por Lei.

ENQUADRAMENTO CONSTITUCIONAL

Propriedade do Estado sobre os recursos naturais;
Domínio público das zonas de protecção da natureza;
Estado determinante do acesso aos recursos e da salvaguarda do interesse nacional;
Liberdade de fixação de residência em qualquer parte do território nacional
Limitantes:
 Necessidade, utilidade ou interesses públicos- justa indemnização;

LEGISLAÇÃO DE TERRAS

Direito de uso e Aproveitamento da terra
Noção de comunidade local
Direitos reconhecidos
Âmbito de abrangência das comunidades locais

TERRAS RESTRIÇÕES:

Zonas de Protecção Total
Zonas de Protecção Parcial
Outras áreas

RECONHECIMENTO

Parques Nacionais P. Total _
 Reservas Nacionais P. Total _
 Zonas de U. V. H. Cultural P. Parcial _/v
 Reservas Especiais P. Parcial _
 Coutadas oficiais P. Parcial _
 Fazendas do Bravio v
 Concessões Florestais

PROPRIEDADE DA FAUNA BRAVIA

NATURAIS:

CRM Estado
 Lei de Terras Estado
 Lei FFB Estado

Excepção:

Pecuarizados
 Fazendas do Bravio

FAUNA BRAVIA NAS ZONAS COMUNITÁRIAS

Regra geral: Estado

Excepção:

Fazenda do bravio comunitária
 Pecuarização comunitária

PARCERIA COMUNIDADES SECTOR PRIVADO

PRESSUPOSTOS:

Aquisição formal de direito de uso e aproveitamento da terra
 Estabelecimento da fazenda do bravio

*ESTABELECIMENTO DE PARCERIA***Lei 10/99, de 7 de Julho**

Reconhecimento da existência das comunidades locais nas zonas de protecção
 Parques e Reservas Nacionais P.M elaborado c/ participação das C. Locais
 Zonas de Uso e de Valor Hist e Cultural normas e práticas costumeiras

NECESSIDADE DE HARMONIZAÇÃO

Reconhecimento tácito da existência de comunidades locais nas zonas de protecção
 Proibição do exercício de actividades sócio económicas nas zonas de protecção sem excepção
 Act. Florestal, agrícola e pecuária
 Todo que possa alterar o aspecto do terreno
 Proibição de introdução de espécies zoológicas ou botánicas,

DELEGAÇÃO DE PODERES DE GESTÃO

Gestão participativa- Assegurar a participação das comunidades locais na exploração e nos benefícios gerados pela utilização

REQUISITOS PARA A DELEGAÇÃO DE PODERES DE GESTÃO DAS ZONAS DE PROTECÇÃO PELAS COMUNIDADES LOCAIS

REVISÃO E HARMONIZAÇÃO

Legislação de Terras: Aquisição formal do direito de uso e aproveitamento da terra pelas comunidades locais acompanhada do processo do estabelecimento da fazenda do brávio;

Excepção: as comunidades locais residentes nas zonas de protecção à data da sua criação quando não sejam objecto de expropriação mantêm os seus direitos de uso e aproveitamento da terra.

REVISÃO E HARMONIZAÇÃO

Legislação de Terras cont: Excepção para os direitos de uso e aproveitamento da terra já adquiridos por ocupação ou titulação à data da criação da zona de protecção:

Obrigatoriedade de expropriação com justa indemnização dos titulares de direito de uso e aproveitamento da terra no acto da criação da zona de protecção;

REVISÃO E HARMONIZAÇÃO

Legislação de Fauna Bravia:

Reconhecimento expresso da existência de Comunidades locais nas zonas de protecção,

Alteração da categoria de zona de protecção total para os Parques e Reservas Nacionais e harmonizar c/ a Lei de Terras;

Direito de preferência das comunidades locais no processo de delegação de poderes de gestão do Parque o Reserva Nacional;

REVISÃO E HARMONIZAÇÃO

Legislação de Fauna Bravia:

Revisão das proibições de Agricultura, pecuária, exploração florestal e construção de habitação nas zonas de protecção quando feita pelas comunidades locais;

Justa compensação às comunidades locais em caso de expropriação ou limitação dos direitos de exercício de actividades sócio económicas;

REVISÃO E HARMONIZAÇÃO LEI FFB:

Revisão do domínio publico das Coutadas oficiais e concessões florestais;

CRM:

Limitação ou estabelecimento de excepção para a propriedade do estado sobre a fauna bravia;

Lei FFB: Redução do monopólio do Estado no processo de licenciamento da fauna bravia;

REVISÃO E HARMONIZAÇÃO

Política Nacional Do Turismo

Em rigor jurídico inexistente

Aprovada em contexto sócio-económico e político distinto não prevê envolvimento comunitário

Legislação do turismo:

Datada dos anos 1969 e 1974;

