

**LEGAL UNCERTAINTY AND LAND DISPUTES IN THE PERI-URBAN
AREAS OF MOZAMBIQUE: LAND MARKETS IN TRANSITION**



**LAND
TENURE
CENTER**

An Institute for Research and Education
on Social Structure, Rural Institutions,
Resource Use and Development

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by

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GLOSSARY OF TERMS

APIE. Government agency in charge of renting residential properties nationalized at independence.

Administrador do Distrito (do Posto). The District Administrator. The highest authority at the district level. Maputo is divided into eight administrative districts, each having its own District Administrator.

Banco Popular de Desenvolvimento. The Peoples Development Bank.

Bairro. Neighborhood. The geographic/political division below the district level. Each of the 8 urban districts in Maputo has over 10 separate *bairros*. Each *bairro*, in turn, may be subdivided into as many as 70 *quarteirões* or blocks.

Caixa de Crédito. One of the now-defunct financial lending institutions.

Casa Agrária. The office housing the extension agents of the *Gabinete das Zonas Verdes*. There are 4 *Casa Agrárias* in Maputo, one in each of districts 4-7, which provide extension services in the districts. Agricultural inputs are also sold. *Casa Agrárias* are found outside of Maputo as well, but are administered by the Ministry of Agriculture.

Chefe do Quarteirão. The political leader responsible for a single block subdivision within a *bairro*. His or her immediate superior is the *Grupo Dinamizador*.

Chefe das terras. Head of lands. This is a position at the block level responsible for ensuring that the occupation of land and housing conforms with the law. The *Chefe* cannot grant title. S/he may be involved in resolving residential disputes but rarely agricultural disputes.

Colono. The Portuguese farmers that were granted land concessions by the Portuguese government in the colonial era.

Comissão de habitação. An ad-hoc committee formed at the block level to treat residential disputes.

Concelho Executivo. Executive Council. The political/administrative authority at the municipality level. Officials within the Executive Council are all FRELIMO party members. The *Direcção de Construção e Urbanização* within the Executive Council is responsible for land-use zoning and titling.

Conto (informal). One thousand meticals (2.2 contos=\$1 U.S. in December 1991).

Declaração. Declaration, formal accusation.

Decreto Lei. Term for a law.

Deslocados. War refugees.

Dinageca. The Cadastral Office of the Ministry of Agriculture

Direcção de Construção e Urbanização (DCU). Sometimes referred to as the *Concelho Executivo*, it is the office within the Executive Council responsible for land-use zoning and titling of both residential and agricultural lands within the city of Maputo.

Direcção Distrital de Agricultura. District office of the Ministry of Agriculture. Has no jurisdiction within the city of Maputo.

Direcção Provincial de Agricultura. Provincial office of the Ministry of Agriculture. The administrative post connecting each rural district to the Ministry of Agriculture.

Estrutura de base. Base organization, usually referring to the *Grupo Dinamizador*.

Estrutura local. Same as the *Grupo Dinamizador*.

Forças de Defesa e Segurança. National Defense and Security Forces, FRELIMO.

Gabinete das Zonas Verdes. Green Zones Office. An institution created in 1980 to promote the organization and increased efficiency of agricultural production within the green zones of the city of Maputo.

Governo da Província. Provincial government.

Grupo Dinamizador. Political/administrative institution at the *bairro* level responsible to the Urban District Administration, and through this agency to the City Council. It is composed of a full-time Secretary, who directs the *Grupo Dinamizador*, a full-time assistant for administration called a *Permanente*, and several voluntary *responsaveis* who direct a variety of social programs, including security, women's affairs, health, housing, and farm extension. There is also a *Tribunal Popular* or local court, which is part of the *Grupo Dinamizador* (see Jenkins 1991: 128). Its role and function has inherent contradictions: it is supposed to be a forceful and critical representative of popular concerns, yet it may be required to represent unpopular state initiatives, as the lowest tier of the state structure (see Pinsky 1985: 301).

Guevas. Marketing intermediaries who are predominantly women. *Guevas* buy agricultural produce (principally lettuce and kale) directly at plot level or farm-gate. Often they cut the produce themselves, then take it to the market where they either deliver it to their employer or sell it themselves.

Lei de Terras. The land law in the latest Constitution.

Machamba. Farm or agricultural plot.

Machambeira. Farmer or peasant.

Materiais duraveis. Durable housing materials, usually cement or wood.

Materiais ligeiros. Non-durable housing material, usually reed and zinc strips. The distinction between durable and non-durable materials is important as the permanency of materials used in construction depends, partly, on the nature of occupation rights held.

Palhotas. Traditional straw or reed house or building.

Posto Administrativo. The building in which the offices of the *Administrador do Distrito* are housed.

Quinta. A demarcated plot, usually larger than 0.5 hectare, in the peri-urban area. These estates were primarily owned by Portuguese settlers before independence.

Quintaleiros. Owners of the *quintas*.

Regulo. Traditional, pre-independence authority serving as the link between the colonial government and the local population. In the peri-urban areas their authority was greatly diminished if not replaced by the *Grupo Dinamizadores*.

Requerimento. Formal petition or request form.

Secretario-Adjunto. Acting Secretary. The individual who replaces the secretary of the *Grupo Dinamizador* when s/he is absent.

Zonas Verdes. Areas of agricultural production within the limits of Maputo city.

EXECUTIVE SUMMARY

(1) Immediately following independence in the late 1970s, demand for arable land in the Green Zones of Maputo came mainly from urban workers or ex-farm laborers within the city. Several factors helped to sharply increase land pressures in the 1980s, and contributed to new groups of people from outside Maputo seeking land. These factors, including (1) closure of the South African mines to Mozambican laborers, (2) the droughts and a severe drop in agricultural exports, (3) the "open-arms" policy of the government following independence, and (4) the civil war of the past fifteen years, led to massive migrations into Maputo of people seeking employment, land, and security.

(2) The Government of Mozambique is considering land tenure and constitutional reforms to improve its land policy. This research sought to identify dispute causes and de facto processes of dispute resolution as one basis for gauging inadequacies in the current law and system of state land administration. A second study by Roth, Boucher and Francisco (1992) examines in more detail land market processes, transactions costs, and the effects of legal uncertainty on land transfers, investment incentives, and wealth. Both studies combined illustrate the economic inefficiencies being caused by lack of a coherent, consistent and enforceable land policy conducive to individual land ownership and rights of transfer. As property institutions define the legal environment within which economic transactions take place, the effects of legal uncertainty--tenure insecurity, high transactions costs and weak investment incentives--will until addressed continue to retard the pace of Mozambique's economic development.

(3) According to the Mozambican Constitution adopted at independence, all land is part of the "public domain," meaning that citizens acting either individually or as groups cannot sell, cede, rent, mortgage, or pawn land. The state grants title to land in the public domain, conferring use rights for 50 years. However, the leasees must make rational land use that conforms to an authorized development plan, or else the leaseholder's rights are revoked.

(4) A number of institutions are involved in land administration and dispute resolution. The *Grupo Dinamizador* (GD), the administrative structure at the *bairro* level, is involved with the administration of development projects, land transfers, property inheritance, building construction and occupation, land allocation, land evictions, and resettlement. At the municipal level, the Executive Council (*Concelho Executivo*) or CE is responsible for land-use zoning and titling of both residential and agricultural lands. Within the CE, the Directorate of Construction and Urbanization (*Direcção de Construção e Urbanização*) (DCU) is charged with implementing zoning and titling activities.

(5) Questions on land conflicts were purposefully incorporated in a previous household baseline survey of the peri-urban areas conducted by Ohio State University (n=320), and a previous household survey of land markets in the green zones (n=126) by the Land Tenure Center to identify households having experienced a land dispute(s) in recent years. The dispute cases identified

(40 from the baseline and 15 from the land market survey) were categorized by district, type, and parties involved. A sub-sample was then drawn that included representation in all eight districts in Maputo, all types of disputes, and all major disputant categories. The smaller dispute sample comprised 26 cases--all of which are analyzed in this paper.

(6) Semi-structured interviews were administered to each household in the sample in the native language of the informant. At a minimum, the respondent was asked for details about the dates and the nature of the dispute, whether and how the dispute was resolved, parties involved, compensation received, and expenses incurred. The informant was also asked to provide his or her general opinions on the source and nature of land conflicts in the neighborhood, the effectiveness and role of various institutions in resolving disputes, the extent to which the war and refugees are causing land conflicts, and policies to lessen the number of disputes and dispute costs.

(7) Semi-structured interviews were also held with nine local leaders of the *Grupo Dinamizador* regarding land conflicts in their area. The disputes from the disputant sample were not specifically mentioned to the leaders, but some leaders nonetheless alluded to the same disputes. In general, the leaders provided the social, economic, legal, and political context associated with land problems in their respective *bairros*.

(8) Results of the study indicate that land disputes in Maputo are partly caused by people flowing into the city, haphazardly occupying previously demarcated parcels. Nationalization of land was intended to improve living conditions; however most informants in the survey blamed land nationalization policies for their problems, and many land disputes reflect the lack of clarity, inconsistency and unenforceability of the land law.

(9) Disputants. Most of the disputant cases (18) involved at least one party who did not reside within the community of the disputed land, including heirs or former landowners of nationalized property, former landowners who abandoned their property, or Portuguese residents who left the country. Most cases (17) involved at least one elite disputant with wealth or political connections; this disputant often sought to acquire land for commercial activities through encroachment or through assistance by the authorities. In just over half of the cases (16), male landholders alone were involved. Women who were involved in disputes tended to be widows or uneducated landholders who could not effectively defend their rights. Finally, most cases (17) involved single parties (landholders) representing a land interest; occasionally an extended family acted collectively in contesting a land claim.

(10) Dispute Causes. Most cases (20) involved a conflict over the use rights of a residential plot. Settlement by refugees has caused severe shortages of land available for housing. The land under dispute often (14 cases) involved multiple plots held by one party and sometimes multiple parties, the latter usually threatened by development interests. In 9 cases, a contributing factor to the dispute was destruction of property, such as the pulling out of fruit and shade trees, or damages rendered to a house or

building. Disputes over land inheritance were involved in only 5 cases, whereas the majority of cases (21) involved problems with land purchase, acquisition, and occupation.

(11) Dispute processes. Most disputants (20) did not confront their opponents violently as a way of making their grievances known or receiving redress. In nearly all cases (24), a third party was involved, assisting in granting land, mediating disputes, defining or revoking land rights, appealing to higher authorities, or hearing complaints. In only 2 cases did the disputants manage to work out a settlement without third party intervention.

(12) Both sets of informants emphasized the impact of the war in creating the large population of refugees seeking land and housing. This in-migration has generated land disputes through various processes--refugees moving into small dwellings with their relatives; refugees squatting on "unused" but "claimed" land; authorities granting plots to refugees; or former landholders returning to reclaim their holdings. Land nationalization was also mentioned by both landholders and leaders as contributing to many land disputes:

- ▶ nationalization created a situation of latent multiple claims, in which ex-owners are seeking to reclaim nationalized properties, while some tenants living in the houses since independence have made substantial investments in the property. Ex-owners are reluctant to let tenants make improvements for fear of increasing property values, or the difficulty of dislodging tenants once investments are made.
- ▶ socialist policies aimed at providing land for everyone, have created uncertainty in land rights. Those creating the disputes at times demonstrated a basic disregard for the felt individual rights of others.
- ▶ under the widespread situation of land purchases and rentals in Maputo, the land law is out-dated and an ineffective basis for deciding disputes over transfers in the courts, when the law makes such transfers illegal.

(13) Local leaders complained about government officials' lack of communication and cooperation with them. Landholders complained about the intervention of various government officials or agencies in land administration, in particular:

- ▶ the government's policy of expropriating land from citizens for development projects or commercial enterprises.
- ▶ the corruption of many officials, including favoritism to friends in land allocation or in settling disputes, encroaching upon land for personal benefit, or taking money for rendering land-related decisions.
- ▶ officials lack clear understanding of their professional responsibilities, or administer land inefficiently, using legal and administrative confusion to their advantage.

(14) Regarding land affairs, leaders complained that citizens built dwellings, squatted, or sold land without their permission. The leaders were concerned that land occupants, especially women or those without influence, could be evicted without warning. Landholders complained of other citizens, especially powerful community members, encroaching upon their land without their consent. Leaders thought that the major citizen-initiated disputes were interferences by "ex-landlords" (those who owned land before land nationalization). Landholders protested that their land rights were unclear, that they could not obtain property titles, and that commercial interests were often given priority over interests of subsistence farming. They also complained of leaders selling land through bribery and corruption.

(15) Both landholders and leaders accused each other of deception in land transactions. Landholders accused leaders of using false reasons for evicting someone in order to give land to someone else. However, leaders accused some citizens of obtaining land under false pretenses to give the land to family members, or to sell it, and subverting the leaders' authority and the cohesiveness of the community by their illegal land transactions.

(16) When considered as a whole, the most striking difference between the disputants' and leaders' accounts is the attribution of responsibility for disputes: the landholders tended to blame the local authorities for land conflict, whereas the local authorities tended to blame the DCU for taking actions without consulting them. As expected, virtually no one took responsibility for failure of the institutions to which they belonged.

(17) One consequence of poor communications is that the weakest, most needy segment of the population is victimized--the war refugees. They are the people who most often need assistance in recovering from war-related losses, and yet they are the ones who are most likely to receive very fragile rights to land. The GD may grant refugees land rights in overpopulated, reserved, or disputed areas--areas that will most likely be reassigned or reclaimed. In some cases, people lost land rights when entire plots were expropriated and granted to land-needy citizens or land-hungry elites. In other cases, their land plots were reduced in size when land was reallocated to others.

(18) The informants frequently appeared confused about how to formally transact land rights. In several cases, landholders paid for land that a seller did not own or that a community leader had no right to sell privately. In other cases, they approached numerous institutions in their efforts to formalize their rights; unfortunately, they were referred from one agency to another--all of which denied jurisdiction over, responsibility for, or knowledge about the procedures for processing the land claims. Officials sometimes arrogantly breached land rights, and at other times timidly avoided decisions so that they became immobilized and ineffective.

(19) But the most fundamental issue concerning land rights came into play when such rights were multi-layered: in many cases no one knew exactly who had the strongest claim to land--especially when such rights equally competed or were generally unclear. Most commonly, rights of current tenants came into

question when ex-landlords wanted to reclaim nationalized holdings, but the current tenants wanted to retain those same holdings upon which they had made costly infrastructural improvements. At other times rights competed because authorities had allocated rights to the same plot of land to different people.

(20) All informants believed that an effective land policy is essential if the costs of land disputes are to be reduced. Land disputes in this sample incurred considerable transaction costs as scarce state and local resources had to be diverted to institutional processing of such disputes. From an individual perspective, the land disputes incurred undesirable transaction costs--lost time and money--as well as outcome costs--ruptured relationships within communities and widespread distrust in the legal system.

(21) These findings point to several measures which can be taken to reduce the number of conflicts over land, and to more effectively settle land disputes when they occur.

- ▶ Plan land development programs under the assumption that many war refugees are permanently settled in Maputo and will not relocate to rural areas following the war.
- ▶ Define and delineate the responsibilities of all government agencies responsible for land affairs.
- ▶ Clarify the roles of local authorities and strengthen local institutions.
- ▶ Assign a task force with the responsibility for reforming or clarifying land laws that have in practice subverted justice and promoted inequality: laws dealing with land "ownership", transactions, development, expropriation, and compensation, etc. Also, study possibilities for granting land titles--the major solution cited for fragile and ambiguous land rights by virtually all informants. Finally, commit resources to land surveying and registration programs, and to training programs, for example, in surveying methods.
- ▶ Delegate responsibility for processing various land disputes. Few informants--leaders or landholders--know how the system should function. Consequently, it functions slowly and ineffectively. More research needs to be done on how the current land dispute management system operates before interventions can be devised to improve upon this system.
- ▶ Inform people through citizen groups (e.g. producer associations and cooperatives) of their rights in land, and the procedures for protecting these rights (i.e. required "paperwork"). Most landholders complained that they did not know their legal rights, and frequently believes that the legal system protected the rights of the wealthiest or those most clever in manipulating the system.

RESUMO SUMÁRIO

(1) Imediatamente após a independência no final da década setenta, a procura de terra cultivável nas Zonas Verdes de Maputo surgiu principalmente dos trabalhadores urbanos e dos das quintas coloniais. Foram vários os fatores que contribuíram para o aumento da pressão exercida sobre os terrenos suburbanos na década oitenta, tais como: (a) o encerramento das minas sul-africanas à mão-de-obra moçambicana, (b) as secas acompanhadas de uma caída brusca das exportações agrícolas, (c) a política oficial de "Braços Abertos" seguida pelo governo, e (d) a guerra civil que nos últimos quinze anos provocou migrações massivas em direcção à cidade de Maputo de pessoas em busca de segurança, emprego e terra.

(2) O governo Moçambicano está atualmente a considerar reformas constitucionais e do sistema de posse da terra. A atual pesquisa pretendeu identificar as causas dos conflitos sobre as terras suburbanas e os processos para os resolver como uma base para avaliar as lacunas da lei em vigor e do sistema de administração estatal da terra. Um segundo estudo por Roth, Boucher, e Francisco (1992), foi levado a cabo para avaliar com mais detalhe os seguintes aspetos: (a) as dinâmicas do mercado das terras suburbanas, (b) os custos de transação, e (c) as repercussões que tem a incerteza legal sobre o traspasse da terra, os incentivos ao investimento, e a riqueza. Juntos, os dois estudos mostram a ineficiência provocada pela falta de uma política de terras coerente, consistente, e com carácter de obrigatoriedade no que concerne a posse individual e os direitos de traspasse. Visto que o ambiente legal no qual ocorrem as transações económicas é definido pelas instituições da propriedade, os efeitos da incerteza legal - insegurança sobre a posse de terra, os altos custos de transação, e os fracos incentivos para investir - irá retardar o ritmo do desenvolvimento económico moçambicano.

(3) Segundo a Constituição Moçambicana adoptada com a independência, toda a terra faz parte do "Património Público". Em consequência, não se permite que cidadãos, agindo como indivíduos ou em grupo, comprem, cedam, arrendem, hipotequem, ou penhorem a terra. O estado pode adjudicar um título de propriedade da terra, concedendo direitos de aproveitamento por um período de 50 anos. Entretanto, o concessionário é obrigado a aproveitar racionalmente a terra de acordo com um plan de utilização autorizado; contra o qual são-lhe retirados os direitos de aproveitamento e uso.

(4) Várias instituições estão envolvidas na administração da terra e na resolução dos conflitos sobre ela. Ao nível do bairro, o Grupo Dinamizador (GD) está envolvido nos projetos de desenvolvimento, traspasses, heranças, construção e ocupação de casas e outras construções, designação de terra, e expulsão e realocamento de pessoas. Ao nível do município, o Concelho Executivo (CE) é o encarregado do uso e aproveitamento da terra e da atribuição de títulos para fins residenciais ou agrícolas. Dentro do CE, a Direcção de Construção e Urbanização (DCU) é a encarregada pela implementação das atividades descritas a este nível.

(5) Perguntas sobre os conflitos da terra eram propositadamente introduzidas num inquérito de base orientado pelo Ohio State University a 320 famílias da zona suburbana de Maputo. Um questionário sobre mercados de

terras, administrado pelo Land Tenure Center da Universidade de Wisconsin a 126 famílias da zona suburbana para identificar famílias que tiveram conflitos de terras nos últimos anos foi também levado a cabo. Uma vez identificados, os conflitos (40 pelo O.S.U e 15 pelo LTC) foram classificados por distrito, tipo, e partes envolvidas. Escolheu-se depois uma subamostra que incluiu representações nos oito distritos urbanos, todos os tipos de disputa, e as principais categorias de participantes no conflito. A mais pequena amostra incluiu 26 casos que são todos analisados neste trabalho.

(6) Levaram-se a cabo entrevistas semi-estruturadas com cada família da amostra, utilizando a língua materna dos entrevistados. Foram feitas perguntas sobre: (a) a data e natureza do conflito, (b) se foi resolvido o conflito e de que maneira, (c) partes envolvidas, (d) indenização recebida, e (d) gastos incorridos. Na segunda parte da entrevista tocaram-se temas gerais e as impressões do entrevistado sobre (a) origens e natureza dos conflitos no bairro (b) eficácia e papel das diversas instituições na resolução dos conflitos, (c) papel da guerra e dos deslocados nos conflitos de terra, e (d) potenciais políticas que poderiam reduzir a quantidade e custos dos conflitos.

(7) Foram também feitas entrevistas aos responsáveis dos G.D. de nove bairros suburbanos; já que os conflitos eram nos seus respectivos bairros. Ainda que não lhes fosse mencionado a existência de conflitos da outra amostra (dos 26 disputadores) por vezes eles os mencionaram. Em geral, eles reportaram o contexto social, económico, legal, e político que acompanha os problemas da terra nos seus próprios bairros.

(8) Os resultados da pesquisa indicam que os conflitos de terra são gerados, em parte, pelo fluxo de migrantes e deslocados que ocupam espontaneamente terrenos residenciais e agrícolas, na maior parte dos casos, sem prévia autorização ou control organizado. Ainda que a nacionalização da terra visasse melhorar as condições do povo, a maior parte dos entrevistados acusam as políticas de nacionalização da terra de serem a causa dos seus problemas, e muitos dos conflitos refleitam a falta de clareza, a incoerência, e a impossibilidade de fazer cumprir com a lei de terra.

(9) Disputadores. Na maior parte dos casos (18) estava envolvida uma parte que não reside no bairro do conflito. Nestes incluem-se herdeiros ou ex-proprietários dos terrenos nacionalizados, que ainda moram em Maputo, e ex-proprietários que abandonaram os seus terrenos depois da independência e fugiram do país. Na maioria dos casos (17) participou pelo menos um disputador pertencente a elite política ou com riqueza. Estas elites freqüentemente procuraram adquirir terra para fins comerciais através da usurpação ou da ajuda das autoridades. Em metade dos conflitos (16), os envolvidos eram homens. Quando mulheres, eram viúvas ou proprietárias analfabetas com fraca capacidade de defenderem os seus direitos. Finalmente, a maior parte dos disputadores (17), eram indivíduos, e em alguns casos a família alargada participou colectivamente no conflito.

(10) Causas dos Conflitos. Na maior parte das disputas (20) o conflito centra-se sobre os direitos de aproveitamento dum lote residencial. A

construção de casas pela massa de deslocados tem provocado uma escassez aguda de terra residencial disponível. A terra em disputa freqüentemente abarca múltiplos lotes dum só indivíduo e, às vezes, de múltiplos indivíduos. Quando se tratasse de múltiplos indivíduos, normalmente era uma reacção de defesa contra uma parte que pretendia iniciar um projeto de desenvolvimento. Em 9 dos casos a destruição de componentes da propriedade contribuía para intensificar o conflito, como seja o arrancar de arvores de fruta, ou danos causados à casa ou outra construção. Em muitos dos conflitos (21) tratava-se de problemas de compra, aquisição ou ocupação. Somente em 5 se tratava de herança da terra.

(11) Processamento dos Conflitos. A maior parte dos disputadores não usou violência como instrumento para fazer valer as suas posições. Em 24 dos 26 casos esteve envolvida uma terceira parte; seja na concessão da terra, na mediação do conflito, na definição ou revogação de direitos sobre a terra, ou no apelo do caso às autoridades superiores. Somente em dois casos foi possível encontrar uma solução sem intervenção de terceiros.

(12) Os dois tipos de informadores salientaram o impacto que teve a guerra na criação duma população numerosa que anda a procura de alojamento. Esta migração já gerou conflitos da terra através de distintos processos: a recepção dos deslocados pelos seus familiares em casas sem espaço suficiente, a concessão de terrenos residenciais aos deslocados pelas autoridades, e os ex-proprietários voltando para recuperar as suas propriedades. A nacionalização da terra também foi uma das causas contribuintes para os conflitos repetetivamente mencionadas por ambos grupos de informadores.

- ▶ a nacionalização criou uma situação de reivindicações múltiplas latentes, nas quais os ex-proprietários procuram recuperar as propriedades nacionalizadas, enquanto alguns dos inquilinos actuais já realizaram investimentos substanciais na propriedade. Os ex-proprietários não querem permitir que os inquilinos realizem os melhoramentos com medo de que aumentem o valor da propriedade e da dificuldade em expulsar o inquilino uma vez feitos os investimentos.
- ▶ as políticas socialistas cuja intenção foi abrir acesso à terra para todos, provocaram a incerteza sobre os direitos de aproveitamento e da posse da terra. Alguns indivíduos que provocaram as disputas demonstraram uma falta básica de respeito pelos direitos individuais dos outros.
- ▶ dada a existência generalizada de transações de terras - tanto de compra/venda como de aluguer - é evidente que a lei de terras é uma base antiquada e ineficiente para a resolução nos tribunais de conflitos sobre transpasse da terras, visto que a mesma lei define estas transações como ilegais.

(13) Os responsáveis das estruturas locais se queixaram da falta de comunicação e cooperação da parte dos funcionários do governo - especialmente os do Conselho Executivo. Os proprietários se queixaram da intervenção dos funcionários ou agências do governo na administração de terras, em particular:

- ▶ a política de expropriação das terras dos cidadãos para fins dos chamados "projetos de desenvolvimento" ou atividades comerciais.
- ▶ a corrupção de muitos funcionários, incluindo: o favoritismo aos amigos na distribuição da terra ou na resolução dos conflitos, a usurpação da terra para benefício pessoal, e a aceitação de dinheiro em troca da resolução favorável duma disputa.
- ▶ os funcionários carecem dum entendimento claro das suas responsabilidades profissionais. Eles também administram a terra ineficientemente, aproveitando-se da confusão administrativa e legal.

(14) Os responsáveis das estruturas locais queixaram-se de que os habitantes dos bairros fizeram construções, ocuparam terrenos, ou venderam as terras sem terem obtido a autorização necessária. Estes líderes demonstraram-se preocupados de que os habitantes - especialmente viúvas e outras sem influência - podem ser desalojados sem aviso nenhum. Os proprietários queixaram-se de outros indivíduos - em particular outros membros poderosos do bairro - que usurparam o seu terreno. Os responsáveis acharam que os principais conflitos iniciados pelos cidadãos eram as interferências pelos "ex-proprietários" (os proprietários no tempo colonial que perderam propriedades depois das nacionalizações). Os proprietários atuais queixaram-se de que os seus direitos de aproveitamento e posse ficam muito ambiguos, que não podem obter o título de propriedade, e que freqüentemente se ve que os interesses comerciais recebem prioridade com prejuízo dos interesses da produção agrícola de subsistência. Eles também se queixaram de que os responsáveis das estruturas locais "vendem" a terra: engajando-se assim em actos de corrupção.

(15) Ambos, proprietários atuais e os responsáveis locais, se acusaram mutuamente de enganos nas transações de terra. Os proprietários acusaram os responsáveis de terem utilizado motivos falsos para expulsar a indivíduos para conceder a terra a outros. Entretanto, os responsáveis acusaram a alguns indivíduos de terem obtido terrenos com motivos inventados ou para entregá-los a parentes ou para vendê-los. Atrvéz destas transações ilegais, segundo os responsáveis, estes indivíduos subvertem a sua autorização e a coesão da comunidade.

(16) Quando se considera as entrevistas na sua totalidade, a diferença mais notável entre as versões dos disputadores e dos responsáveis é a atribuição da responsabilidade pelos conflitos: os proprietários tendem a responsabilizar as autoridades locais. Entretanto, as autoridades locais põem a culpa na DCU por atuar sem lhes-consultar. Como é de esperar, ninguém assumiu responsabilidade pelo fracasso da sua instituição.

(17) Uma das conseqüências da fraca comunicação entre as autoridades locais (ao nível do bairro) e as do governo é que os sectores mais débeos e necessitados - os deslocados - acabam sendo vitimados. Eles teem a maior necessidade de assistência para se-recomporem das perdas da guerra, porém são eles - os deslocados - quem mais freqüentemente recebem direitos de posse da terra sumamente fracos. O GD tende a conceder aos deslocados direitos a um

pedaço de terra num lugar sobrepovoado, reservado, ou que esteja sob conflito - ou seja terra que tem boa possibilidade de ser redesignada ou recuperada. Em alguns casos a parcela inteira e em outros uma parte da parcela foi expropriada e concedida as vezes a cidadãos realmente necessitados de terra e noutras a elites com interesse em expandir-se.

(18) Os informadores freqüentemente mostraram-se confusos sobre a maneira de formalmente transacionar os direitos da terra. Em vários casos os proprietários compraram terra que o vendedor nem possuía ou que um dos responsáveis do bairro não teve o direito de vender. Em outros casos, os informadores dirigiram-se a distintas instituições para formalizar os seus direitos; lamentavelmente foram mandados de uma para outra instituição - todas elas negando ter jurisdição, responsabilidade, ou conhecimento sobre os procedimentos para processar a reivindicação da terra. As vezes os funcionários violaram arrogantemente os direitos e em outros casos tímidamente se-esquivaram de tomar uma decisão - tornando-se ineficazes.

(19) Mas a questão fundamental sobre o direito da terra coloca-se quando os tais direitos estão a múltiplos níveis. Em muitos casos ninguém sabia exactamente quem tem o direito ascendente sobre a terra, especialmente quando tais direitos são concorrentes ou não óbvios. Mais comumente os direitos dos actuais ocupantes foram ameaçadas quando ex-proprietários quisessem recuperar as propriedades nacionalizadas. Mas os inquilinos exigiram a observância dos seus direitos dados os investimentos que tinham realizado nas propriedades. Noutros casos os direitos das diversas partes colidiam porque as autoridades tinham concedido os direitos da mesma parcela a vários indivíduos.

(20) Todos os informadores acharam que uma política da terra eficiente é precisa para reduzir os custos dos conflitos da terra. Os conflitos de terra nesta amostra provocaram altos custos de transação visto que escassos recursos estatais e locais foram desviados para processar os conflitos. Numa perspectiva individual, os conflitos provocaram custos não desejados - tanto do tempo e dinheiro perdido como das relações quebradas dentro das comunidades e a falta generalizada de confiança no sistema jurídico.

(21) Estes resultados indicam que várias medidas podem-se tomar para reduzir o número de conflitos da terra, e para resolver mais eficientemente os conflitos quando surgem.

- ▶ Desenhar os programas de desenvolvimento da terra considerando que muitos dos deslocados vão ficar permanentemente na cidade de Maputo e não voltarão aos seus lugares de origem no campo, quando a paz chegar.
- ▶ Definir e delinear claramente as responsabilidades de todas as instituições do governo que estão envolvidas em assuntos da terra.
- ▶ Esclarecer o papel das autoridades locais e fortalecer as instituições locais.

- ▶ Criar uma comissão especial cuja responsabilidade seja reformar ou esclarecer as leis da terra que, na prática, têm subvertido a justiça e promovido a desigualdade: tais como os artigos que tratam a "posse", a transação, o desenvolvimento, a expropriação, e a indenização da terra. Em adição, deve se estudar as possibilidades de mudar ou melhorar o processo de concessão de títulos da terra - a solução principal para fortalecer os fracos e ambiguos direitos da posse da terra sugerida por praticamente todos os informadores. Finalmente, dedicar recursos para programas de demarcação e registo, e para programas de capacitação em áreas tais como métodos de levantamentos topográficos.
- ▶ Definir e designar as responsabilidades do processamento dos vários tipos de conflitos de terra. Eram poucos os informadores que conheciam a maneira em que deve funcionar o sistema. Como consequência, o funcionamento do sistema é sumamente lento e ineficaz. Precisa-se de pesquisa adicional sobre o funcionamento do sistema atual de manejo dos conflitos da terra antes de desenhar intervenções para melhorar este sistema.
- ▶ Informar o povo através dos grupos de base já organizados - tais como as associações de produtores e as cooperativas - sobre a natureza dos direitos individuais sobre a terra e sobre os procedimentos existentes para proteger tais direitos (por exemplo os diversos tipos de requerimentos e a burocracia a que se tem que submeter). A maior parte dos proprietários reclamaram de que nem conheciam os seus direitos: acharam que o sistema jurídico protegia os direitos dos mais ricos ou dos que eram mais capazes em manipular o sistema.

- 1 -

**LEGAL UNCERTAINTY AND LAND DISPUTES IN THE PERI-URBAN
AREAS OF MOZAMBIQUE: LAND MARKETS IN TRANSITION**

Introduction

In the years following independence in the late 1970s, demand for arable land in the Green Zones of Maputo came mainly from urban workers or ex-agricultural laborers within the city. By the 1980s, however, several factors helped to sharply increase land pressures in the peri-urban zone, and contributed to new groups of people from outside Maputo seeking land. These factors, including (1) closure of the South African mines to Mozambicans, (2) the droughts and a severe drop in agricultural exports, (3) the "open-arms" policy of the government following independence, and (4) the civil war of the past fifteen years, led to massive migrations into Maputo of people seeking employment, land, and security (see Pinsky 1985: 285; and Roth, Boucher and Francisco 1992). These three themes--employment, land, and security--recur in nearly every dispute case and oral land histories compiled in this study. As both the literature and the histories reveal, people flowed into Maputo, haphazardly occupying previously demarcated parcels, and creating a situation of unclear, overlapping, and contradictory land rights--a situation ripe for conflict (see Box 1).

The Government of Mozambique is considering legal changes in its land law and administration of state leasehold property--an enormous challenge given its past socialist history, and the uncertainties created by its current transition to a private market economy. This research sought to identify dispute causes and de facto processes of dispute resolution as one basis for gauging inadequacies in the current law and system of state land administration. A second study by Roth, Boucher and Francisco (1992) examines in more detail land market processes, transactions costs, and the effects of legal uncertainty on land transfers, investment incentives, and wealth. Both studies combined illustrate in vivid terms the economic inefficiencies being caused by lack of a coherent, consistent and enforceable land policy conducive to individual land ownership and rights of transfer. As property institutions define the legal environment within which economic transactions take place, the effects of legal uncertainty--tenure insecurity, high transactions costs and weak incentives for fixed land improvements--will until addressed continue to retard the pace of Mozambique's transition to a market economy.

Overview and Research Methods

Permanent Green Zones

The disputes in the sample tend to be clustered within permanent green zone areas (*Zonas Verdes Permanentes*)--the former Portuguese estates (*quintas*)--which were demarcated and officially registered with the municipality before independence. Within these areas, the land redistribution policy and the semi-formal administrative and legal registration process have resulted in conflicts. Disputes arose when un- or under-utilized *quintas* were turned over to individuals who demonstrated the means to develop them--i.e. enterprising state functionaries, merchants and other residents with either

Box 1:

The Pressures of Urbanization, An Environment Conducive to Land Disputes

"The four largest cities (Maputo, Beira, Nampula, and Quelimane) have modern core areas of office buildings, hotels, and apartment blocks, along with expansive residential areas that were once reserved for the settler population. The rapid growth of these so-called cement cities in the 1960's and early 1970's produced enormous speculative profits for the landowners (or their corporate heirs), the largest of whom had acquired their holdings when the land around the cities was ceded for agricultural purposes. The owners cashed in as the city expanded and the land was converted to urban use; some even sold it back to the municipal government, as when land was acquired for the airport and a second railway station in Lourenço Marques. Despite laws to the contrary, city officials were often financially involved in these deals and the direction of growth was undoubtedly determined in part by personal interest.

Expanding urban development added to the misery of the 75 to 80 percent of the population that lived precariously in the shanty-towns surrounding the cement cities. Since Mozambicans were not permitted to own land, many families were forced to occupy illegally land unsuitable for building or public and private land slated for future development. Some rented tiny plots from the land-owners, and many were subject to periodic flooding or were bull-dozed out of their homes at the whim of speculators and government bureaucrats.

At independence most of the shantytown areas lacked water, sanitation, and community services, despite the start in the early 1970's of a "psychosocial" program, a last-gap attempt to culturally integrate the urban population, and not so coincidentally to develop a more skilled and loyal workforce...

The enormous problem of improving living conditions in the growing shantytowns was made even more difficult by the collapse of local government as the professional and administrative staff abandoned the country. Originally created to serve only the cement city, the "camaras municipais" (city councils) combined inefficiency and corruption with an inability to finance the enormous infrastructural works that were needed to match the level of building activity. The colonial division of local government responsibility further confused the situation. Not considered part of the city, most shantytown areas were under a separate administration, usually the rural district administration..."

Pinsky, Barry. 1985. "Territorial Dilemmas: Changing Urban Life." In: A Difficult Road: The Transition to Socialism in Mozambique (John S. Saul, ed.). New York: Monthly Review Press, pp. 286-7.

capital or political influence. Unfortunately, those people who had spontaneously occupied the *quintas* after independence were evicted. The administrative and legal process of registration and titling also created land conflicts. Disputes arose when land was turned over to persons who had not acquired the necessary documents from the GD which confirmed whether or not a requested parcel was vacant (the acquired land proved to be already occupied). Or, the government (DCU) took back or reallocated the land of concession holders that did not fulfill the development conditions approved at the time the concessions were issued.

Although the registration process only applies to the previously demarcated area, some individuals with money or influence have succeeded in hiring topographers from the DCU, or the cadastral office of the Ministry of Agriculture (DINAGECA), to conduct new land surveys outside the demarcated permanent green zones. These individuals, having acquired an "extra-legal" new demarcation, skip the normal steps in the registration procedure, and thus deal solely with the DCU which grants official concessions. As the interviews in this study illustrate, such actions have given rise to a multiplicity of land conflicts.

Survey Design

Three sub-populations were initially targeted by the study with the objective of developing detailed case histories on the nature and causes of land disputes, dispute resolution processes, perceptions of land problems, and their solutions:

The first sub-population (domain A in Figure 1) includes individuals having experienced a land dispute or conflict sometime in the past 3-10 years (the time frame varies dependent on the sample used). As one of the parties involved in a land dispute, the disputants are well-positioned to provide first-hand knowledge of the land conflict in which they were involved, and of others in the community, albeit with the risk that the reported information is biased in their favor.

The second sub-group--neighborhood leaders involved with land allocations (C)--was aimed at obtaining an "official" perspective of the land conflicts occurring. As intermediaries in allocating land and resolving disputes, the *bairro* leaders usually possess a more intimate knowledge of land problems than higher officials in public administration. Yet, as with group (A), their responses are expected to be biased as well in favor the "party line." Also, as the *Grupo Dinamizadores* and the government are sometimes reported as the principle cause of conflicts by group (A), the responses of *bairro* leaders would naturally be softened to protect their "office" or the Government's involvement.

Members of disputant category B were not interviewed. Although their opinions would have enabled a more balanced picture of the land dispute histories reported by group (A), no attempt was made to do so because of time and budget limitations, the meager amount of address information (of party B) known by party (A), the high percentage of disputes caused by migrants and transients requiring very high search costs to locate, and the high percentage of disputes caused by government for which the disputant could only refer to a "government official" as the party, not his or her name.

Figure 1:

Sampling Frame, Land Conflicts Study

	Disputant Category A	Disputant Category B	Bairro Leaders
	A n=27	B n=0	C n=9
<p>A=First party(ies) reporting having experienced a land dispute in the last 3-10 years, identified from an earlier baseline survey of the peri-urban areas.</p> <p>B=Second party(ies) involved in the land dispute with (A).</p> <p>C=Bairro leaders (Grupo Dinamizadores) responsible for land administration and dispute resolution in selected peri-urban neighborhoods.</p>			

Despite, this limitation, the case histories compiled for categories (A) and (C), when interpreted as a whole, provide remarkably clear insights into the scope and nature of land conflicts in the peri-urban areas, and the effects of these conflicts on productive behavior and equity.

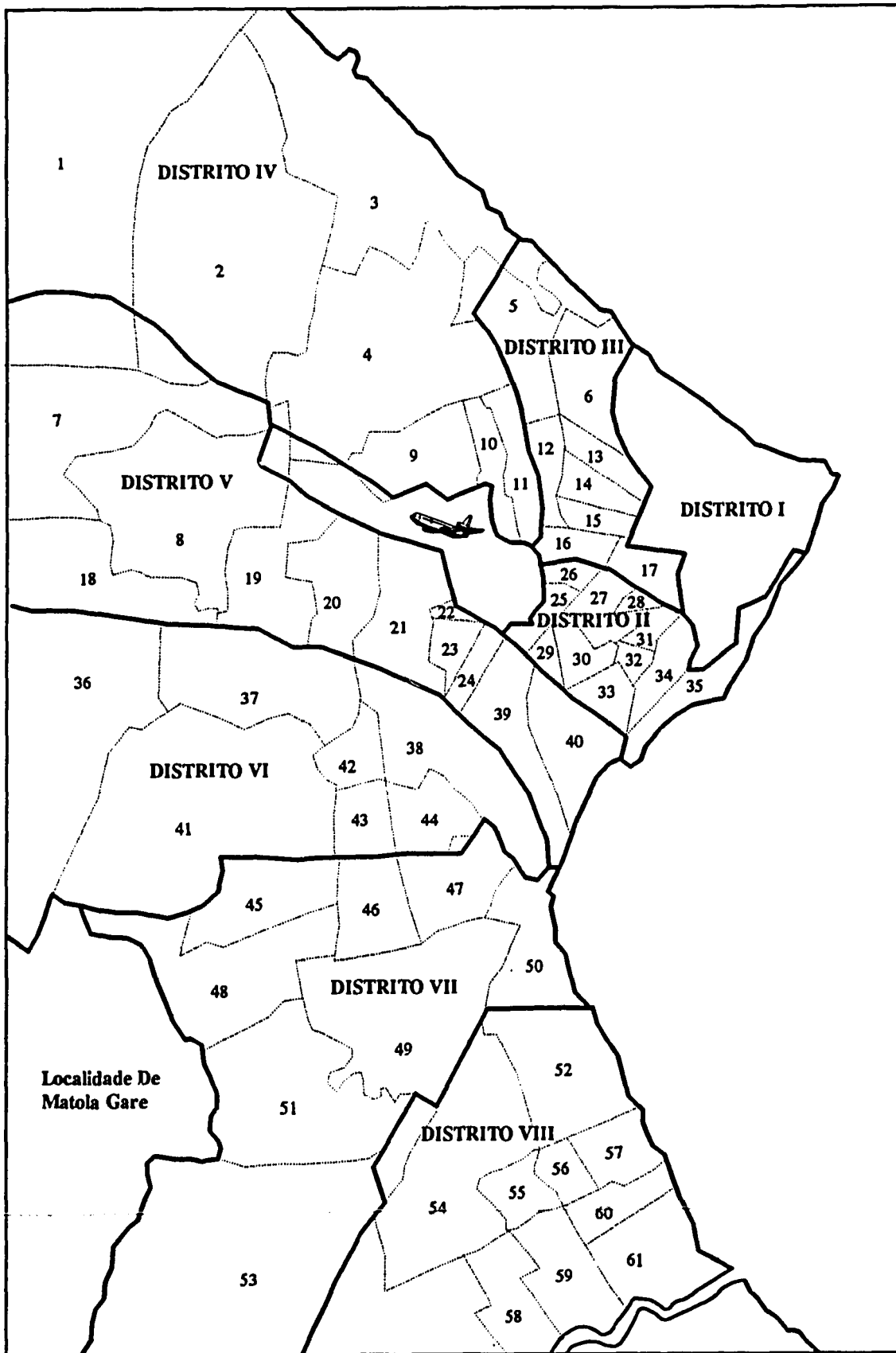
Sampling Frame

Dispute histories for each disputant under (A) and perceptions of land conflicts by bairro leaders under (C) were compiled using a case study format and semi-structured interview techniques.