Anteprojecto da Lei do Turismo contempla envolvimento comunitário

LEGISLAÇÃO AMBIENTAL

Legislação de Coordenação

Aspectos de precaução e protecção Ambiental;

Casos de Actividades ou investimentos públicos ou privados que vioilam os direitos constitucionais de vicer num ambiente equilibrado;

Auscultação pública;

Papel das comunidades locais nas Áreas de protecção Ambiental;

Criação de Agentes de Fiscalização Comunitária

OUTROS ASPECTOS

COMUNIDADES RESIDENTES NAS COUTADAS OFICIAIS

Direito de preferência na adjudicação da Coutada;

Compensação pela restrição dos seus direitos;

Direito de uso e aproveitamento da Terra

FAZENDA DO BRAVIO

A aquisição ou formalização do direito de uso e aproveitamento de terra pelas comunidades locais, quando para fins de conservação e fomento da fauna bravia deve ser acompanhada de estabelecimento da respectiva fazenda do bravio a favor das respectivas comunidades locais;

ZONAS DE USO E DE VALOR H. CULTURAL

A utilização dos recursos nas Zonas de Uso e de Valor Históricos Cultural não se deve restringir ás normas e práticas culturais das respectivas comunidades, podendo ser extensivo aos interesses económicos colectivos da comunidade, desde que não contrarie os seus usos;

CONCLUSÕES E RECOMENDAÇÕES

ANNEX 2: AN EXCERPT FROM THE CBNRM PRACTITIONER'S GUIDE FOR BOTSWANA

Community Based Natural Resources Management or CBNRM is a term for the way in which communities organize themselves in order to use and conserve the natural resources of their area. Communities are a group of people living in the same area and sharing common interests.

CBNRM operates through community organizations. A community based organization (CBO) might be a legally registered association of resource users such as charcoal makers or it might be a Trust made up of one or more villages that utilize specific sites or species to generate jobs or to generate revenue from the running of enterprises such as campsites for tourists.

Management is an important element of CBNRM since it implies both opportunities and responsibilities and focuses on development and sustainable utilization for the benefit of the community and for future generations.

OBJECTIVES OF THE CBNRM PROGRAMME

Some objectives of a CBNRM programme could be:

By devolving powers to communities, rural Botswana should become more directly involved in:

- Improving the quality of their lives through new development opportunities;
- Improving the management of their natural resources upon which much of their development potential depends.

KEY CBNRM CONCEPTS

CBNRM is based on three concepts:

- i. The managers of the resource are "community based" - i.e. they are members of the very group which has organized itself - such as the villagers who benefit from joint venture arrangements. They are entire communities or resource user groups within the communities that have come together in a CBO to manage and benefit from their resource.
- ii. When communities accept the benefits of resource utilization, they undertake responsibilities that require their investment of effort and money in monitoring, regulating resource use, protecting resources and educating others on the needs of sustainable resource use.
- iii. Decisions (such as on how to manage natural resources and how to distribute benefits) are made primarily by community members; central and local governments play important facilitating roles.

CBNRM has been under development in Botswana for almost ten years. Usually communities go through a learning process and develop interest in CBNRM over months or even years. There are a number of steps needed before its full benefits are realized.

- communities assume increasing resource management responsibilities with improving skills – such as the responsibility to address problem animal control within the village.
- significant benefits are produced;
- benefits are distributed and recognized (e.g. at the household level);
- benefits are linked to conservation of the resource; and
- the CBNRM programme becomes recognized as a permanent rather than a passing project.

A VISION OF THE CBNRM PROGRAMME

CBNRM looks to create self-sustaining and self-reliant management of resources within communities. The elements of the vision include the following:

From their natural resources CBOs will generate jobs, revenues, cash dividends, shares, equity, and additional “spin-off” enterprise activities. Additionally, communities will perceive that their increasing control and decision-making powers over their natural resources are benefits in themselves. These benefits will spread widely through the community and help to raise the standard of living.

CBOs will reinvest some of their benefits in monitoring the conditions of their resources, in regulating sustainable use and in undertaking (within their means) conservation measures upon which their benefits depend. The range of natural resources being actively managed will expand as:

- new opportunities are identified;
- revenues are reinvested;
- business management capacities are strengthened;

The CBNRM programme will work in new partnerships:

- Government agencies and CBOs will collaborate in the conservation of natural resources, including collecting, recording and analysing data and then feeding that information to users;
- Local authorities, extension services and NGOs provide facilitation, support and training for CBOs;
- The private sector continues to work with CBOs in enterprise development, sometimes as invited joint venture partners and sometimes as paid providers of legal services, marketing and feasibility studies, resource management planning, business planning and training;

A CBO association will:

- represent CBOs to government for the development of supporting policy, legislation and services, help to organise the provision of expertise and services to CBOs.

ANNEX 3: FIVE MANAGEMENT OPTIONS FOR P&P.A.

ANNEX 4: LIST OF PEOPLE INTERVIEWED