Respondents in domain (A) were purposefully selected from a random listing of disputants identified by a baseline survey of households administered in the peri-urban area of Maputo, the research design for which is included in Annex A. The baseline survey was administered to 330 households by researchers from Ohio State University with survey design assistance from the Land Tenure Center (LTC) of the University of Wisconsin. One question purposefully included in the survey inquired whether any household member had experienced a land dispute in the last 3 years, and with whom--private farmer (*agricultor privado*), producer cooperative (*cooperativa de produção*), the local government administration (*grupo dinamizador* or *administrador*), someone involved in house construction (*alguém que construía sua casa*), or others. Of the 320 respondents, 40 mentioned having experienced a land dispute. Of these 40 cases, 21 were selected as case studies for further analysis based on criteria mentioned shortly.

In addition to the household baseline survey, researchers from LTC conducted a land market study involving a statistical survey of 126 households in the peri-urban green zones of Districts IV and VI (see Figure 2 for the administrative boundaries of districts and bairros, and Figure 3 for a land use

Maputo, Mozambique: 1993



Bairros:

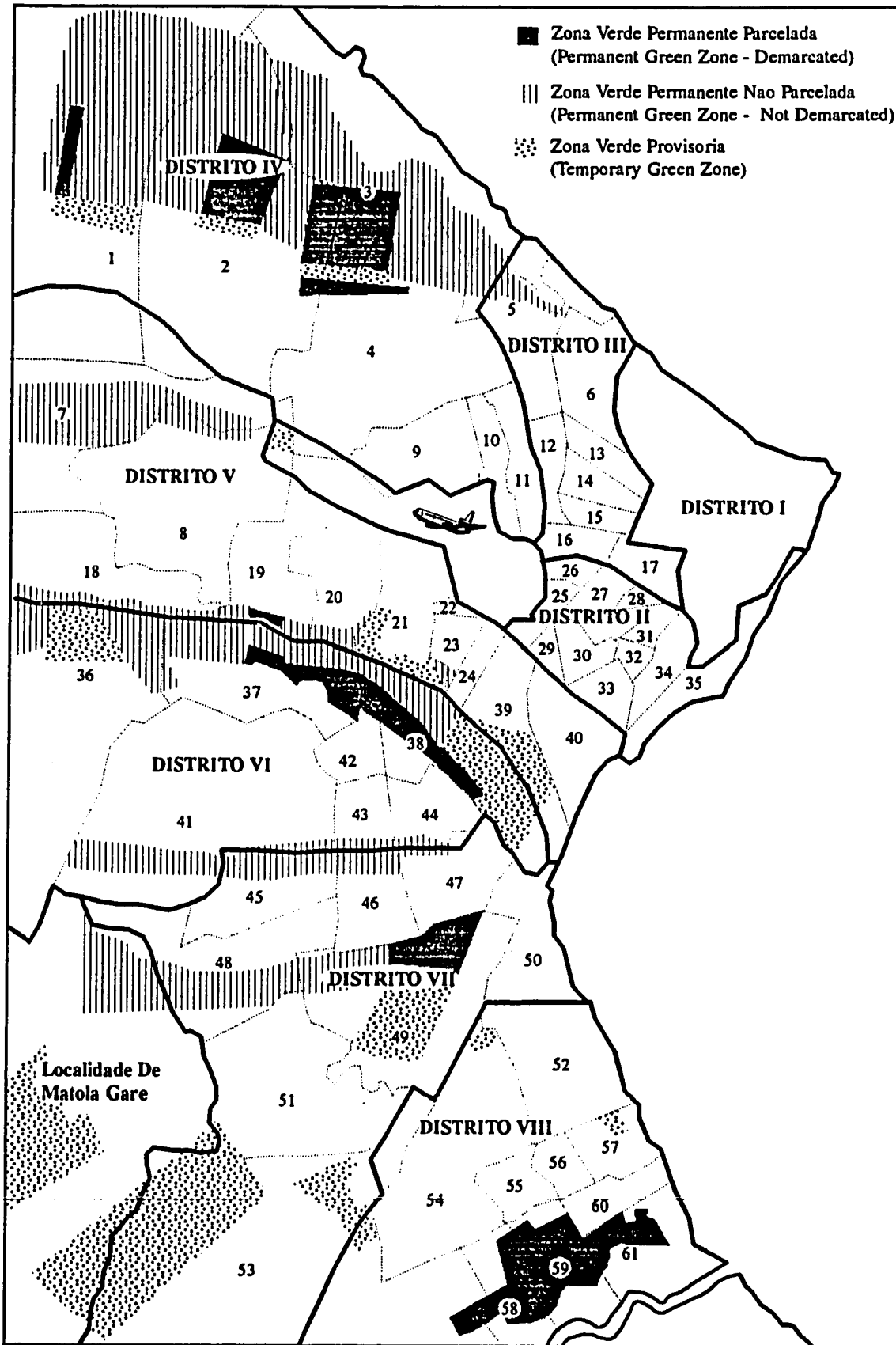
- 25 De Junho (21)
- Acordos De Lusaka (44)
- Aeroporto A (26)
- Aeroporto B (25)
- Albazine (1)
- Bagamoio (20)
- Bunhiça (51)
- CFM (35)
- Chamanculo A (31)
- Chamanculo B (32)
- Chamanculo C (33)
- Chamanculo D (30)
- Cingatela (48)
- Costa Do Sol (3)
- FPLM (11)
- Fomento (52)
- Hulene (9)
- Ingavela (41)
- Inhagoia A (23)
- Inhagoia B (24)
- Jardim (39)
- Jorge Dimitrov (19)
- Kongolote (36)
- Laulane (4)
- Liberdade (54)
- Luis Cabral (40)
- Machava (49)
- Mafalala (17)
- Magoanine (7)
- Mahotas (2)
- Malanga (34)
- Malhazine (8)
- Matola B (60)
- Matola C (61)
- Matola D (59)
- Matola F (57)
- Matola G (56)
- Matola H (55)
- Matola J (58)
- Mavalane (10)
- Maxaquene A (15)
- Maxaquene B (14)
- Maxaquene C (13)
- Maxaquene D (12)
- Micajuine (28)
- Nsalene (22)
- Patrice Lumumba (46)
- Polana Caniço A (6)
- Polana Caniço B (5)
- S. Damaso (45)
- Trevo (50)
- Tsalala (53)
- Unidade 7 (29)
- Unidade A (47)
- Unidade D (43)
- Urbanização (16)
- Vale Do Infulene (38)
- Xipamanine (27)
- Zimpeto (18)
- Zona T-3 (42)
- Zona Verde (37)

Figure 2:

Administrative Map of the Urban and Peri-Urban Districts and Barrios of Maputo.

Map Produced By:
 Anna Storkson, 1993
 AnnaGraphics, Madison, WI

Maputo, Mozambique: 1993



Bairros:

- 25 De Junho (21)
- Acordos De Lusaka (44)
- Aeroporto A (26)
- Aeroporto B (25)
- Albazine (1)
- Bagamoio (20)
- Bunhiça (51)
- CFM (35)
- Chamanculo A (31)
- Chamanculo B (32)
- Chamanculo C (33)
- Chamanculo D (30)
- Cingatela (48)
- Costa Do Sol (3)
- FPLM (11)
- Fomento (52)
- Hulene (9)
- Ingavela (41)
- Inhagoia A (23)
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- Jorge Dimitrov (19)
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- Unidade 7 (29)
- Unidade A (47)
- Unidade D (43)
- Urbanização (16)
- Vale Do Infulene (38)
- Xipamanine (27)
- Zimpeto (18)
- Zona T-3 (42)
- Zona Verde (37)

Figure 3:

Land Use Map Showing the Peri-Urban Green Zones (Agricultural Gardens) of Maputo

map showing the demarcations of the peri-urban green zones (agricultural gardens), of Maputo and Matola cities. Questions were asked about the nature and frequency of the dispute(s), dates and parties involved, and resolution processes. Fifteen respondents mentioned having experienced one or more agricultural land disputes sometime in the past 10 years. Five of these dispute cases were selected for further analysis.

Under the peri-urban baseline survey, blocks and households were randomly selected within each of districts II to VIII outside the cement city (District I) of Maputo (Annex A). Heavily populated areas, to some unknown extent, are over-represented in the sample, whereas areas of lower population density--particularly peri-urban households nearer to the frontier of the security zone--are somewhat under-represented, because the researchers purposefully tried to avoid risky areas vulnerable to attack (see Annex A). The LTC study, by focusing specifically on holders of agricultural land in the peri-urban zones, helped to counter-balance the underweighting of dispersed households in the baseline survey.

The case studies (40 from the baseline and 15 from the land market survey) were categorized by district, type, and with whom. A sub-sample was then drawn that included representation in all eight districts in Maputo, all types of disputes (e.g. inheritance within families and land grabbing by the authorities), and all major disputant categories (e.g. government agencies, private institutions such as churches, and individuals such as wealthy entrepreneurs and poor farmers). Disputes were eliminated if a dispute category contained more than 3-4 cases (1-3 cases were usually retained, depending on the dispute category for non-agricultural land, and 5 cases for agricultural land). Those discarded were either similar to other cases retained, or were the least interesting. Following case selection, the smaller land dispute sample comprised 26 cases--all of which are analyzed in this paper.

The reduced sample includes the following types of disputes:

- ▶ disputes involving land administration (e.g. case 1 involves abuse of authority by the local government; case 4 involves disorganization within the municipality in registering agricultural lands; and cases 18 and 21 involve institutional confusion); and,
- ▶ disputes involving tenure on both residential and agricultural land (e.g. cases 2 and 5 involve inheritance; case 4 involves land registration rights; and cases 6, 7, and 12 involve the state's special reserve zone).

The following types of disputant categories were also covered:

- ▶ government agencies (e.g. case 7 involves the Ministry of the Interior and case 17 involves the Ministry of Agriculture); private institutions (e.g. case 22 involves a church and case 10 involves an agricultural cooperative); and,
- ▶ individuals of varying social/economic status (e.g. refugees, long-standing residents with varying levels of economic well-being, and case 8 involves two prominent officials).

Research Methods

Semi-structured interviews were administered to each household in the sample by a student from Eduardo Mondlane University in Maputo in the native language of the informant, usually Portuguese, Xichangana or Xironga. Written case histories were then prepared in Portuguese. Thereafter, at the university, historical backgrounds were supplied to select cases. These Portuguese versions were then translated into English in Madison. Although the field investigator conducted the interviews according to a basic outline, so as to ensure that a comparable set of points and issues were covered with all disputants, the respondents were permitted to inject their opinions whenever they saw fit. At a minimum, the respondent was asked for the following details about the dispute they experienced: date of dispute, nature of dispute, whether and how the dispute was resolved, parties involved, compensation received, and expenses incurred. The informant was also asked to provide his or her general opinions on the source and nature of land conflicts in the neighborhood, land prices and land value, the effectiveness and role of official institutions in resolving and mediating disputes, the extent to which the war and refugees are causing land disputes, and policies to lessen the costs of litigation and economic inefficiency associated with disputes. Not all informants answered or responded fully to each and every question.

While one researcher was conducting the in-depth interviews with the disputants involved in the land conflicts, another researcher conducted semi-structured interviews with nine local leaders (the *Secretario-Adjunto* and the Secretaries of the *Grupo Dinamizador*) regarding land conflicts within their area. The disputes from the disputant sample (A) were not specifically mentioned by the interviewer to the leaders, but some of the leaders nonetheless alluded to the same disputes. In general, the leaders provided the social, economic, legal, and political context associated with land problems in their respective *bairros*.

Caveats

Several noteworthy factors influenced sample selection, the style of interviewing, and the analysis and interpretation of findings. Some households were selected over others due to the safety of a region and the willingness of respondents to cooperate. Households were also selected to achieve the maximum variation possible in three dimensions of disputes: district coverage, type of dispute and individuals/institutions involved (households with similar types of disputes were excluded). The limitations of language resulted in some dilution of data through translation (from native language into Portuguese and then into English). Attempts to administer uniform, semi-structured interviews always entail the risk of missing or overlooking relevant information not sought in the interview process. Also, relying upon one disputant-informant sometimes resulted in one-sided interviews which were characterized by exaggerated accounts that aimed to justify a particular viewpoint or interest.

Importance of the Study

Nevertheless, the study contributes important field data on land issues and problems arising from the administration of Mozambique's land laws. In particular, it demonstrates the types of land conflicts that arise; the types of land disputants (socio-economic characteristics) who become embroiled within such disputes; the types of institutions and authorities that handle such

disputes; and the impact of such disputes on tenure security, investment, and land use practices. It further differentiates objective dispute data (reported case facts) from subjective data interpretations (opinions about case facts). Such a differentiation demonstrates the relationship between informant perceptions about social problems and the reality of such problems as expressed in concrete data.

Land Law

The constitution adopted at independence nationalized all land. According to Article 8, "The land and the natural resources in the soil and subsoil...are property of the State" acting in the name of the Mozambican people, who thus became collective owners of their territory. Although the nationalization of land was intended to improve living conditions (see Box 2), most of the informants in the survey blamed land nationalization policies for their problems, including a rise in land disputes.

According to the terms of the land law of 1979 (Law No. 6/79), as well as amendments enacted in 1987, all land is part of the "public domain." In practice, this means that individuals or persons acting together in collective action cannot sell, cede, rent, mortgage or pawn land, although they can transfer existing infrastructure. The State grants title, a lease of use rights, for up to fifty years to any individuals or collective persons with legal identity. Title does not grant such parties ownership or unconditional management rights: they must exploit the land rationally and in conformity with an authorized development plan; otherwise, their use rights will be terminated and the land will revert to State control (See Roth, Boucher and Francisco (1992) for greater detail about the land titling process).

The land law covers the basic types of right-holders--the state, cooperatives, large title holders, and families--although it focuses on large title-holders and families. The Land Regulations enacted in 1987 (Decree No. 16/87) spell out a number of provisions regarding land registration, leases, inheritance, resettlement, compensation, land abandonment and dispute resolution, among others.

The following select articles of the Land Law establish those provisions which most directly mold the legal setting within which land conflicts may be either provoked or settled (cases in parentheses are situations where the legal provisions have resulted in one or more of the land disputes elaborated in Annex D):

- ▶ **Land lease.** A family farm need not have a lease, but can apply for one (art. 55). (Refer to case 8).
- ▶ **Land registration.** Rights to land and details of their use and capabilities are to appear in a National Land Register (art. 37, 38). (Refer to cases 4 and 8).
- ▶ **Inheritance.** Land rights (a lease) are inheritable (art. 32). Heirs cannot transfer the land but can transfer improvements, infrastructure, and buildings, if they have prior authorization from the leasing authority; the state enjoys a preferred right to purchase such improvements if it chooses to do so (art. 33). (Refer to cases 2, 5, 22, 23, and 26).

Box 2:

**Land Nationalization; A "Just" Policy
that Leads to Land Disputes?**

"At one stroke speculation in urban land ceased since it could no longer be bought or sold. Every Mozambican family was instead guaranteed the right to own a house and to use land for this purpose. Family agricultural rights were recognized, and rights of use were transmissible to heirs, although the state has the right to expropriate land for development purposes--in which case the owner or heirs must be compensated for any improvements which they have made.

The revolutionary impact of this measure is perhaps difficult to gauge from a North American or Western European perspective where the concept of private land ownership is so firmly entrenched and mystified. Some examples of the way in which the new constitution could lead to the reversal of spatial inequalities may make this clearer. First, allocation of investment in infrastructure and urban development could now be planned on the basis of political and social goals rather than market and racial mechanisms. The housing situation of shantytown dwellers, no longer "squatters" on private land, could be legalized and improved. New jobs, commercial facilities, and community services could be relocated away from the cement cities, minimizing transportation time and costs. Pollution could be reduced and foreign exchange otherwise needed for imported petroleum and vehicles saved. Finally, with market pressures eased, more green space could be allocated for recreation and production in and around the towns..."

Pinsky, Barry. 1985. "Territorial Dilemmas: Changing Urban Life." In: A Difficult Road: The Transition to Socialism in Mozambique (John S. Saul, ed.). New York: Monthly Review Press, pp. 290-1.

- ▶ **Termination of leases.** In the case of termination (due to expiration of the term, renunciation by the holder, and revocation by the state), all improvements, infrastructure, and construction revert to the state (art. 35) and "just compensation" is required (art. 36). (Refer to cases 3, 14, 17, and 18).
- ▶ **Resettlement.** If a family is moved from the land it occupies, there must be an express declaration of why this is necessary for the convenience of the state in the public interest (art. 50). (Refer to cases 7, 11, 15, and 17).
- ▶ **Land (i.e. infrastructure) compensation.** If a family is moved, compensation for improvements on the land must be paid in advance, before the move, and new land of similar value must be provided. Those being moved should be able to view the new land before they move (art. 52). (Refer to cases 12, 14, and 22).

- ▶ **Land abandonment.** If a family leaves land of its own volition and remains away for over two years without justification, the right to use the land terminates and all improvements on the land go to the state without compensation. Where a lease has been granted, it must be cancelled in this case. But even if such a cancellation has taken place, the family may return to the land at a later date if no one else has begun to use it (art. 60). (Refer to cases 13 and 18).

- ▶ **Dispute resolution.** An administrative appeal process within the Ministry is described (art. 69), including the possibility of further appeal to the regular courts, with the exception that a decision by the Council of Ministers is not subject to appeal (art. 70). But there is also a provision for conciliation of disputes, and the composition of conciliation committees (art. 82). It is not clear in what circumstances each of these routes is appropriate. (Refer to cases 8 and 10). (Refer also to the discussion in Bruce 1990: 6-9; see also Garcia 1987 and Pinsky 1985).

As will be discussed shortly, many of these land disputes reflect current inadequacies in the land law--i.e. lack of clarity, inconsistency, and unenforceability.

Land Administration

One of the neighborhoods (*bairros*), Laulane, provides a good example of historical developments in land administration (Box 3, p. 12). As the example of Laulane and the case studies presented in Annex D demonstrate, an absence of clear legal mechanisms in most communities has given rise to numerous disputes.

Several local or governmental agencies may be called upon to resolve land conflicts. The *Grupo Dinamizador* (GD), the administrative structure at the local *bairro* level, may be called upon to handle problems involving development projects, land purchase agreements, property inheritances, infrastructure construction and occupation, land allocation, land transfers, land evictions, and resettlement. (See cases 2, 3, 12, 13, 14, 15, 17, 20, 22, 23, 24, 25, and 26 in Annex D in which disputants called upon the GD to assist with land transactions and disputes. See also, as a contrast, case 1, in which the GD was believed to have caused a dispute by usurping the land rights of an ordinary citizen.) In addition to land matters, GDs may assume responsibility for: school and community committees; neighborhood cultural, sports, and recreational activities; production cooperatives; adult education and literacy campaigns; public transport; and preventive health programs (see Pinsky 1985: 300).

Another agency responsible for land administration, the Green Zones Directorate (*Gabinete das Zonas Verdes*) or GZV, implements policy that aims to prevent land conflict and is also involved in resolving actual conflict. The GZV was established in May 1980. One of its many duties is to investigate the existing situation of land occupation, and inventory existing agricultural infrastructure. (See cases 4 and 8 in which disputants asked the GZV to confirm the area of their lots, in contradiction to the claims of families or individuals. As a contrast, see case 18 in which the GZV tried to seize land in order to reallocate it for "development" purposes.)

Box 3:

**Land Administration and History of Laulane;
Preparing the Way for Land Disputes**

"During the 1950's and 1960's large parcels of land...were demarcated and registered by private individuals for agricultural use, but not necessarily developed. The existing local occupants' traditional rights were not respected in colonial law, and usually no form of compensation was proffered. Previous to this, land had been allocated by the "regulo," or traditional chief of the area who was recognized by the colonial authorities. One of the bairros was known by the name of this family-- "Mavota" or "Mahotas"--the name of "Laulane" coming from a chief of the same clan in the late 19th century.

At the beginning of 1963 the Provincial Secretary of Lourenço Marques approved a plan of urban development to create a village in Bairro Mahotas. The only actual development to take place however was a commercial center, of which 6 plots were developed, however this represented the only commercial outlet in the zone. The bairros were incorporated within the city limits--"Concelho da Cidade de Lourenço Marques"--when these were extended in the 1960's. At the beginning of the 1970's some large agricultural land parcels in both bairros were subdivided for sale (commonly in .5 ha plots), primarily to city residents for market gardening and weekend residences. However, before independence relatively few were occupied and developed partly because of the cost of water provision.

After independence, in 1979, the municipal authorities were reorganized, with clear topographical city limits and the exclusive right to land allocation and registry defined as the responsibility of a newly created Construction and Urbanization Directorate, within the new Executive City Council, which took over the previous municipal land demarcation and registry role. This Directorate, which was created in 1980, was also made responsible for urban planning and development, which it began to develop despite severe technical limitations during 1981.

Although general guidelines for urban development were established at the time of municipal reorganization, legal mechanisms for urban planning and investment procedures, and post-nationalization land law regulations dealing with tenure, transmission and land use control were not defined, and thus, the newly formed Directorate initiated a series of essentially ad-hoc urban interventions on an experimental basis, primarily the creation of basic peri-urban sites and services areas with support to self-help house construction."

Jenkins, Paul. 1991. Housing and Living Conditions in Peri-Urban Areas of Maputo City. UNDP/UNCHS report for Project MOZ/86/005. Ministry of Construction and Water Affairs. Republic of Mozambique, pp. 7-8.

The Executive Council (*Concelho Executivo*) or CE is the agency at the municipal level responsible for, among other things, land-use zoning and titling of both residential and agricultural lands. Officials within the CE are all FRELIMO party members (as are members of the GD). The Directorate of Construction and Urbanization (*Direcção de Construção e Urbanização*) or DCU is the office or directorate within the CE in charge of land use zoning and titling. According to one disputant, the CE requires that people officialize their land occupancy within 90 days. Failing to do so, the CE will expropriate the land and give it to other persons.

Analysis of Disputant Case Studies

Dispute Configurations

Table 1 presents the "objective" aspect of the land dispute study: informants' accounts about disputant characteristics, dispute issues, and dispute processing. The data come from one group of informants: the disputants in the 26 cases. When an informant did not mention a particular aspect (e.g. police involvement), this aspect was considered absent from the case.

Disputant Characteristics

The first category, disputant characteristics, indicates that most cases (18) involved at least one disputant/party who did not reside within the community of the disputed land. This included former residents who attempted to reclaim land--e.g. heirs or former landowners of a nationalized property, former landowners who abandoned their property, or Portuguese residents who left the country at independence. Moreover, most cases (17) involved at least one elite disputant (an individual with either wealth or political connections); this disputant was often wealthy and sought to acquire land for commercial activities through encroachment or through assistance by the authorities, or this disputant was an authority figure who encroached upon land or manipulated property rights. In just over half of the cases (16), male landholders/claimants alone were involved. Women who were involved in disputes tended to be widows or uneducated landholders who could not effectively defend their rights. Finally, most cases (17) involved single parties (private landholders) representing a land interest; occasionally an extended family acted collectively in asserting or debating a land claim.

Dispute Issues

The second category, dispute issues, indicates that most cases (20) involved a conflict over the use rights of a residential plot. Both groups of informants (the disputants and the leaders) generally stated in interviews that population migrations had resulted in severe shortages in land available for

1. Absence of a response does not necessarily mean that an aspect was not experienced by the disputant. Unlike statistical surveys, which require that a standard set of questions be addressed to each respondent, the structured interview permits more latitude in the scope of inquiry but at the risk that the line of questioning and responses assume a non-standard format for numerical tabulation.

Table 1: Summary of Disputant Characteristics, Dispute Issues and Processes

Disputant Characteristics	
Local Disputants Involved: (cases 1, 4, 6, 9, 12, 21, 24, 26)	Non-Local/Foreign Disputant Involved: (cases 2, 3, 5, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25)
Peasant Disputants Involved: (cases 2, 3, 9, 12, 13, 19, 21, 22, 23, 24, 25)	Elite Disputant Involved: (cases 1, 4, 5, 6, 7, 8, 10, 11, 14, 15, 16, 17, 18, 20, 21, 25, 26)
Woman Landholder Involved: (cases 1, 9, 10, 11, 14, 15, 17, 18, 19, 22, 23, 24)	Male Landholders (Only) Involved: (cases 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 20, 21, 25, 26)
Single Landholders Involved: (cases 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 24)	Extended Family Involved: (cases 1, 2, 4, 5, 9, 20, 23, 25, 26)
Dispute Issues	
Agricultural Plot(s): (cases 4, 5, 7, 8, 11, 16, 17, 18)	Residential Plot(s): (cases 1, 2, 3, 5, 6, 7, 9, 10, 12, 13, 14, 15, 19, 20, 21, 22, 23, 24, 25, 26)
One Plot Involved: (cases 1, 2, 3, 5, 13, 16, 19, 21, 22, 23, 24, 26)	Multiple Plots Involved: (cases 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 20, 25)
Destruction of Property: (cases 2, 3, 4, 6, 7, 8, 9, 10, 11)	No Destruction of Property: (cases 1, 5, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26)
Land Inheritance: (cases 2, 5, 22, 23, 26)	Land Purchase/Acquisition/Occupation: (cases 1, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25)
Dispute Processes	
Violent Confrontation: (cases 2, 7, 8, 9, 17, 26)	No Violent Confrontation: (cases 1, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25)
Third Party Involved: (cases 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26)	"Outsiders" Not Involved: (cases 5, 6)
(continued)	

Table 1 (continued)

Local Authorities Involved:
(cases 1, 2, 3, 4, 6, 7, 8, 9,
10, 11, 12, 13, 14, 15, 16, 17,
18, 20, 21, 22, 23, 24, 25, 26)

Police Involved:
(cases 2, 7, 8, 11, 26)

Military Involved:
(case 8)

Lawyers Involved:
(case 8)

Court Involved:
(cases 8, 10, 16)

Government Officials Involved:
(cases 4, 5, 6, 7, 8, 10, 12,
14, 15, 16, 17, 18, 20)

Money Spent/Lost:
(cases 4, 6, 8, 9, 16)

Dispute Appealed:
(cases 8, 10, 16, 17, 18, 20)

Short-Lived Dispute:
(cases 1, 2, 3, 12, 19, 21,
22, 24)

Dispute Resolved:
(cases 2, 3, 6, 7, 9, 11, 12,
19, 21, 22, 24)

Private Action Taken by Disputant:
(cases 1, 2, 3, 4, 5, 6, 7, 8,
9, 10, 17, 23, 26)

Local Authorities Not Involved:
(cases 5, 19)

Police Not Involved:
(cases 1, 3, 4, 5, 6, 9, 10, 12, 13,
14, 15, 16, 17, 18, 19, 20, 21, 22,
23, 24, 25)

Military Not Involved:
(cases 1-7 and 9-26)

Lawyers Not Involved:
(cases 1-7 and 9-26)

Court Not Involved:
(cases 1, 2, 3, 4, 5, 6, 7, 9, 11,
12, 13, 14, 15, 17, 18, 19, 20, 21,
22, 23, 24, 25, 26)

Government Officials Not Involved:
(cases 1, 2, 3, 9, 11, 13, 19, 21,
22, 23, 24, 25, 26)

Money Not Spent/Lost:
(cases 1, 2, 3, 5, 7, 10, 11, 12,
13, 14, 15, 17, 18, 19, 20, 21, 22,
23, 24, 25, 26)

Dispute Not Appealed:
(cases 1, 2, 3, 4, 5, 6, 7, 9, 11,
12, 13, 14, 15, 19, 21, 22, 23, 24,
25, 26)

Extended Dispute (More Than A Year):
(cases 4, 5, 6, 7, 8, 9, 10, 11, 13,
14, 15, 16, 17, 18, 20, 23, 25, 26)

Dispute Not Resolved:
(cases 1, 3, 4, 5, 8, 10, 13, 14,
15, 16, 17, 18, 20, 23, 25, 26)

Action Not Taken by Disputant:
(cases 11, 12, 13, 14, 15, 16, 18,
19, 20, 21, 22, 24, 25)

housing purposes. Moreover, the land under dispute often (14 cases) involved multiple plots; sometimes these plots were held by one party and sometimes by multiple parties--the latter often being threatened by development interests. In 9 cases, a contributing factor to the dispute was destruction of property, such as the pulling out of fruit and shade trees, or damages rendered to a house or building. Finally, issues of land inheritance were involved in only 5 cases, whereas the majority of cases (21) involved problems with land purchase, acquisition, or occupation (disputes concerning land inheritance were usually confined to the family unit, whereas disputes concerning land transactions involved various members of a community or external agencies).

Dispute Processes

The third category, dispute processes, indicates that most disputants (20) did not opt to confront one another violently as a way to make known their grievances or to receive redress. In nearly all cases (24) a third party was involved at some point--for example, in actively assisting as a mediator or in hearing complaints but refusing to assist. In only 2 cases did the disputants manage to work out a settlement without third party intervention (either containing the dispute within the family unit or avoiding confrontations). At the same time, local authorities were involved in nearly all cases (24)--for example, granting land, mediating disputes, defining or revoking land rights, appealing to higher authorities, or hearing complaints.

Although most third party involvement concerned local authorities, local authorities did not act significantly as third parties when government officials were primarily or solely involved. The police were involved in only 5 cases, although some disputants may not have thought to mention police involvement to the researcher. Military officers and lawyers were only reported to be present in one very serious case--case 8. At the same time, reliance upon a court was evident in only 3 cases--one of which was case 8 which also involved the military and lawyers. Government officials were involved in dispute processing in half the cases (13) ("government" refers to levels above the *bairro* authorities--e.g. DCU). Sometimes government officials were called in to provide documentation, render surveying services, or to offer policy advice regarding particularly difficult disputes, but sometimes officials were personally involved in disputes by virtue of their attempts to acquire the land.

Money was reported by disputants to have been spent or lost in the dispute resolution procedures of 5 cases; this money ordinarily went towards travel costs, fees for land documentation, or money lost in fraudulent land transactions. No disputants reported having personally bribed the authorities, although many reported that bribes are frequently offered and accepted. Disputants appealed their cases in only 6 instances; two disputants specifically explained to the researcher that one often experiences difficulties appealing disputes since the very officials to whom the case must be directed may be the same parties who are transgressing the property rights.

Most disputes (18) lasted more than a year, but even the shorter-lived disputes (8) threatened to resurface at a later point in time. In this regard, 16 cases were labelled "unresolved" at the time the research was concluded; however, the concept of "resolution" is very nebulous, since it tends to mean

disputant acquiescence or obedience but not necessarily disputant satisfaction with the outcome of the dispute (only when all concerned parties are satisfied can the dispute be considered resolved). Finally, half the cases (13) involved some sort of private action taken by the disputant in an effort to resolve his/her land dispute or bring about satisfaction for grievances; for example, demarcation of land through fencing, building of infrastructures to assert a land claim, or confiscating agricultural produce as compensation for losses.

It should be noted that a disputant occasionally became involved in multiple, connected disputes, or in disputes comprising various layers of issues and processes. For example, the disputant in case 9, who discovered upon returning from South Africa that he had been dispossessed of his land, became embroiled in two disputes--one to reclaim his land and one to receive compensation from a woman who fraudulently sold him an alternate plot which did not belong to her.

Disputant and Bairro Leaders Perceptions

Tables 2 and 3 present the subjective aspect of the land dispute study: i.e. informants' opinions about the causes of, processing, and solutions to their specific disputes or to land disputes in general. The data come from two groups of informants: the disputants in the 26 cases (Table 2) and the 9 bairro level leaders (Table 3). The 26 disputants tended to talk about their specific disputes, whereas the local leaders tended to talk about disputes in general, although they usually focused upon several disputes within their respective communities.

The rows in Tables 2 and 3 are categories of informant perceptions on dispute causes, dispute processes and dispute policies summarized from more exhaustive and detailed data presented in Annexes B and C. The data reported on the right-hand-side of each table are the number of informants who made comments with regard to the respective conceptual category. The same sets of conceptual categories are included in Table 2 for the dispute cases and Table 3 for the bairro leaders, enabling a comparison of perceptions among disputants and officials on land issues, problems, and solutions.

Dispute Causes

Contextual Influences

Both the landholders and leaders placed considerable emphasis upon the impact of the war in creating a large population of refugees seeking land and housing. Unfortunately, land in Maputo is scarce (thus more valuable) and people are compelled to live in crowded conditions. Many circumstances associated with population migration have contributed to land disputes: refugees moving into small dwellings with their relatives; refugees squatting on unused (although claimed) land; local authorities granting occupied plots to refugees; or former landholders returning from unsafe areas to reclaim their holdings.

National Administration and Policy

Both the landholders and the leaders concurred that post-independence land policy--particularly land nationalization--is contributing to many of the land

Table 2:

Summary of Landholder Perspectives (26 Disputants) on Dispute Causes, Dispute Processes, and Dispute Policy

	No. of Informants
Dispute Causes	
Contextual Influences:	
Environment	0
War	13
Overcrowding and increased population pressure	5
National Administration and Policy:	
Government land policy	17
Government officials	14
Development activities	5
Local Administration:	
Local authorities control	15
Citizens' actions	18
Land Affairs:	
Land use	8
Land registration	7
Land transfers	6
Land security	11
Land development	5
Dispute Processes	
National or Local Administration:	
Institutions and methods	9
Resolution Procedures:	
Methods	6
Outcome	8
Appeals	4
Dispute Policy	
Contextual influences	7
National administration and policy	1
Local administration	4
Land affairs	17
Land resettlement	7
Land dispute processing	2
Community affairs	5

Table 3:

Summary of Bairro Leader Perspectives (9 Secretaries) on Dispute Causes,
Dispute Processes, and Dispute Policy

	No. of Informants
Dispute Causes	
Contextual Influences:	
Environment	1
War	8
Overcrowding and increased population pressure	7
National Administration and Policy:	
Government land policy	6
Government officials	5
Development activities	2
Local Administration:	
Local authorities control	3
Citizens' actions	9
Land Affairs:	
Land use	0
Land registration	0
Land transfers	2
Land security	5
Land development	1
Dispute Processes	
National or Local Administration:	
Institutions and methods	4
Resolution Procedures:	
Methods	1
Outcome	2
Appeals	1
Dispute Policy	
Contextual influences	5
National administration and policy	3
Local administration	2
Land affairs	8
Land resettlement	1
Land dispute processing	1
Community affairs	3

disputes presently occurring. Three points of conflict were mentioned by disputants and bairro leaders alike. First, nationalization created a situation of latent multiple claims, in which ex-owners are seeking to reclaim nationalized properties, while some current tenants who have been living in the houses since independence have made substantial investments in the property. Second, socialist policies aimed at providing land for everyone, has created a very ambiguous sense of land rights among the people. A number of persons creating the disputes in the case studies demonstrated a basic disregard for the individual property rights of others. The outcome is a growing sense of tenure insecurity, and less desire to invest in land and property. Third, under the widespread situation of land purchases and rentals in Maputo, the land law is both out-dated and constitutes an ineffective basis for deciding disputes stemming from land transfers in the courts (i.e. the court has a difficult time deciding in cases of disputes over land purchases, when the land law makes such transfers illegal).

The landholders also strongly condemned the government's policy of expropriating land from citizens for development projects or commercial enterprises. They widely protested the fact that government officials are often corrupt, thus guilty of: favoring friends and associates in land allocation or dispute situations; encroaching upon land interests for personal benefit; or taking money for rendering particular land-related services. Most important, the disputants commented that government and local officials do not communicate adequately with one another or with them; and moreover, that such officials often are not even clear about their professional responsibilities. In contrast, the local leaders complained that government officials do not communicate or cooperate with them. One consequence of such poor communication is that land is under-utilized or over-utilized--the same plot being neglected because of unresolved conflicts or being granted inadvertently by various officials to multiple parties (e.g. cases 15 and 16).

Regarding development activities, the leaders complained that the government introduced activities that did not always accord with local priorities (i.e. the local authorities had not been fully consulted about the national development program), whereas the landholders were concerned that the plans for land development had not been made clear to them, and consequently some people suffered from such unfavorable state interventions as involuntary relocation. On a lesser scale, even when landholders were informed about land development plans, they still endured considerable problems in trying to follow procedures for land registration because such procedures were unclear and confusing (e.g. case 19).

Local Administration

Both the landholders and the leaders accused one another of deception in land transactions. The landholders accused the local authorities of using false reasons (i.e. development) for evicting someone from land, when their actual intention was to reallocate the land to someone else (e.g. case 20). On the other hand, the leaders accused some citizens of obtaining land under false pretenses (Interview B), such as claiming personal need, when such citizens actually intended to assign the land to a family member (Interview A) or to sell the land (Interview G). In effect, the leaders complained that citizens had subverted their authority and the cohesiveness of the community, by

transacting land without their knowledge (Interview G), by falsely assuming land rights, by selling land rights to multiple parties (Interview F), or even by manipulating land rights in a manner that injured their own family members (compare disputes about authority with similar disputes in Swaziland (Rose 1992)).

Landholders often attributed a significant role in land affairs to local officials. Sometimes they complained that local authorities were wrongfully unresponsive to their needs--i.e. regarding land transactions and dispute settlement. In contrast, the leaders commonly felt that their role either was or needed to be limited--especially because government officials restricted their role, because they had no workable solution to problems, or because landholders did not approach them for assistance. The leaders primarily bolstered their role when they felt that citizens ignored their prerogative to monitor settlements and building activities.

As might be expected from the above discussion about government officials, landholders most commonly complained that local authorities improperly encroached upon their land interests--either by totally expropriating their landholding or by reducing their land rights. In their view, the authorities sometimes acted upon the authority of high ranking officials; but sometimes they independently invoked the land use "efficiency" standard. Many landholders condemned the authorities for selling land for personal profit or for distributing land rights in order to assist high ranking authorities or associates who might be in a position to provide them with reciprocal services. Conversely, the leaders rarely acknowledged such encroachments--except to comment about their colleagues' actions in their own absence (Interview F). One leader even commented that the authorities overlook citizen violations of land laws when local circumstances (e.g. shortage of agricultural land) necessitate (Interview A). But the landholders seemed to believe that many leaders not only administered land inefficiently but even corruptly, thus using legal and administrative confusion to their advantage.

When speaking about actions of members within their own ranks (i.e. other citizens), the disputants complained that the major problem was that other citizens, particularly powerful community members, encroached upon their land or even took over their land totally, thus cultivating or building housing without their consent (the landholders') or that of the authorities. Interestingly, the leaders claimed that the major citizen-initiated dispute problem lay with the following interferences by "ex-landlords" (i.e. ex-landowners before land nationalization): obstruction of current landholders' activities on their former properties; claims upon their former properties; or even reselling their former properties. The various problems experienced between ex-landlords and current tenants arose under a variety of circumstances: when the landlords resided in close proximity to their former holdings and attempted to monitor them (Interview A); when ex-landlords returned to an area and discovered that a house had been built on the holding (Interview B); when heirs to nationalized land continued to pay taxes on the land in the hope that they could someday reassert their rights (Interview B); and when rumors circulated that nationalized land would be sold.

As a whole, the leaders blamed the breakdown in local administration on landholders' resistance to their authority, while the landholders blamed the breakdown on the leaders' inefficiency and corruption.

The only things all informants agreed upon was that vague rules were widely manipulated and that many members of the community relied upon self-promoting, deceptive tactics.

Land Affairs

As mentioned above, the leaders complained that citizens built dwellings without their permission (e.g. case 23) or squatted upon land without their knowledge. They also accused citizens of selling land. Interestingly, they were concerned that land occupants could be evicted without warning. Women--particularly older, widowed, and uneducated women--seemed to face the greatest risk of eviction (e.g. case 18). Those people most able to defend against eviction were those who had influential connections or who acted against an individual land grabber rather than against a powerful institution (compare cases 16 and 18 with case 7).

The landholders frequently protested that their land rights were unclear and that they could not obtain property titles. This is in contrast to the *bairro* leaders who mentioned lack of property titles much less often. Sometimes landholders did not even know how land affairs should be properly transacted (e.g. cases 19 and 21). They also expressed resentment that commercial interests were often given priority over the interests of subsistence farmers--based upon the land efficiency standard. Finally, the landholders, in their turn, accused the leaders of selling the land through bribery and corrupt actions.

Both leaders and landholders, but particularly landholders, stated concern that the current land tenure system does not guarantee property rights (inheritance) for future generations. Such a policy, in their view, inhibits both land purchases and infrastructure improvements.

Dispute Processes

National or Local Administration

Few disputants mentioned the national or local administrative structures for handling land disputes--perhaps because they were not fully aware of the official intent and purposes of such structures. Both the leaders and the landholders asserted that the local authorities should ideally play a significant role in land dispute management but in practice are often unable to intervene. When the authorities do play a role in land dispute resolution, it is often one of ineffective third-party mediation.

Resolution Procedures

Although the leaders said very little about land dispute resolution procedures, the landholders offered many complaints. Some commented that the methods used in dispute resolution are very undefined, varying from case to case and depending upon the initiative, resources, and connections of the disputants and the local leaders. As Table 1 indicates, very few disputants made use of courts.

Probably no cases were resolved to the satisfaction of all parties. As Table 1 indicates, only half the cases were considered "resolved." However,

many of these cases had resulted in ruptured relationships between disputants, or in disputant acquiescence--cases where hostilities possibly continue to simmer beneath the surface.

Few informants made mention of appeal procedures, except to indicate that they were time-consuming and expensive. Some landholders claimed that they would appeal their cases if they did not eventually receive a satisfactory outcome. Two landholders commented that they could not appeal their disputes since the very official to whom the appeal would have to be addressed was the individual who had transgressed their rights, acting in a private capacity (cases 6 and 18).

Dispute Policy

Contextual Influences

Some landholders and the majority of leaders stated that the best way to reduce the number and severity of land disputes would be to end the war. One landholder commented that ending the war will increase land disputes since at that time people will attempt to formalize disputed land holdings.

National Administration and Policy

The leaders, slightly more than the landholders, were concerned that the efforts of national officials need to be better coordinated.

Local Administration

Both the leaders and the landholders indicated that the local authorities need to find solutions to disputants' problems. The ideal solution would involve finding land for one of the two parties that claim the same plot of land, but unfortunately land scarcity in the peri-urban area has made this solution increasingly unrealistic.

Land Affairs

The disputants overwhelmingly argued for granting permanent land titles. They repeatedly stressed that they suffer enormous land insecurity because their land rights are fragile, land titles are difficult to obtain, and eviction from their land holdings is an ever-present threat. They said that the land laws should be reformed, meaning that the land should be privatized. They also felt that reforms are needed in the system of land administration, in particular administrative levels need to be better defined and differentiated; the documentation improved; and credit made more accessible and equitable. Finally, they mentioned that the respective rights of former landowners and current land tenants need to be differentiated. The leaders, on the other hand, more strongly emphasized that ex-landowners should not be allowed to recover their former holdings and that nationalized houses should be sold to current tenants.

Land Resettlement

The leaders scarcely mentioned land resettlement as a theme, but the landholders brought up the theme repeatedly. Their main concern was

compensation for losses of improved land, infrastructure, or natural resources. Some people wanted full compensation for losses, others wanted partial compensation, and still others wanted to be assisted with moving costs and building materials. Some landholders who fought resettlement orders implied that communications between the authorities and community residents were poor, with the consequence that eviction orders often came as a surprise.

Land Dispute Processing

Neither the landholders nor the leaders said much about policy to improve land dispute processing (perhaps because the researcher did not emphasize this point), but several informants mentioned that displaced landholders (i.e. those people evicted after losing a land dispute) need to be assisted in finding new land.

Community Affairs

Both the disputants and the leaders tended to agree that producer associations and cooperatives need to be strengthened so that people have a public forum through which to learn more about their land rights, to defend those rights.

Conclusions and Policy Implications

When considered as a whole, the most striking difference between the disputants' accounts and the leaders' accounts is the attribution of responsibility for disputes: the landholders tended to blame the local authorities for land conflict, whereas the local authorities tended to blame the DCU for taking actions without consulting them (Interviews C, G, and I). Several leaders even commented that the DCU creates disputes for them to solve. As expected, virtually no one took responsibility for failure of the institutions to which they belonged.

The informants indicated that one important consequence of poor communications between the DCU and the GD is that the weakest, most needy segment of the population is victimized--the war refugees. They are the people who most often need assistance in recovering from war-related losses, and yet they are the ones who are most likely to receive very fragile rights to land. In other words, the GD, for want of better solutions and without clear instructions from the DCU, may grant refugees land rights in overpopulated, reserved, or disputed areas--areas that will most likely be reassigned or reclaimed (sometimes the GD will not assist refugees at all). When that occurs, the refugees are likely to be subjected once again to resettlement.

In the best of circumstances, land rights are fragile. In some cases, people lost land rights when entire plots were expropriated and granted to land-needy citizens or land-hungry elites. In other cases, their land plots were reduced in size (for example, when the authorities permitted settlers to build on their land claims). In still other cases, such as case 18, peoples' land rights were terminated because they were deemed negligent, having abandoned land temporarily in order to attend to pressing personal responsibilities elsewhere.

A paradox about land rights thus arises: people realize that the most effective way to strengthen their fragile claims or rights to a plot is by

putting infrastructure upon the plot (e.g. fences, trees, dwellings; see case 23 and Interview H), and yet at other times they realize that the surest way to jeopardize their claims is by drawing attention to their intention to remain permanently. Therefore, in some situations, infrastructure establishes a person's land claim within the community, whereas in other situations, such infrastructure threatens rival claims by stating that one is not merely a temporary squatter who can be tolerated. Unfortunately, land settlers cannot always accurately determine which actions will root their fragile claims and which actions will eliminate their claims. If they guess wrong, they stand to lose both land and investments.

If Mozambican citizens are confused about how to best establish fragile land rights informally, they are even more confused about how to transact such rights formally--i.e. the institutions that control access to the rights and the procedures for transacting the rights. In several cases, landholders paid for land that a seller did not own or that a community leader had no right to sell privately (most notably, case 9). In other cases, they approached numerous institutions in their efforts to formalize their rights; unfortunately, they were referred from one agency to another--all of which denied jurisdiction over, responsibility for, or knowledge about the procedures for processing the land claims (usually titling) (e.g. cases 4, 8, 16, and 17). Officials sometimes arrogantly breached land rights, and at other times timidly avoided decisions so that they became immobilized and ineffective. Even when such institutions did assume responsibility for land transactions, they occasionally changed their operational rules over time, thus creating confusion (Interview G).

But the most fundamental issue concerning land rights came into play when such rights were multi-layered: in many cases no one knew exactly who had the strongest claim to land--especially when such rights equally competed or were generally unclear. Most commonly, rights of current tenants came into question when ex-landlords wanted to reclaim nationalized holdings, but the current tenants wanted to retain those same holdings upon which they had made costly infrastructural improvements (cases 22 and 25). At other times rights competed because authorities had allocated rights to the same plot of land to different people (case 9). At still other times, rights competed because landless residents or settlers established reasonable new claims (case 1).

Even though various parties competed to assert land rights, the new elite wielded the greatest power. It is a sad irony that the very land policies, i.e. land nationalization, that aimed to eliminate inequalities by reducing the power of the colonial elite, merely created a pliable framework within which a new elite could amass power and wealth through land usurpations.

Considering the high level of frustration experienced by many landholders who were compelled to stand by passively while their tenuous land rights were eroded, it is remarkable that so few protested with violence (refer to Table 1 and cases 8 and 14). Evidently they hoped that an end to the war would bring positive changes--a return of some urban dwellers to the rural areas, less urban land grabbing, and new land policy initiatives.

Nonetheless, all informants seemed to believe that building an effective land policy--one that does not "promote" land disputes--constitutes a

monumental task. Despite the difficulties and obstacles, such a policy is essential if the costs of land disputes are to be reduced. From a national perspective, the land disputes in this sample incurred considerable transaction costs--scarce state and local resources had to be diverted to institutional processing of such disputes. From an individual perspective, the land disputes incurred undesirable transaction costs--lost time and money--as well as outcome costs--ruptured relationships within communities and widespread distrust in the legal system. In effect, government development objectives were stalled while institutional energies were invested in resolution of such disputes, whereas individual development incentives were reduced as disputants suffered tenure insecurity.

In summary, policy initiatives need to achieve the following:

- ▶ **Contextual influences.** Plan land development programs under the assumption that many war refugees are permanently settled in Maputo and will not relocate to rural areas following the war.
- ▶ **National administration and policy.** Define and delineate the responsibilities of all government agencies responsible for land affairs.
- ▶ **Local administration.** Clarify the roles of local authorities and strengthen local institutions. Nearly every informant mentioned the GD, but each informant had a different perspective regarding the proper roles.
- ▶ **Land affairs.** Assign a task force with the responsibility for reforming or clarifying land laws that have in practice subverted justice and promoted inequality: laws dealing with land "ownership", transactions, development, expropriation, and compensation, etc. In particular, study possibilities for granting some type of land titles--the major solution for the fragile and ambiguous land rights which are currently leading to land disputes according to virtually all informants. Finally, commit resources to land surveying and registration programs and to training programs, for example, in surveying methods.
- ▶ **Land dispute processing.** Delegate responsibility for processing various land disputes. Few informants--either leaders or landholders--know how the system should function. Consequently, the system functions very slowly and ineffectively. More research needs to be done on how the current land dispute management system operates before interventions can be devised to improve upon this system.
- ▶ **Community affairs.** Inform people through citizen groups (e.g. producer associations and cooperatives) about the nature of individuals' land rights and about the procedures for protecting such rights (i.e. required "paperwork"). Most landholders complained that they did not know what their rights were in law: they seemed to believe that the legal system protected the rights of the wealthiest or those most clever in manipulating the system.

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ANNEX A

SAMPLING FRAME FOR THE PERI-URBAN BASELINE SURVEY

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SAMPLING FRAME FOR THE PERI-URBAN BASELINE SURVEY

Phase I of the peri-urban project was implemented by Ohio State University January-April 1991. The survey includes a sample of 330 households in the urban to peri-urban area of Maputo. The researchers, in the course of designing the research, faced two pressing concerns (Graham and Roth 1990). First, up-to-date census data or population lists that might be used to select sample households were either unavailable or out of date. Second, any official population records or lists that might exist would likely be outdated by the rapid influx of migrants, or miss significant numbers of the refugee and indigent population.

Two fortuitous circumstances helped the team to overcome these problems. First, aerial photographs were available in DINAGECA based on flight lines flown in August 1989. Once enlarged to a scale of 1:10000 (1:40000 original), these provided a reasonably accurate overview of residential establishment and expansion. Second, the municipality of Maputo had constructed good maps of physical infrastructure and population density as of 1982. Paul Jenkins, an architect/planner with the UNDP Urban Development and Housing Program in the Ministry of Construction and Water, was hired to relate aerial photographs to city landmarks, and to update the city map for changes in population settlement and infrastructure since 1982. The aerial photographs combined with Jenkins detailed understanding of city infrastructure and residential densities on the ground enabled the team to develop the following research design.

A grid map containing 500 blocks, each block measuring 1 km to a side, was to be overlaid on a physical map of Maputo. Population density gradients were then to be assigned to each grid, e.g. 0 being no population resident, 1 the lowest level of residency, and 'x' the highest (where 'x' is the population density factor of the most highly populated block relative to the least populated block. Blocks without resident population and those with 100% residency and full services were to be excluded, the former because of no population, the latter considered urban. Blocks were then to be randomly selected. A second set of procedures were designed to identify and select individual households within each selected block. This scheme was intended to cover all residential areas (excluding urban areas) out to the end of the security zone, with households sampled in each block in proportion to population density.

In practice, the actual survey design was implemented as follows:

1. The peri-urban area was defined as the greater Maputo city, including the satellite urban areas of Matola and Machava. This area covers 675 km².
2. This area was sub-divided into 544 blocks each 1 km² by overlaying the grid onto a city map (Table A2).
3. An aerial photograph mosaic was then prepared from the 1:10000 enlargements. Lines of the grid were then drawn onto the aerial photographs and a grid map transparency copied.

4. The base map overlaid with the grid were then used to pinpoint the administrative location of each block. The aerial block overlaid with the grid permitted an analysis by block of land use (residential, industrial, agricultural), and in the case of residential land use, the proportion of coverage, residential characteristics, and the number of residential units).
5. Residential characteristics were identified as follows:
 - ▶ Dispersed spontaneous, occupation of a predominantly rural character.
 - ▶ Planned, no services.
 - ▶ Planned, basic services.
 - ▶ Planned, medium services.
 - ▶ Planned, full services.

The final grid showing the number of blocks associated with 13 different categories of residency, and scope of settlement (percentage of blocks with either more or less than 50% of the area classified as residential) is provided in Table A1.

6. Only those blocks meeting the following criteria were retained for sampling purposes. First, all blocks with less than 50% residential use were excluded on grounds that it would distort the study by including too many grid units with dispersed spontaneous residential occupation. Second, all extensive areas of planned residential use with full services, considered to be urban, were eliminated. Third, areas with other forms of residential land use were excluded if more than 50% of the area is planned with full services. After deleting these blocks, only 87 blocks remained for sampling purposes (Table A2).
7. Of the blocks remaining, each block was assigned a population gradient coefficient, ranging from 1 to >45. Blocks with 1-5 residential units would have two households sampled. Blocks with >45 residential units would have a maximum of 11 households sampled. Based on these criteria, the final research design called for a survey of 524 households.

An indicative outcome of this sampling design is illustrated by Figure A1. Blocks with less than 50% residency (1, 2, 3, 7, 34, 35, 36, 37, 41, 69, 70, 71, 72, 75, 102, 443, 444, 445, 446, 476, 477, 478, 480, 511, 512, 514, 515) were excluded, as were blocks with 50% or more full services (5, 6, 40, 74, 483, 510, 517, 544). Remaining blocks were sampled.

These procedures have two important implications for the characteristics of households included in the survey design:

First, urban is defined as any area with full services. Areas with high residential density that would normally be considered urban by nature of building infrastructure are considered peri-urban. By excluding dispersed

Table A1:

Residential Characteristics of Grid Survey Design

	< 50%	> 50%	Total
Residency Characteristic (No. Blocks):			
Dispersed Spontaneous	88	10	98
Spontaneous	44	19	63
Spontaneous/planned (no services)	3	1	4
Spontaneous/planned (basic services)	5	29	34
Spontaneous/planned (basic/medium)	1	7	8
Spontaneous/planned (medium)	1	3	4
Spontaneous/planned (full)	7	6	13
Planned (no services)	2	0	2
Planned (basic services)	5	10	15
Planned (medium services)	2	3	5
Planned (full services)	12	11	23
Planned (basic/medium services)	0	1	1
Planned (basic/full services)	0	2	2
Total	170	102	272

Table A2:

Target population and Sampling Frame, Phase 1 of the Household Baseline Survey

	Number of Blocks	Households to be Selected per Block	Total Sample Size
Residential Density (Units/ha):			
1 - 5	14	2	28
6 - 10	4	3	12
11 - 15	2	4	8
16 - 20	15	5	75
21 - 25	23	6	138
26 - 30	6	7	42
31 - 35	4	8	32
36 - 40	5	9	45
41 - 45	10	10	100
> 45	4	11	44
Total	87		524

Figure A1:

Schematic Diagram of Peri-Urban Sampling Frame

1	2	3	4	5 : : : : :	6 : : : : :	7 :		34
. . . . .	. . . . .	. . . . .	. . . . .	: : : : FS : : :	: : : : FS : : :	: : . . . .		. . . . .
.	: : : : : : :	: : : : : : :	: :
35	36	37	38	39	40 : : : : :	41 . . . . .	.....	68
. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	: : : : FS : : :	: : . . . .		. . . . .
.	: : : : : : :	: :
69	70	71	72	73	74 : : : : :	75 :		102
. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	: : : : FS : : :	: . . . . .		. . . . .
.	: : : : : : :
.
.
.
443	444	445	446	447 : : : . .	448 :	449		476
.	: : : : . . .	: :	:
.	: : : : : : :	: : : : : : :	: : : : : : :	
477	478	479	480	481 : : : : :	482 :	483 : : : : :	.....	510 : : : : :
. . . . .	. . . . .	. . . . .	. . . . .	: : . . . .	: : . . . .	: : : : FS : : :		: : : : FS : : :
.	: : : : : : :	: : : : : : :	: : : : : : :		: : : : : : :
511	512	513	514	515	516 :	517 : : : : :		544 : : : : :
. . . . .	. . . . .	. . . . .	. . . . .	. . . . .	: . . . . .	: : : : FS : : :		: : : : FS : : :
.	: : : : : : :	: : : : : : :		: : : : : : :

settlements, and the possibility that perhaps as high as 25% of the people on the urban fringe are excluded², there is some risk that the sample is biased toward the urban population. To the extent that in-coming migrants settle in more outlying areas or in more dispersed settlements, there is risk that the sample is under-weighted in migrant population.

Second, due to resource constraints, and security risks in district VII, the survey was scaled back to 330 households. It is not clear how this affects the randomness of the population.

2. Assuming that the median point between 50% and 100% residency is 75%, and the median point between 0% and 50% is 25%, and given that the distribution of households is evenly distributed over these ranges, then one can conclude that the baseline survey was distributed to about 75% of the peri-urban population, and not to about 25%.

ANNEX B:
LANDHOLDER ACCOUNTS (26 CASE DISPUTANTS)

Table B1: Summary of Dispute Causes

Subject Matter	Case Numbers
Contextual Influences	
War:	
War conditions	1, 2, 3, 4, 14, 19, 23, 26
War refugees seeking land/housing	1, 2, 6, 12, 13, 14, 15, 20
Overcrowding and Increased Population Pressure:	
Mixing of populations in new communities	2
Overcrowding in communities	2, 13
Population increase	6, 9
Migrations due to war or migrant labor	6, 9, 13
National Administration and Policy:	
Government Land Policy:	
Post-independence government policy	1, 2, 4, 6, 7, 8, 10, 23
Nationalization of private land	1, 2, 8, 10, 16, 20, 21, 22, 25
Government expropriates land in nationalization program	6, 7, 10
Government expropriates land for development project or commercial enterprise	7, 10, 12, 14, 15, 18
Government regulation of land is inappropriate or inefficient (e.g. no titles or slow granting of titles, and poor documentation)	8, 10
Government decentralizes land control to local authorities who are not adequately prepared	22
Government does not control land values, thus speculation	23
Government officials:	
Government officials are corrupt/display favoritism	6, 9, 10, 13, 16, 17
Government officials encroach upon land interest to obtain personal profit (land or cash)	16, 17, 18
Government officials are incompetent	7, 8, 9
Government officials authorize illegitimate land transactions	9
Government and local officials do not cooperate or communicate with one another	7, 8, 14, 15, 16
Government and local officials do not cooperate or communicate with citizens/communities	7, 8, 12, 22, 23
Government agencies perform overlapping/conflicting responsibilities or deny responsibilities	8, 16, 23
(continued)	

Table B1: (continued)

Subject Matter	Case Numbers
Development activities:	
Project introduced	7, 10
Project introduced that benefits some parties but not others	3
Land development and planning not clear	7, 8, 10, 12
Local Administration	
Local Authorities' Control:	
Authorities expropriate land and/or give it to other people	5, 6, 8, 10, 13, 17, 18
Authorities encroach upon land interests to obtain personal profit (land or cash)	3, 6, 7, 9, 10, 16
Authorities encroach upon land interests to benefit high ranking authorities or close associates	1, 6, 7, 9, 10, 18, 26
Authorities allocate land that has been settled by squatters	17
Authorities administer land improperly or inefficiently	4, 7, 8, 13, 20
Authorities administer land with favoritism	11, 20, 26
Citizens' Actions:	
Citizen(s) encroaches upon neighbor's land	1, 8, 10, 24
Landless squatter(s) encroach upon land	4, 17
Powerful community members encroach upon land	1, 8, 10, 16
Citizen(s) takes over land and/or builds house without consent of authorities	1, 3, 10, 17, 21, 23
Citizen(s) uses land for purposes other than authorized	5
Citizen(s) sells land that he/she does not own	9
Family member(s) sells land without consent of all family members	2
Citizen(s) sells land and refuses to turn over title papers	19
Citizen(s) refuses to sell land without property title	20
Citizen(s) allocates land to one party in order to avoid unfavorable encroachment by another party	21
Ex-landlord tries to reclaim former property	22, 25
Heirs try to reclaim former property	23, 26
(continued)	

Table B1: (continued)

Subject Matter	Case Numbers
Land Affairs	
Land Use:	
Land rights are unclear	5, 8, 9, 10, 17, 20, 23
Abandoned land reassigned	18
Abandoned land (by Portuguese) not reassigned	20
Land registration	
Property titles not granted	4, 5, 7, 8, 14, 16
Property titles not respected	10
Land Transfers:	
Land transactions secretive	1
Land transfers unclear	8, 9, 10, 19, 20
Land Security:	
Land inheritance policy unclear	2, 5, 9, 22, 26
Land inheritance for children threatened	6, 23, 25
Land rights potentially threatened	7, 17, 22
No compensation or compensation for expropriated land does not cover losses	7, 13
Natural resources damaged or destroyed	13
Land Development:	
Commercial use of land given priority over citizen residency	14, 15
Citizen will not develop land for fear of expropriation/lack of title	17, 20
Fencing disapproved by neighbors	23

Table B2: Summary of Dispute Processing

Subject Matter	Case Numbers
National or Local Administration	
Institutions and Methods:	
Local authorities approached but fail to act	1, 2, 13, 20, 25, 26
Local authorities unable to act (DCU involved)	14, 15
Government agencies/courts deny jurisdiction over matter	16
Resolution Procedures	
Methods:	
No procedures	14, 15
Mediation by local leader	19
Court adjudication	8, 16
Disputants seek help from government official	18
Outcome:	
Disputants' relationship disrupted	8, 24
Authorities offer land in compensation for expropriated land, but no secure title offered	7, 17
Authorities render one-sided decision	17
Authorities reallocate disputed land	21
Disputant abandons case	22
Disputants decide to sabotage development project if compensation for resettlement not offered	14
Court cannot/does not enforce decision	16
Appeals:	
Time-consuming and expensive	8
Court appealed to because property loss would be high	8
Court appealed to when local authorities are at an impasse	20
Officials who expropriate land are the ones to whom an appeal must be addressed	6, 18

Table B3: Summary of Dispute Policy

Subject Matter	Case Numbers
Contextual Influences:	
End war	1, 2, 3, 4, 5, 9, 12
Encourage return of refugees to original areas	2, 9
National Administration and Policy:	
Coordinate efforts of authorities	1
Local Administration:	
Authorities should find solution to disputants' problems	12, 14, 21, 26
Land Affairs:	
Grant permanent land titles	1, 4, 5, 7, 8, 11, 13, 14 16, 17, 18, 20, 23
Privatize land	1, 5, 14, 16
Promote written rather than oral agreements	25
Improve system for documentation	4
Make credit more equitably accessible	8, 16
Clarify responsibilities of individual authorities	8
Clarify responsibilities of agencies	8
Reduce corruption by authorities (regulate fee assessment, collection, and distribution)	3
Disband local authorities and rely upon government ministries	20
Do not permit ex-landowners to recover former holdings	22
Clarify ex-landowner-tenant rights	25, 26
Land Resettlement:	
Improve channels of communication between authorities and citizens before resettlement	7
Provide compensation for loss of houses, improvement to houses, destruction of natural resources	6, 7, 12, 13, 14, 15
Provide partial compensation (residual value of total land value, after deductions for maintenance and improvements)	22
Provide compensation for moving costs	15
Provide people who are resettled with building materials	14
Land Dispute Processing:	
Find land for evicted landholders	12, 14
Community Affairs:	
Strengthen farmer associations/cooperatives	6, 7, 8, 18
Implement literacy programs so that people can defend their land rights	10

ANNEX C:

LEADER ACCOUNTS (9 INTERVIEWS WITH BAIRO LEADERS)

Table C1: Summary of Dispute Causes

Subject Matter	Case Numbers
Contextual Influences	
Environment:	
Drought	I
War:	
War conditions	G
War refugees settling on land without proper authorization	A, I
Overcrowding and Increased Population Pressure:	
Overcrowding in communities	D, E, F, G
Influx of new or returning settlers from cement city	B, E, F, H
National Administration and Policy	
Government Land Policy:	
Post-independence government policy	D, G
Nationalization of private land	A, D, G, I
Contradictory land laws	G, H
Government Officials:	
Government officials are incompetent or inefficient	G
Government officials do not cooperate or communicate with one another (or with local authorities)	C, H, I
Development Activities:	
Project introduced that benefits some parties but not others	C
Project introduced that does not consider local priorities	G
Local Administration	
Local Authorities' Control:	
Authorities circumvent or ignore law	A
Authorities grant land to favorites	F
Authorities profit from land transactions	F
Authorities overlook citizen violations of land laws--when local circumstances necessitate	A
Authorities play small role in land transactions between citizens	A
(continued)	

Table C1 (continued)

Subject Matter	Case Numbers
Citizens' Actions:	
Wealthy citizens use money to gain access to land	H
Citizens assert claim to a lot that belonged to someone else during colonial times	I
Citizens deceive authorities (false presentation of status/interests)	A, B, E
Citizens occupy land or build dwellings without permission from authorities	A
Citizens cheat one another (using land improperly for profit)	A, B, F, H
Citizens struggle against involuntary relocation	B, C
Ex-landlords interfere with current landholders	A, B, D, E
Ex-landlords try to reclaim former properties	D, E, F, G, I
Ex-landlords try to resell former properties	F
Land Affairs	
Land Use:	
Building without authorization	A, B
Using land for purposes other than authorized	A, B, F
Conflicting land rights	G, H
Residential land is greater problem than agricultural land	H
Land Transfers:	
Land transactions are secretive	C
Purchased land is occupied by several families	F
Land Security:	
Land inheritance for children threatened	D, F
No compensation, or compensation for expropriated land does not cover losses	B
Land occupants can be evicted without warning	B, C, H
Land Development:	
Commercial use of land given priority over citizen residency	B

Table C2: Summary of Dispute Processing

Subject Matter	Case Numbers
National or Local Administration	
Institutions and Methods:	
Local authorities act as mediators between disputants	B, E, F, H
Local authorities in no win-situation-- caught between disputants	B
Resolution Procedures	
Methods:	
Wealthy use court	I
Outcome:	
Disputants' relationship disrupted	A

Table C3: Summary of Dispute Policy

Subject Matter	Case Numbers
Contextual Influences:	
End war	B, E
Encourage return of refugees to original areas	B, E, H, I
National Administration and Policy:	
Coordinate efforts of authorities	C
Develop coherent legislation	I
Local Administration:	
Authorities need to propose compromises between disputants	E
Authorities need to find solutions to disputants' problems	E, I
Land Affairs:	
Clarify land rights	F
Do not permit ex-landowners to recover former holdings	A, B, D, I
Clear up ambiguities in housing policy	D
Sell nationalized houses to current tenants	D
Cancel land allocations in highly contested areas (e.g. irrigated areas)	H, I
Favor commercial over private land use in order to provide produce for the market, contribute taxes to the state, and create jobs	I
Evict squatters	I
Land Resettlement:	
Provide people who are resettled with building materials	I
Land Dispute Processing:	
Find land where displaced persons can resettle	E
Community Affairs:	
Support farmer associations/cooperatives	H, I
Inform people about the requirements of land occupancy and utilization	G

ANNEX D

DISPUTE CASE SUMMARIES

Note, the names of persons involved in the land conflicts recorded in this annex have been changed to protect the identity of the respondents.

CASE STUDY NO. 1

LAND ENCROACHMENT BY ELITE MAN

Date of Interview: 15 October 1991

District: V

Neighborhood: Inhagoia

Disputant: Mrs. João

I. Date and Type of Conflict

In 1986, Mrs. João's residential lot was occupied by a man sent by the leader of the *Grupo Dinamizador* (GD).

II. Background

Mrs. João has held the lot since 1970. At the time of the dispute, she was living with her mother and brother. In 1986, she received a notice from the leader of the GD telling her that she had to allow the leader of the "ten houses group" to occupy part of her lot since he did not have a house, and two other families had already refused to shelter him.

Mrs. João agreed, because in her words "they give the orders". The leader of the "ten houses group" began buying his construction materials at once. A month later he told the woman that he was going to build a temporary reed house with a zinc roof. Mrs. João informed him that he was able to do so only because the leader of the GD had directed her to give him a place on the lot.

The conflict began when the man began to build the foundations of his permanent house adjacent to that of Mrs. João's brother, who lived on the same lot, but in a separate house. The brother asked the man to build his house a bit further away because it would block his house's entrance and the pathway to the latrine. According to Mrs. João, the man could have built his house in the same spot where he had previously built the reed house.

When the man did not abide by the brother's request, the brother complained to the *quarteirão* leader, asking him to do something. The latter informed him that he had nothing to do with the case as long as the lot owner had agreed to let the newcomer build the house. The construction continued. The woman is angry because her brother has suffered from the infringement, but she thinks that it would be fruitless to further fight the problem. She has not yet spent any money in resolving the problem nor has she asked for compensation.

In order to strengthen her right of possession over the remainder of her lot, Mrs. João has acted to clearly delimit the boundary between her area and that of the newcomer. She is further not willing to share with him the bathroom, the latrine, or the kitchen.

Mrs. João is angered by the GD's decision requiring the she give part of her property to a stranger. She has nephews and other relatives who have lost their homes as a result of the war; instead of helping them she was instead required to give land to a stranger.

III. Other Opinions

Mrs. João feels that this type of conflict stems from the arbitrariness of the local authorities and the pressure exerted by the war refugees.

There have been two other conflicts in her neighborhood. The first happened two years ago when a tenant from APIE decided to build a brick house without the necessary authorization. The local authorities and the residence commissary decided to demolish the house but still allowed the resident to continue living on the same lot. The second conflict happened in 1991, when a man managed to obtain a lot, ignoring the GD. However, after starting to build a house on the land, again disregarding the authorities, the officials one day appeared and demolished the building. The man later disappeared from the neighborhood.

According to Mrs. João, there are more conflicts now than before independence. Prior to independence, land conflicts were fewer because lots had private owners. Anyone could obtain a lot by paying an annual fee of 600 *escudos*. There were no housing conflicts because the people knew which houses were empty and which ones were not. The owners would post notices in the doors and windows of homes announcing they were vacant. Not only were there no doubts related to which houses to rent, but also there was no need to go through hidden procedures to acquire a property.

The direction and frequency of land conflicts in coming years will depend on the war situation, the level of coordination (or lack thereof) among the authorities, and on the level of respect demonstrated by citizens for private property. In her opinion, land conflicts will continue as long as rights of private property are ignored or disregarded by the people.

CASE STUDY NO. 2

DISPUTE OVER LAND AND HOUSE OWNERSHIP

Date of Interview: 19 October 1991

District: V

Neighborhood: Luis Cabral

Disputant: Mr. António

I. Date and Type of Conflict

The conflict occurred in 1985 when the brother of the person from whom Mr. António had bought the house made a claim to it.

II. Background

Mr. António bought the house in 1984 from a man named Chilaule. He paid 90 contos (90,000 meticaís) for it. The house had four rooms and was built of wood and zinc. The former owner had decided to sell it because he wanted to go back to his place of origin in Inhambane. Besides this house, Mr. António owns another in Bagamóio, which he left to his brother.

When Mr. António bought the house he and the owner signed a purchase agreement. The procedure was witnessed by the owner's relatives so that the transferal of the title would be legally acknowledged. The ex-owner even gave Mr. António a declaration of purchase which he currently holds.

The conflict began in 1984 when Mr. Chilaule's brother found out about the transaction and decided to sell his own house in Bagamóio. The brother visited Mr. António and asked him to leave the premises in a designated period of time. Mr. António refused to do so, after showing the man the declaration of purchase. In 1985, the brother again visited Mr. António's house, destroyed a straw hut on the property, and broke some windows of the main room. Mr. António reported the act to the local authorities (the leader of the *quarteirão* and the secretary of the *Grupo Dinamizador*). Some time later, when it appeared as though the conflict was over, the brother again showed up and damaged the house. This time Mr. António reported the incident to the police. The man claimed himself as the legitimate heir of the house, since his brother was in Inhambane. The police threatened to jail him if he continued damaging the property, and further directed him to reimburse Mr. António for the damages, which the brother paid. The conflict appears to have been resolved although the man occasionally shows up around the house and neighborhood.

III. Other Opinions

Mr. António feels that there are more problems with land now than before independence. The problems are caused both by the war and by the government's nationalization of private property. There are many families who have arrived from the provinces to Maputo where they cannot find a place to live. People have no alternative but to escape the war. Relatives of these families living in Maputo feel obliged to help them out in any way they can. People are

building squatter housing in swampy areas and garbage dumps under inhumane conditions. There is not enough room to shelter the people that continue to arrive daily in Maputo.

In his opinion, peace is the only solution to the current state of land conflicts. Then, without any doubt, young and old would return to their places of origin. They are not used to the city where they have to buy everything; they are instead accustomed to living off the produce of their *machambas*. Even the youngsters would go back to their places of origin as their ancestors owned lands and apple trees that must be managed by the newer generations. Mr. António has a piece of land in Inhambane that is currently occupied by the RENAMO forces; once the war is over he will try to go back and recover this land. Fortunately, there are no land conflicts where he lives, as the same people have been living there for a long time.

CASE STUDY NO. 3

UNAUTHORIZED CONSTRUCTION OF DWELLING

Date of Interview: 18 October 1991

District: V

Neighborhood: Bagamóio

Disputant: Mr. Gentil

I. Date and Type of Conflict

The conflict began in 1988 when the leader of the housing committee demolished the house that Mr. Gentil had begun building, arguing that it had been built without the local authorities' consent.

II. Background

Mr. Gentil, at the time, was living in his sister's house in Infulene where he met a friend whose grandfather lived in Bagamóio and owned a lot big enough for several houses. He contacted the grandfather and asked his consent to build a house on part of the lot.

Before beginning construction, Mr. Gentil contacted the *Grupo Dinamizador* (GD) and registered the declaration of the grandfather which stated that he ceded part of the lot to him to build a house. During construction, the leader of the housing committee arrived one day and destroyed the building, after informing him that he should have obtained his (housing committee leader) consent before beginning construction.

Mr. Gentil stopped construction and contacted the secretary of the GD and the block leader, who again reiterated their consent to his building a house. At a later meeting to discuss the problem among all parties involved, the housing leader justified his actions by explaining that there were many thieves in the neighborhood that could steal Mr. Gentil's construction material. Should such a theft have occurred, he (the housing leader) would have been responsible for it.

Mr. Gentil did not spend any money to settle the conflict as very little construction had taken place. While the conflict was being resolved, he stored the construction material in the house of the grandfather. After two weeks, and the conflict had been resolved, Mr. Gentil began construction anew. Since that time, he has experienced further problems with the leader of the housing committee.

Mr. Gentil continues to feel that the housing leader acted in the way that he did in order to obtain money from him. Fortunately, he had the support of the local authorities, which prevented the housing leader from carrying out these intentions.

III. Other Opinions

He is unaware of other land conflicts in the neighborhood. The area where he lives was not as populated as it is now. In the past, anyone wanting a plot

could have obtained one by paying the owner 600 *escudos* and promising not to build a brick (permanent) house. However, beginning in 1983, the neighborhood rapidly began to become more densely settled due to the flooding of the Jardim zones, to the construction of a nearby highway, and more recently to the armed conflict and insecurity in the rural areas. In his opinion the conflicts that result from the war will only be resolved once there is peace throughout the country, and people are able to return to their homes.

CASE STUDY NO. 4

DISPUTE OVER AGRICULTURAL PLOT BOUNDARIES

Date: 28 October 1991
District: V
Neighborhood: "25 de Junho"
Disputant: Mr. Estevão

I. Date and Type of Conflict

The conflict, which occurred in 1984, involved the spontaneous settlement of a number of families on Mr. Estevão's agricultural holding.

II. Background

Mr. Estevão has been the owner of his *machamba* since 1964. During several years in which he did not work the plot, a number of families spontaneously occupied the land, resulting in his holding being sub-divided into several independent plots. Such a situation would not have occurred in the past as there was not a major incentive for people to occupy land for agricultural production. It was normal for large owners to ask smaller households to occupy small plots on their holdings to help maintain the land in good farming condition.

Mr. Estevão was one of the first residents to settle in the area, after claiming a *machamba* area roughly 3000 m² in size. The borders were breached when a number of peasant households started claiming portions of the plot with the intention of staying. In 1984, Mr. Estevão asked the Green Zones Office (*Gabinete das Zonas Verdes*) to verify the boundaries of his lot. He then obtained official acknowledgment of his occupation from the Executive Council (*Concelho Executivo*).

Despite these measures, his problems with the land have continued. Theft has become a constantly reoccurring problem. He used to obtain a significant profit selling bananas, but currently almost his entire harvest is stolen. The same happens with vegetables. The *machamba* is frequently raided by people living nearby. He asked the Green Zones Office for a new demarcation of his property, was told to ask the Executive Council for the documents of the *machamba*, but was informed by the Council that it had lost the documents. Mr. Estevão is now making visits to the cadastral office of the Ministry of Agriculture (DINAGECA) to start anew the process of demarcation and documentation.

In order to protect his ownership rights, Mr. Estevão plans to build a small house on his *machamba* where he can place a guard. He also intends to build a fence around the lot. With more security, he plans to build pig stalls and raise chickens. Once completed, he is sure that his production and income from farming will improve. He has already started the paperwork for a bank loan for these investments.

III. Other Opinions

According to Mr. Estevão, one way to avoid land problems would be to distribute ownership titles among all those who possess a *machamba*. He knows of cases in which people with agricultural tools, tractors and *charruas* cultivate *machambas* of poorer peasants. When the peasants protest, they demand compensation for the investment they made in the land. If the owners do not have the cash for payment, they wait until the crops are harvested, then demand the crops. This happened to his son's father-in-law in Xinavane.

Conflicts have intensified since independence, an effect caused by the lack of clear title to land. They will continue to worsen once the war is over as there will be a fierce struggle to own land closer to Maputo. He is not presently interested in selling his *machamba*. On the contrary he wants to invest more--raise animals, improve his crops, and buy an electric pump. However, once investments in the *machamba* are made, he would be interested in selling it. The price would then take into account the value of the investments and the potential profit. Even if he sold the *machamba*, however, he would try to buy another.

CASE STUDY NO. 5

DISPUTE OVER LAND AND HOUSE OWNERSHIP

Date of Interview: 28 October 1991

District: V

Neighborhood: "25 de Junho"

Disputant: Mrs. Simango

I. Date and Type of Conflict

The conflict occurred in 1985. The house and the *machamba*, where Mr. Simango and his wife are currently living, was given to Mrs. Simango by the previous owner. In 1989, a daughter of the former owner claimed the house declaring herself to be the only heir of her father in Mozambique.

II. Background

Mr. Simango lived with his family on the island of Inhaca until the former owner of the house decided to leave for Portugal. The previous owner is the cousin of Mrs. Simango. Upon leaving for Portugal, the ex-owner decided that his cousin should keep his belongings, including the *machamba* (1500 m²) and the house. He announced his decision in a family meeting so that every member would know his wish. The title of the property was given to Mrs. Simango who has since kept it without having it transferred into her name.

In 1989, the ex-owner's daughter one day appeared asking for the title. According to Mr. Simango, the woman is an illegitimate daughter of the previous owner. Given that the former owner's will to leave the documents with Mrs. Simango had been expressed in an extended family meeting, she and her husband decided to call a similar meeting to discuss the daughter's claim.

Family members at the meeting were informed that the daughter had not been present at the earlier meeting called by her father in 1978. She was only now showing up, out of her own initiative, to claim the things of her father. The family members thus decided that the only and legitimate owner of the controversial property should be the ex-owner's cousin, Mrs. Simango.

The daughter, however, was not satisfied with the family's decision. Some months later she appeared again, this time asking that at least a portion of the house be given to her. This time, Mr. Simango intervened directly in the problem, and refused the woman's demands. He informed her that he had already spent at least 3,000,000 *meticals* repairing and maintaining the house and that he was not ready to share it with someone who would continue to make problems in the future. He would change his mind only if the previous owner changed his mind, and the old owner not having done so, refused to accept the woman into the house.

Mr. Simango feels that after all the years of maintaining the house he should not be obliged to share the property with anyone. If he had not spent as much as he did, or the house was in bad condition, no one would be

interested in sharing the property. To avoid problems in the future, Mr. Simango has made an application to the Administration of District V to change the ownership title to his name.

III. Other Opinions

Mr. Simango knows of no other land conflicts in the neighborhood, a fact which he attributes to the land being parceled (titled) long ago. The only dispute is about the "empty" land in which some people cultivate vegetables. With regard to those plots, regulations of the Executive Council and the DCU stipulate that people should register their occupancy within 90 days. He is currently in the process of registering his agricultural land holdings. He further noted that some conflicts with the local authorities result from people using the land for purposes other than those originally declared--a point which the Executive Council can use to expropriate land and give it to others.

CASE STUDY NO. 6

LAND CONFISCATION BY THE STATE

Date of Interview: 5 October 1991

District: IV

Neighborhood: Laulane

Disputant: Mr. Paulinho

I. Date and Type of Conflict

This conflict occurred in 1982 when the DCU decided to expropriate a parcel held by Mr. Paulinho on grounds that the land was state property.

II. Background

When Mr. Paulinho arrived in Laulane in 1964 from the province of Gaza, the neighborhood was almost uninhabited and covered by woods. If a Mozambican wanted land, all that was required at the time was to ask the *regulo* of the zone. For 50 *escudos* payment, the *regulo* would grant a plot of land, demarcate it, and provide authorization for cultivation.

Six years after independence, in 1982, the Executive Council decided that the DCU should begin the process of "parcelization". This process involved the demarcation of new plots of land in order to meet the needs of the vast population that had immigrated to the area during the previous years. This process angered Mr. Paulinho, because his parcel was not included in the delimitation made by the DCU and because the persons in charge of the neighborhood decided to include his land in the state's special reserve zone for public works projects. Mr. Paulinho noted that the decision to create a special reserve was unilaterally taken by the state institutions involved.

III. Current Situation

Once the state reserve was demarcated, the Executive Council granted Mr. Paulinho three new plots located near his house. This allotment was to serve as compensation for the land taken away, plus additional land for his two sons. However, development of the new plots proved difficult because he lacked money to invest, and the plot from which he had earned most of his income had been expropriated. After some time, he was informed that the DCU was going to demolish the house on the "old" lot in which he was still living. Later in 1990, he was informed that the newly assigned plots were going to be given to someone else. Fortunately, when one of his two sons came back from East Germany, he brought building materials for a new house.

He currently plans to finish construction of the new house to help validate his right to the property in Laulane. He refuses to leave the old house and thinks that the state should reimburse him for all the damages they caused when they expropriated the *machamba*; the reimbursement should include the fruit trees he had planted. He has the property titles of the new plots, which were given to him by the Executive Council in 1982.

IV. Miscellaneous

Mr. Paulinho is a member of an association of small producers in which he pays a membership fee. He has been farming for more than twenty years, producing for both subsistence and the market. Two years ago, the DCU seized from him another *machamba* that was then given to a high ranking official. He kept a small portion of that *machamba*, but it is not large enough to support the needs of his family. He does not know to whom he can complain about these injustices. The producers association can not appeal to government, when government officials themselves are seizing the land.

The conflicts which he has experienced started after independence, and conflicts in general have worsened with the influx of war refugees. The *quarteirão* leaders take advantage of the crisis by selling land for agricultural and residential purposes. He knows that such transactions involve large amounts of money; there are cases in which lots are sold for 1,000,000 *meticais*.

Mr. Paulinho believes that land conflicts are going to get worse in the coming years, even if the war comes to an end. He intends to go back to Gaza, where he owns agricultural land, once the war is over. He will give his children the plots he has in Lulane.

CASE STUDY NO. 7

LAND ENCROACHMENT AND RESETTLEMENT TO PREPARE FOR POLICE HOUSING

Date: 7 November 1991
District: IV
Neighborhood: Laulane
Disputant: Mr Adão

I. Date and Type of Conflict

The conflict occurred in 1981 when people were removed from a neighborhood to make way for a housing project for the workers of the police force (*Policia de Mozambique*).

II. Background

In 1972, Mr. Adão was living in a zone that had been designated a state reserve area. He got his lot through the land administrator (*chefe das terras*) who was subordinated to the neighborhood *regulo*. He paid 5,500 *escudos* which was a high sum at the time. Mr. Adão justified the price by saying that besides the residential site, the lot included a large agricultural area.

Mr. Adão knew before the purchase that the land was located in a state reserve zone. When buying the property, he was told not to build a brick house as the state was going to build a cement highway.

In 1981, the inhabitants of the zone received an eviction order to make way for a state housing project for workers in the police force. Eviction notices were sent to the current residents, but the Executive Council also assigned each family a new lot to build a house. The new construction was the responsibility of the Ministry of Interior. When the houses were finished, the families were transferred to their new homes. And each family received a document certifying the right of provisional occupancy on the new lots.

This document, according to Mr. Adão, does not provide the new house owners security. First, the document fixes a ninety day term after the assignment of the lot for the beneficiary to start the construction of a house made of non-permanent materials (*materiais ligeiros*). Second, while the Ministry of Interior was responsible for constructing the new houses, it never gave them a document granting them definite ownership rights to the property. Third, the construction of a house of permanent materials (*materais duraveis*) is considered legal only after receiving authorization from the DCU, and once they possessed the final property title. None of these steps has yet been accomplished.

The problems with lack of a "definite" property title have never been clearly resolved. Mr. Adão, for a long period of time, thought that everything had been legally settled. But as discussions over ownership of the houses have become more frequent, and the need for clearer rights of occupation have become more important, he realizes that there are many unclear issues. He is

concerned that new authorities will one day show up with documents evicting the residents for one reason or another. Should such an event occur, the current dwellers would lack a clear legal base to defend themselves.

Mr. Adão has not yet taken steps to protect his possession rights. At the beginning he found the move to be advantageous because the houses built by the Ministry of Interior were bigger than their previous homes. However, he has begun to realize that there are disadvantages as well. In particular, his previous lot was bigger and had several fruit trees that were partially destroyed for the construction of the housing project.

III. Other Opinions

He is not aware of other land conflicts in the area. He thinks that Laulane is big enough, one of the biggest *bairros* in Maputo, and not even the war refugees pose a serious problem from the point of view of residential space. There are problems with agricultural lands in the irrigated areas. He knows of one large project where land is being expropriated, with considerable promotion by state officials. Mr. Adão described a case of an influential person, belonging to the state apparatus, who showed up with a document that granted him the right to occupy plots that were occupied by persons who had been there for a long time. The producers were furious, and collectively went to the district administrator for an explanation, but to no avail. In the end, the producers were attacked by the police; the government official kept their plots, and built a fence to protect himself from confrontations.

Mr. Adão is a member of a peasants association called "Samora Machel". The association's *machambas* were parceled and reorganized in order to improve the use of the land. Although his *machamba* was slightly reduced in size through the process of "parcelization," he feels that being a member of the association protects him. He paid an initial membership fee of 2,800 *meticals*, in addition to a monthly fee of 250 *meticals*. The association is doing the paperwork for the procurement of a "group" property title. At the time of the interview, the plots of all members in the association had been mapped.

During colonial times there were not many conflicts related to agricultural land, mainly because the area was relatively uninhabited. The current problems stem from authorities who try to profit from the powerless position of the peasants to confront local authorities.

Mr. Adão wants to go back to Inhambane once the war is over. Besides his father's property, he has coconut and cashew trees as well as other types of horticultural crops. He adds that it is going to be difficult to avoid having land conflicts in the near future as people are not on equal standing. On one side there are the government officials, on the other there are the peasants.

CASE STUDY NO. 8

LAND ENCROACHMENT BY ELITE MAN

Date: 19 October 1991
District: VI
Neighborhood: Zona Verde
Disputant: Mr. Rogério

I. Date and Type of Conflict

The conflict started in 1988 when Mr. Rogério's property was taken by a private farmer.

II. Background

Mr. Rogério has several businesses including two peri-urban *quintas*, one store, a restaurant and two fishing boats. The *quintas* were obtained in 1974 and 1979. One was given to him by the former owner, a *colono* for whom he worked until the owner left Mozambique around the time of independence. He acquired the other *quinta*, a farm abandoned by a Portuguese landowner, through a petition to the district administrator. During the years following independence, Mr. Rogério found it very difficult to maintain the *quintas* because of scarce inputs and inadequate market incentives. Few people were interested in claiming abandoned agricultural land, in the years immediately following independence, for these two reasons. Those who were interested either had the means or the influence to obtain agricultural inputs.

III. Historical Context

The conflict involves the *quinta*, 2 hectares in size, that Mr. Rogério occupied in 1974, located in the irrigated zone. Adjacent to this property is a piece of land that until 1979 was considered unsuitable for agriculture because it was uneven and swampy. According to Mr. Rogério, others could not believe that this land could be cultivated. Together with his workers, he transformed the land into a very productive plot. He felt he had the right to work the plot because it was located outside the area where the Green Zones Office (*Gabinete das Zonas Verdes*) demarcated land and issued titles. In 1988, nine years after his occupancy, a man called Mr. Siteo, who occupied the plot next to his, seized a large portion of the plot that Mr. Rogério had cleared. He destroyed 368 banana trees, 25 square meters of tomato plants and 15 papaya trees that had been planted by him.

Although he is a member of a producers association, the association did not help him resolve the problem. Mr. Rogério first tried to resolve the conflict by talking with Mr. Siteo, who refused to discuss the dispute with him. He then informed the district administration of this fact, the personnel of which then called the DCU to make a new "parcelization". The DCU sent a group of three topographers to measure the plot on three different occasions. Each time they reached a different conclusion on the lot's size and boundaries, which acted to further confuse and complicate the dispute.

Mr. Rogério charges that Mr. Siteo profited from an unfair delimitation of the plot and also began to menace him physically. In February 1989, he organized a group of off-duty police men that went to his *machamba*, threatened him, and even shot at him. The situation was brought under control thanks to the fast action of the local military base (*comando*), from which soldiers were sent by the secretary of the *Grupo Dinamizador* (GD).

The GD informed the PIC (Criminal Investigation Police) of the state of events. The PIC sent an agent to investigate the case, together with a man from the *Casa Agrária* of the district. They determined that as long as the conflict remained unresolved, neither men could conduct work on their *machambas*. Another survey was undertaken in addition to the three already performed by the DCU.

In November 1990, Mr. Siteo brought claim against Mr. Rogério in city court. Mr. Rogério was found guilty of having acted viciously and of bad conscience, and was ordered to pay damages of 4,000,000 *meticaís*. He contested the decision on grounds of complicity between the PIC agent and Mr. Siteo. The two owners are waiting for the court to make its decision, which is expected to come in late 1991 or the beginning of 1992. Meanwhile both men are still working their own *machambas*.

He still hopes that his arguments and rights will prevail in the conflict. But in order to legally put into effect the property titles, he needs a decision from the authorities. He had begun the work of legalizing his occupancy of the *machambas* by the time the conflict had started; although he requested a definitive property title from the Executive Council in Matola city, none has yet been received.

IV. Expenses Caused by the Conflict

It is difficult to estimate the cost of damages caused to both parties by the conflict. Besides material damages he also experienced moral suffering. The friendship between he and Mr. Siteo has been severed; they had been close friends. Mr. Rogério had helped Mr. Siteo to get a loan to work his *machamba*. He had also lent him a truck that has since been rendered completely useless. Besides the expenses made directly in the *machamba*, he has had to pay his lawyer two hundred *contos*; Mr. Siteo has paid his lawyer 1,000 *contos*. Mr. Rogério feels that additional and sizable expenses will be incurred before the conflict is resolved.

V. Other Opinions

Such conflicts did not exist before independence. The problems started when the government declared that land belongs to the state and that its alienation was forbidden. But the law is frequently ignored. He bought one *quinta* in 1983 for 1,500,000 *meticaís* and sold another for 50,000,000 *meticaís*.

Another source of conflict is the recent acceleration of land appropriation by government officials. This hurts the most established farmers as they too want more land. Once the war is over, there should be less conflicts as the people return to their places of origin. But that will not be enough. The best way to end the conflicts would be to give producers property titles so they have security as real owners.

CASE STUDY NO. 9

LAND REALLOCATION BY AUTHORITIES

Date of Interview: 8 October 1991

District: III

Neighborhood: Polana Caniço A

Disputant: Abreu

I. Date and Type of Conflict

The conflict began in 1977 when Mr. Abreu protested a decision by the leader of the block to give part of his lot to a woman.

II. Background

According to Mr. Abreu, the problem began while he was still a miner in South Africa and his mother was keeping his belongings. She died in 1976 while he was still in South Africa. Some time after his mother's death, the leader of the block started the demarcation of lots in his neighborhood. In the process, his lot was reduced and a piece given to a woman who was a friend of the block leader. Shortly thereafter she built a reed house on the lot.

When Mr. Abreu returned from South Africa, he went to the block leader seeking an explanation. He was told that the woman was going to stay there only temporarily until he found another lot for her. A year later, the woman started to build a brick house, an indication of her full intentions to remain on the property. The conflict then became serious with physical aggressions, insults and material damages. Once the woman pulled out Mr. Abreu's fruit and shade trees; he responded by doing the same to her. After further investigation, he discovered that the block leader had created several conflicts of the same kind, and was "trafficking" in the distribution of plots, actions for which he eventually lost his job.

Once the block leader was removed from his position of authority, Mr. Abreu presented the conflict to the *Grupo Dinamizador* (GD), but again without success. The problem grew worse when one of his brothers and family came to live with him, fleeing armed attacks in Gaza. The small space that was already being disputed by two families came to be shared by yet one more family.

Mr. Abreu started looking for alternative space. He found a lot in Polana "C" which is a new neighborhood, located in an extension of Julius Nyerere Ave, on the way to the airport, between the University and the countryside of Costa do Sol. Unfortunately, the lot was not suitable for residential purposes as it is located in a zone susceptible to erosion. The Executive Council of Maputo has tried to solve the problem by planting trees, but the people occupying the zone continue to pull them out for firewood and construction material.

III. A New Conflict

In August 1991, Mr. Abreu found someone who was returning to Inhambane and wanted to sell a lot and a house. The woman, who claimed to be the owner,

informed him that she would sell the house and the lot for one hundred *contos* which he accepted. He paid her 30 *contos* and a cassette player as guarantee for the remaining 70 *contos*. Two months later when he was renovating the house, he discovered that the woman was not the legitimate owner. When Mr. Abreu found her, she had already spent the money.

The local authorities decided that the woman had to sell Mr. Abreu her own plot and house as she did not have the means to reimburse him. She agreed as she also wanted to move to another house. The new house and the plot were priced at 85,000 *meticais*, of which Mr. Abreu had already given her 60,000 *meticais*. At the time of the interview both of them were living in the same house, although it now belongs to Mr. Abreu. He has been living in his new property since October of 1991.

IV. Other Opinions

Mr. Abreu and his wife feel that the kind of conflict they experienced normally originates in bribes that some of the local authorities accept. They authorize "illegal" occupation of lots that are not intended for housing, and allocate lots to new arrivals to Maputo, in the process collecting bribes.

This is one of the neighborhoods where land conflicts are pervasive. Although it is a relatively new neighborhood, its population growth expanded rapidly following the spread of war in the southern provinces. The majority of its residents have been subjected to temporary and dangerous living conditions as they had no place else to go. In 1989, some deaths were registered in Polana-Canico "C" when some reed houses collapsed due to torrential rains. A majority of the residents of Polana Canico came from Magude, and many were, and continue to be, professional miners. They used to own good houses and plots there. When the war is over, they might prefer to go back to their old homes, rather than remain in the city. This would help bring the conflicts to an end.

CASE STUDY NO. 10

LAND GRABBING SUBSEQUENT TO DEVELOPMENT

Date of Interview: 16 November 1991

District: IV

Neighborhood: Mavalane A

Disputant: Mrs. Fernando

I. Date and Type of Conflict

The conflict started in 1988 when a production cooperative seized one-half of Mrs. Fernando's *machamba* in the Infulene Valley. In addition, her neighbor, a woman farmer, also seized part of the *machamba*.

II. Background

Mrs. Fernando has owned a *machamba* in the Infulene Valley since 1957. It is a big *machamba*, where she grows vegetables and rice. She bought the *machamba* through a loan, and according to her, the *machamba* has always been highly prized and wanted by many people. When her husband died, a cooperative seized a piece of her property without telling her in advance or giving an explanation. Last year a woman neighbor took another piece and started growing vegetables.

III. Authorities Involved

Neither conflict has yet been resolved. She claims to have the property title which she obtained with the plot. Her oldest son apparently has other documents that help verify her claims to the property. Mrs. Fernando is afraid that someone will try to steal the documents if she leaves them at home, because her old age does not allow her to defend herself. She has thus given the documents to her son who will go to the tribunal to present their case. The son could not be contacted.

IV. Other Opinions

According to Mrs. Fernando, problems of land grabbing began only after independence. After 1975, there were many people who manipulated the idea that "the land belongs to the people", and ignored private property. Some people from the Green Zones Office, from the agricultural cooperatives, and even from the *Grupo Dinamizador* use their authority to transgress or expropriate private lands. She thinks that if the literacy level of the people were improved, the conflicts would diminish. In her opinion, it is the illiterate that are more inclined to provoke conflicts and do not know how to resolve them.

CASE STUDY NO. 11

RESETTLEMENT CAUSED BY GOVERNMENT APPROPRIATION OF LAND

Date of Interview: 14 November 1991

District: IV

Neighborhood: Mahotas

Disputant: Mrs. Benfica

I. Date and Type of Conflict

The conflict began in 1989 when a police agent occupied two lots belonging to Mrs. Benfica.

II. Background

Around 1976 a police brigade gathered the population of Mahotas to announce that they were going to be moved to a communal zone, on grounds that the neighborhood--houses and streets--was going to be modified. That plan never materialized. In 1980, Mrs. Benfica's husband who is now dead asked the Executive Council for two lots. He wanted one to cultivate plants and to raise animals, and the other to build a house. After his death, many people advised Mrs. Benfica to sell the land but she refused to do so.

One day a police agent "invaded" her land with a tractor and destroyed her crops. Mrs. Benfica reported the incident to the neighborhood *Grupo Dinamizador* (GD). The secretary of the GD sent a notice to the police agent asking him to come to the GD office. The police officer did not comply, and continued working the land. Mrs. Benfica insisted that the GD resolve the case but she was unsuccessful. She thinks that both the policeman and the local authorities are using the fact that she is a widow to ignore her. She eventually grew tired of the struggle, and gave up trying to recover the plot.

Mrs. Benfica did not spend any money trying to resolve the conflict. If she had money, she would have paid the people from the GD to help her find a solution to the conflict. However, luck was eventually on her side. Although the GD did not help her, two years later the policeman left the plot and she claimed it back.

Mrs. Benfica has all the documents related to the allocation of the two lots, including the plan of the house. The only documents that she does not have are the ones related to the house where she now lives, but she has already made the application to the GD. Her major concern is that the property titles are still considered temporary. She has fifteen lambs, some goats and hens which she is planning to sell before someone attempts to take the lot from her.

III. Other Opinions

She is aware of cases of powerful government officials appropriating peoples land. She has been living in the zone for many years now. Only in the last few years have conflicts noticeably increased. She feels that the end of the war will put an end to the conflicts because there is no more room in the city for the refugees who are increasing the demand for land.

CASE STUDY NO. 12

RESETTLEMENT CAUSED BY GOVERNMENT APPROPRIATION OF LAND

Date of Interview: 11 November 1991

District: IV

Neighborhood: Laulane

Disputant: Mr. Basilio

I. Date and Type of Conflict

The conflict occurred in 1984 when a lot belonging to Mr. Basilio was enclosed in a "state reserve".

II. Background

Mr. Basilio lived in Hulene until he got married in 1980, at which point he decided to build a house for his family. He got a transfer permit from the residence commissary and moved from Hulene to Laulane. Once there, he presented the permit to the secretary of the *Grupo Dinamizador* (GD) and was assigned a lot where he has lived since.

In 1984, a big sign reading "state reserve zone" was placed on his lot. Only after the sign was posted did the GD secretary inform the residents that they would have to move somewhere else in Laulane. He did not assist in assigning new plots to the people involved in the transfer. Fortunately, nothing further came of the incident.

In 1987, some authorities approached Mr. Basilio and asked for a piece of his lot in order to shelter the families of several war refugees. He did not protest the request from the GD, because in his own words "they order and we obey". He added that they were not aggressive, on the contrary, they were very polite in their explanation of their need for land.

Living in an area that is considered a state reserve is no longer a concern. He has decided not to seek a different lot because he thinks it would be very difficult to get one through his own initiative. He also believes that the authorities should take responsibility for those people who are removed from their lots, and the government should reimburse them for damages.

III. Other Opinions

He is not aware of other conflicts. Recently, disputes have been controlled by the actions of people who know their options: they either rent or buy land from the owners. Currently one has to acquiesce to the refugees demands because they are not responsible for the war. One should accept the *Grupo Dinamizador's* request for land for the refugees. He feels that peace is the first condition for conflicts to disappear. He himself is awaiting peace to go back to Manhica to work in agriculture.

CASE STUDY NO. 13

LAND ENCROACHMENT BY WAR REFUGEES

Date of Interview: 11 November 1991
District: IV
Neighborhood: Laulane
Disputant: Mr. Banze

I. Date and Type of Conflict

In April 1990, a family of war refugees occupied a lot of land belonging to Mr. Banze and constructed a house.

II. Background

In 1983, after having obtained the necessary authorization from local authorities, Mr. Banze and his brother, who were both miners in South Africa, acquired the lot where they currently live. Shortly after buying the lot, they built a house on the property. In April 1990, a family of war refugees occupied the lot [presumably during both brothers absence in South Africa], destroyed part of the existing fruit tree stand (cashew, orange, and mango), and built a house on the lot.

Mr. Banze was infuriated when he discovered what the "new dwellers" had done. When asked to explain their actions, they responded that he had no say in the matter as the *Grupo Dinamizador* (GD) had authorized their occupation.

Mr. Banze tried several times to find out who in the GD had authorized the strangers to build the house on his lot but no one has yet given him a satisfactory answer. Given the confidence that the "invaders" show in asserting their claim, Mr. Banze believes that it might be a trick from the GD. He is waiting for his brother to return from South Africa to resolve the problem. He will at least try to seek compensation for the destruction of the fruit trees even if the new family remains on the lot. The conflict remains unresolved, and to date there have been no skirmishes between the families.

III. Other Opinions

Before living in Laulane, Mr. Banze lived in Mavalene. He does not recall any land conflicts in that *bairro*. Before independence, the houses belonged to private owners or were the property of a *senhorio*. If someone did anything wrong, the *senhorio* would evict them. Currently, there are many conflicts in the area because of the large in-migration of war refugees to the city and also because the local authorities abuse their power. He plans to ask for a lot to build a brick house as soon as he has enough money. Giving land holders property titles would give them greater security and reduce conflicts.

CASE STUDY NO. 14

LAND ENCROACHMENT AND RESETTLEMENT TO FURTHER COMMERCIAL DEVELOPMENT

Date of Interview: 12 October 1991

District: III

Neighborhood: Polana Caniço "A"

Disputant: Mrs. Moises

I. Date and Type of Conflict

Mrs. Moises is a domestic servant married to a soldier. The conflict occurred in September 1991 when the DCU and the District Administration wanted to remove nine families and allocate the land to a private individual who wanted to build a bakery.

II. Background

The lot measures approximately 50 by 15 meters. The families found out about the decision last September, when they noticed bricks being made on the lot. After a couple of days a sign was erected that read "State Reserve Zone under the control of the Executive Council".

The families built their houses in 1990, when the *Grupo Dinamizador* (GD) had allocated the land to them. Eight of the nine families are war refugees, who had come from Albasine, Magumane and Laulane due to frequent military attacks. The authorities want these people to go back to those zones, even though it is public knowledge that these regions have enormous instability and risk.

The decision to remove the families was taken without consulting the neighborhood authorities--the GD or the block leaders. These authorities were also surprised by the decision and they sided with the families. According to Mrs. Moises, each family spent almost 200 contos to build their homes; some of them, hers included, have not yet been finished.

III. Current Situation

The families still remain on the lot although construction of the bakery has begun. If they are to be evicted, the families feel that at a minimum they should be given a lot in a safer zone, nearer the city. The Executive Council through the DCU should be able to meet their demands. Mrs. Moises expresses surprise and dismay at the indifference shown by these authorities toward the safety of the population.

The families also claim that they should be reimbursed for moving expenses and for the cost of building a new house. The owner of the bakery and the Executive Council should reimburse the families, both with money and construction materials. Further, they should be given property titles to their new dwellings. If these requirements are not met, the families have decided to resist and even to sabotage the construction of the bakery.

IV. Other Opinions

Mrs. Moises feels that this type of conflict stems from the lack of consciousness and respect for private property. She believes that if the lot belongs to the Executive Council, the local authorities should be made aware. But not only were the families not notified, the local authorities knew nothing of what had taken place.

Years ago, she lived in the zone where the neighborhood called COOP is currently located. When they started building the dwellings for the people currently residing there, the former dwellers were transferred to Polana Caniço. Then the Municipality took charge of building the new houses for those who were moved. This is the kind of responsibility that Mrs. Moises claims the Executive Council is presently remiss in not providing. The war certainly exacerbates the land problem, but the problem is rooted in the lack of respect demonstrated by the Executive Council.

CASE STUDY NO. 15

LAND ENCROACHMENT AND RESETTLEMENT TO PREPARE FOR UNIVERSITY STUDENT HOUSING

Date of Interview: 12 October 1991
District: III
Neighborhood: Polana Caniço
Disputant: Mrs. Branco and Mrs. Duvene

I. Date and Type of Conflict

Mrs. Branco, due to the war, moved from Vilanculos to Maputo a year ago. She is married to a miner who works in South Africa; four persons reside in her household. Mrs. Duvene arrived from Chókwe almost one year ago. She is married and lives in a six member household. Both women were involved in the same conflict, beginning in September 1991, when both were told they must move because the land was going to be developed for University student housing.

II. Background

This conflict is similar to the previous one (case no. 14); both happened in the same neighborhood. The lot where the two women (and other refugee families) reside, was allocated to them by the *Grupo Dinamizador* (GD) to construct their houses. In September 1991, the Administrator of District IV informed them that they needed to leave because the University planned to use the land to construct housing for its students. The families asked the secretary of the GD to explain the eviction. The secretary was unable to help as she had not been involved in the decision. She did say that the borders of the university were larger than the area it was presently occupying. The two women thought it strange that the University was planning to expand onto their land when it still had room within its own boundaries.

While the notice was delivered by the LCU, the DCU was informed of the decision by the district administrator. The secretary of the GD raised the issue with the administrator, who agreed to contact the university about the case. The women do not know how the conflict is going to be resolved. They simply know that the DCU wants to transfer them to Laulane and Albasine. Such conflicts arise because many people are trying to find a safe place in the city to live.

The two women have not yet spent any money to resolve the dispute. They estimate the construction cost of their homes at 200,000 to 300,000 *meticais*. They feel that they should be reimbursed for the amount they have invested in construction if they are to be moved.

They however hope to stay in Polana Caniço. The conflict has shocked them; they feel it has happened because of the authorities lack of respect for war refugees. They feel discriminated against after having lost their belongings in the war and having escaped to the city. They fail to understand the decision to move them to the outlying zones of Maputo where there are armed conflicts. Instead, they feel that the authorities should allocate them another plot in Polana Caniço and in addition reimburse them for moving costs.

CASE STUDY NO. 16

LAND GRABBING BY HIGH RANKING OFFICIAL

Date of Interview: November 1991

District: VIII

Neighborhood: Fomento

Disputant: Mr. Bosco

I. Date and Type of Conflict

The dispute, which happened in 1988, involves a high ranking public official who cleared land and began cultivating the lot held by Mr. Bosco.

II. Background

Before talking about the specifics of his land dispute, Mr. Bosco described the general context in which land conflicts among agricultural producers occur. Besides struggling for access to land, people also struggle to get access to scarce bank loans for agricultural purposes. A few years after independence, people had to get up very early to stand in line to buy bread, meat and other products. Six hours later certain privileged people would show up and join the line, but at the front. Within minutes they would leave with their merchandise while others would remain in the line for eight or nine hours. Sometimes after a long wait, the owner would state that everything had been sold. Some people would then return home empty handed to wait for the next day's line. The same thing is currently happening with bank loans. Many people stand in line for long hours, while others get their credit through the back door. A bank employee will appear and say that there is no more money to be lent. This is the experience of "small" people seeking agricultural credit.

In mid-1988, Mr. Bosco tried to get a loan for the first time. He asked for 20,000,000 *meticals* to buy equipment to start work on his *machamba* which was located in Changalane. The bank required that he give collateral, pawn his belongings and pay for a co-participation in the loan. In order to fulfill these requirements he had to sell his hens.

Mr. Bosco made a written request for his *machamba* in February 1988. He gave the *Grupo Dinamizador* (GD) from Mafavuca, in Namaacha, the request along with the map of the *machamba*. The *machamba*, which measures 60 hectares is located in Changalane; he acquired it for agricultural purposes.

The GD gave him an declaration of occupancy, which he presented at the local government offices (*Estrutura de Base*) in Changalane. The latter maintained a list of all persons requesting agricultural land. The list was sent to the District Office of Agriculture (*Direcção Distrital de Agricultura*) from Namaacha, which then sent a copy to the Provincial Agricultural Office (*Direcção Provincial de Agricultura*) which was responsible for demarcating the lots and delivering the occupancy titles. The District office asked for a payment of 15,000 *meticals* for the paperwork.

Mr. Bosco followed the described requirements. He then cleared the first twelve (of sixty) hectares. In December 1990, when he was ready to

prepare the land a man from the Social Center of the Ministry of Mining (*Centro Social do Ministerio dos Recursos Minerais*) decided to cultivate an area of land that Mr. Bosco had not yet cleared.

Mr. Bosco took the dispute to the District Administrator, explained how the invasion of his plot happened, and demanded justice. The Administrator sent details of the case to the Provincial Agricultural Office. In response, the District Administrator received the following document (translated from Portuguese):

Having consulted the administrative authorities of the district we verified a contradiction between the District Administration and the office of the District Administrator (*Posto Administrativo*) of Changalane who were not able to decide who would work in the controversial plot, not even with a temporary title. The dispute originated when several institutions were involved in the assignment of the lot. These institutions were: *Grupo Dinamizador*, Directors of companies (*Directores de Empresa*), *Administrador de Posto*, and even the District Administrator. According to the law, the lots should be allotted by the District Office of the Ministry of Agriculture (*Direcção Distrital da Agricultura*) under the supervision of the district administrator. The local base authorities (*Estruturas de Base*) are only responsible for the defense of the family sector. Given this context we find that Mr. [first name omitted by the authors] Bosco is the most deserving beneficiary as he was the first to be assigned the lot.

It is your duty to decide and guarantee the legal assignment of the lot. While completing the work towards legal documentation, Mr. Bosco must be considered legitimately entitled to the possession of the disputed lot.

O Governo da Provincia
Direcção de Apoio e Controlo

III. Current Situation

The conflict has not yet been resolved. The man is still occupying the lot and refuses to leave until he is allocated a new one where he intends to transplant his nurseries. Mr. Bosco feels that this is a pretext and the real reason why he refuses to move is because he is a personal friend of the Provincial Director of Agriculture. Mr. Bosco contacted the State Inspector (*Inspector do Estado*) to find out which authority could force the man to leave the lot. When the Inspector went to investigate the issue, the paperwork was once again sent to the Provincial Agricultural Office, which sent the documents to court. The city court responded that they could not take the case as it was not a criminal issue.

The process described above happened 90 days ago. Mr. Bosco hopes to find a solution to the problem before the year ends. He is resolved to enforce the declaration issued to him by the authorities, even if he has to appeal to higher authorities.

IV. Conflict Costs

Mr. Bosco cannot remember how much he spent on the dispute since the conflict began. Besides spending money for the administrative paperwork, he had to make six trips to Namaacha. He spent almost 60,000 *contos* for each trip, including 20,000 *meticaïs* for traveling, 20,000 *meticaïs* for lodging, and 20,000 *meticaïs* for meals.

V. Other Opinions

Mr. Bosco does not understand the government's desire to develop agriculture while at the same time granting agricultural loans to persons that have not been involved in farming before. The man, who illegally occupied his lot, received a loan from the BPD even before he possessed the land to farm.

He knows about land purchases taking place in Changalane. The persons interested in acquiring land apply to the local authorities, and pay a price in money or drinks to acknowledge the favors they received. He also narrated the case of a farmer who bartered his twenty hectare property for three trucks owned by a couple of Italian men.

If the land belonged to each farmer, conflicts would be avoided. Issuing property titles is the best way to protect the producer. Otherwise, the bourgeois will take the land away from the poor people because they are powerful. The conflicts exist because of the widely held view that land belongs to all the people. Yet, if it belongs to everyone the most powerful will keep it.

CASE STUDY NO. 17

LAND PLOTS ALLOCATED BUT OCCUPIED BY SQUATTERS

Date of Interview: December 1991
District: VI
Neighborhood: Zona Verde (Infulene Valley)
Disputant: Mrs. Veloso

I. Date and Type of Conflict

This interview was done as a result of information obtained in a previous case study. The case involves the occupation of a lot belonging to Mrs. Veloso with the authorization of the *Grupo Dinamizador* (GD).

II. Background

The *quinta* that Mrs. Veloso and her husband are working formerly belonged to a Portuguese man who left the country after independence. When he abandoned the lot, several families occupied it spontaneously and began farming the land. In 1982, inspired by the presidential speech that proposed the policy of making Maputo's green belt into the city's supplier of agricultural produce, Mrs. Veloso and her husband decided to obtain a plot and begin farming.

At that time there were still several vacant parcels; but shortly afterwards many candidates came forward to occupy them. A committee of dwellers was organized to regulate the occupation of the land; some of its members worked in the GD or in the Administration and were also interested in occupying the empty parcels. A list of applicants was prepared according to the date of application, and the committee began to distribute lots. Once the distribution began, however, it was discovered that much of the land was already occupied by small family farmers who settled the land immediately following independence, after the Portuguese abandoned the land.

The GD took responsibility for informing these farmers that the parcels were being legally reassigned to new owners. According to Mrs. Veloso, the old occupants knew that sooner or later they were going to be evicted from the land they had occupied without legal authorization. The GD held a meeting to inform them of the reasons and details surrounding their eviction. The majority of the families understood the problem and accepted leaving.

Also in 1982, CETA (a semi-private enterprise specializing in engineering works) began draining and opening irrigation channels in the area. This provided the GD with land to provide to the farmers who were asked to abandon their land, a significant number of whom were elderly women. In exchange for their work, the GD promised them a plot of land. As soon as they harvested their last crops, the farmers were supposed to abandon their plots and the Veloso couple was supposed to take them over.

The process of transferring the families from their old plots to their new plots lasted six months. However, one person refused to leave his land--a man

who was absent from the earlier meeting of the GD and the evicted families. When opening the channels, CETA occupied almost half a hectare of Mrs. Veloso's property, including the parcel where the man cultivated his *machamba*. The man then decided to occupy another spot on the same lot that was already under the possession of the Veloso couple.

Mrs. Veloso complained to the GD and the *Casa Agrária* and urged them to intervene in the conflict. The *Casa Agrária* asked the man to come to the office to discuss the problem, but he never responded. When the man's wife found out about the denouncement made by the couple to the GD, she went to Mrs. Veloso's *machamba*, insulted her and threatened to beat her.

III. Current Situation

Given the fact that the man did not respond to the GD's call, Mrs. Veloso decided that he should pay fifty percent of the entire parcel's taxes. If he does not yield to these requirements, the case will be reported to the corresponding authorities.

Mrs. Veloso has a temporary title and a written agreement from the GD that confirms the legitimacy of her occupation. However, she does not have the definitive property title because all the processes of land registration were recently transferred from Maputo to Matola.

IV. Other Issues

Even though the irrigation works carried out by CETA occupied half a hectare of her property, she nevertheless dismissed any concern at the time because it was for the public's benefit. However, she was later surprised to see that an officer from CETA began to cultivate land in the most fertile irrigated area on her property. She does not know how to contest the incident, since the government continues to say that the "land belongs to the State".

Given these conditions, she has no intention of investing significant amounts of money in the parcel; neither will she risk asking for a loan and indebting herself. Besides the tenure insecurity associated with her land holding, the zone is not safe from military attacks. The parcel has already been attacked by armed men, and is being constantly assaulted by thieves. Currently she uses the land to cultivate vegetables, but feels that it would be futile to make significant investments in the land.

3. In a companion article by Roth, Boucher and Francisco (1992), they indicate that the titles were shifted from Maputo city to Matola in 1989, and as of the end of the field research in December 1991, were still sitting in disarray in a room of the Matola municipality.

CASE STUDY NO. 18

LAND CONFISCATION BY OFFICIALS

Date of Interview: 23 October 1991

District: V

Neighborhood: Zimpeto

Disputant: Mrs. Ferreira

I. Date and Type of Conflict

The conflict started at the beginning of 1991 when the *machamba* of Mrs. Ferreira was expropriated by officials from the Green Zones Office (*Gabinete das Zonas Verdes*).

II. Background

In 1978, Mrs. Ferreira, as many other families from Zimpeto, acquired a *machamba* for agricultural purposes. It measures 600 square meters. Her plot was part of the property of a man who left the country in 1975. It is located in an irrigated area where production is for both the market and subsistence.

At the beginning of 1991, a group of *machamba* owners including Mrs. Ferreira revolted when some officials from the Green Zones Office tried to seize their lands and give them to the General Director of MABOR (Rubber Manufacturers of Mozambique). The director was intending to develop a *quinta* by consolidating six small *machambas*. The case was reported to another officer of the Green Zones Office who was responsible for the utilization of *machambas* and the protection of their users. With the assistance of this officer, this first conflict was averted, but it was made clear that those who did not work their properties would be at risk of losing them.

After a period of time, Mrs. Ferreira became involved in a second conflict. She had to visit Gaza for family reasons, and left her *machamba* idle for a period of time. She received a notice from the *Grupo Dinamizador* (GD) and from the Green Zones Office informing her that starting in September she would be removed from her *machamba* because she had been negligent. At the beginning of September, her *machamba* was given to a "Director" (not the same as the one from MABOR) from Maputo.

There are five other cases in Zimpeto similar to the one described--women losing their *machambas* because of supposed negligence. Mrs. Ferreira knows that there is a group of "high ranking officials" avidly looking for fertile lands in Zimpeto. The women whose lands were taken do not think that they would be successful if they fought to get their land back. It is entirely possible, according to Mrs. Ferreira, that the process of land redistribution and re-appropriation is being orchestrated by those officials to whom they would have to present their claim. She exclaims "How would I be able to prove that I am not negligent and that I need the land to survive?" For the last two months, the women have been looking for the one person from the Green Zones Office who helped them during their earlier dispute. Without his assistance, they feel that there is no possibility of their retaining possession of the land.

III. Other Opinions

The small farmers who are losing their land have been cultivating it since independence. They have never had a legal property title; they possess only a certificate that was distributed to them by the producers association. Its members pay an annual fee of 1,200 *meticais* that is used to pay the general expenses of the association, such as the wages of watchmen and the advanced purchases of agricultural inputs.

The problems started when state officials in Maputo decided to procure land for themselves. Mrs. Ferreira is perplexed. If the government who gave us the land is currently expropriating it from us, to whom can we appeal for a solution to the problem?

There were no such problems in the past because Zimpeto is far away from the city and most of the land is unsuitable for agriculture. Even now, the zone is not densely populated because it is affected by armed conflicts.

CASE STUDY NO. 19

LAND SOLD BUT TITLE WITHHELD BY PREVIOUS OWNER

Date of Interview: 24 October 1991

District: V

Neighborhood: "25 de Junho"

Disputant: Mr. Pedrinho

I. Date and Type of Conflict

The conflict occurred in 1986 when the seller of a lot refused to deliver the property title to the buyer.

II. Background

The lot was bought in colonial times by a man who in 1980 decided to sell it to a woman. The latter, who was dissatisfied with the purchase, decided in turn to sell the lot to Mr. Pedrinho. The transaction took place in 1986. When Mr. Pedrinho presented the payment of 45 *contos*, the agreed transaction price, he asked the woman for the property title. He wanted to build a house on the lot and needed the Executive Council to approve the project and the building plan. The conflict began when the ex-owner refused to give him the documents which proved the purchase. At the same time she asked for a higher price than the one originally agreed upon. The conflict was settled with the backing of a person responsible for the distribution and control of the lots. The Pedrinho family took possession of the property title, without having to pay any expenses beyond the purchase price agreed upon.

III. A New Stage of the Conflict

Once the procedures required to transfer the property title were completed, Mr. Pedrinho signed a contract with a construction enterprise to start building a house. The price for the work in the contract was 4,000,000 *meticaís*; the works were to begin once Mr. Pedrinho (who works as a miner in South Africa) returned from South Africa bringing with him construction materials.

Mr. Pedrinho advanced 3,000,000 *meticaís*, but when the construction ended it was obvious that it was not worth more than 1,000,000 *meticaís*. Mrs. Pedrinho is waiting for her husband to come back from South Africa to solve the problem. In contrast with the other interviews, this woman had all the property papers, the transaction documents, the authorization for the construction, and the receipts for the construction expenses. She emphasized the importance of those documents in the event of conflict.

IV. Other Opinions

Mrs. Pedrinho feels that people take advantage of the war situation to create conflicts. She has always wanted to be a peasant. She spends the day in the *machamba* and depends on it for her subsistence. She will go back to the countryside once the war is finished, and would leave the house to her sons who are currently studying in Maputo.

CASE STUDY NO. 20

LAND ABANDONED BY FOREIGNER AND TITLE UNCLEAR

Date of Interview: 17 October 1991

District: V

Neighborhood: Jorge Dimitrov

Disputant: Mr. Jacobo

I. Date and Type of Conflict

The conflict began in 1977 when Mr. Jacobo tried to transfer land in the name of his former stepfather's boss into his own name to secure property rights for investment.

II. Background

Mr. Jacobo lived with his stepfather on the property of the latter's boss. In 1974, the owner of the lot decided to return to Portugal. Upon leaving he indicated that he would return some day, but did not say when. The man, who owned two lots, prepared a document certifying that Mr. Jacobo's stepfather was being left in charge of the lot adjacent to the house. The other lot, located in Jardim, was left under the care of another employee.

In 1977, the latter employee died and Mr. Jacobo asked the *Grupo Dinamizador* (GD) for the lot. Later in 1980, he officially asked the Executive Council to grant him possession of the lot, but they informed him that they would assign it only if the former owner would provide documents (a declaration) supporting his claim.

Also in 1980, Mr. Jacobo contacted the GD once more about the property title of the lot in Jorge Dimitrov. He did this because his stepfather was getting old and wanted to give him all his belongings. The boss had been absent for many years and Mr. Jacobo thought it would be convenient to change the property title to his name and then continue the former's project of building an auto-garage and gasoline station on the property. Plans had already been prepared for both projects.

He never received an answer from the GD. When he went to the Executive Council to ask for instructions on how to proceed, they asked for a written declaration from the GD confirming that Mr. Jacobo and his stepfather had been living in Jorge Dimitrov since 1973. The GD secretary refused to sign such a document arguing that he had a document from the owner of the lot saying that he would return one day to Mozambique.

Mr. Jacobo responded that if the former owner would return and claim the lot then he would abandon it. The GD secretary in turn was incredulous that Mr. Jacobo could leave the property after having invested a significant amount of money building a garage and gasoline station on it. The secretary demanded that Mr. Jacobo present a written declaration from the lot owner. However, Mr. Jacobo, upon contacting persons in Portugal, found out that the owner had died.

According to Mr. Jacobo, the GD continued to hamper his attempts to acquire title because someone else was interested in acquiring the lot. In 1980 the secretary placed a widow on the lot, who was a market woman. She was to live there only temporarily, but soon thereafter she built a cement block house, installed electricity, and channeled water to the house. Mr. Jacobo feels that he could not have objected because it was the authorities' decision that the woman stay there.

The lot is very well located between the market and a bus station. Mr. Jacobo has received several offers to sell the lot for significant sums of money. People would willingly establish stores or other businesses on the site. One person wanted to open a pharmacy and a clinic. Mr. Jacobo refused all the offers because he wants to first obtain the property title to the land.

To resolve the impasse with the GD and the Executive Council, Mr. Jacobo plans to appeal to the administrator of District V and to other authorities if necessary.

III. Other Opinions

Mr. Jacobo believes that the conflicts in his barrio are caused primarily by the incompetence and negligence of members of the GD. The arrival of war refugees continues to exacerbate the land scarcity. To avoid the existing land conflicts he feels that it is necessary to dissolve the GDs or to appoint an institution that would be accountable to the Ministry of Agriculture or to the Ministry of Construction and Housing. Many problems, according to Mr. Jacobo, are simply the result of corrupt authorities.

CASE STUDY NO. 21

LAND ENCROACHMENT BY CHURCH GROUP

Date of Interview: 16 October 1991
District: V
Neighborhood: Jorge Dimitrov
Disputant: Mr. Pastore

I. Date and Type of Conflict

The dispute began in 1989 when The Church of the Twelve Apostles wanted to build its parish on Mr. Pastore's lot.

II. Background

The legitimate owner of the lot gave it to Mr. Pastore's father in 1969 or 1970. When his father died, Mr. Pastore inherited the lot.

The lot has a large extension that has not yet been occupied. In 1989, the minister of the Church together with a group of people started measuring the lot for purposes of building a new church. Mr. Pastore went to talk to the minister and to the people to tell them that he owned the lot, but they ignored him. When he contested the infraction to the local authorities, the leader of the block asked him for part of the lot to build a kiosk for some of his relatives who were war refugees. He agreed and gave him the spot that had been invaded by the church people. He was thus successful in defeating the invasion because the church people would not be able to overturn a decision that was going to benefit the block leader. He did not spend any money to solve the problem, but lost the land nonetheless [whether the land was permanently lost or temporarily lost until the refugees found another place, is not clear from the testimony].

III. Other Opinions

Mr. Pastore does not know of other land conflicts in his block. The zones with the most intense land conflicts are the areas surrounding the market and the ravine by the Church of San Roque. He has heard rumors about the return of land and houses to their former owners. He nonetheless feels that the local authorities should be able to avoid conflicts because they were the ones to allocate the properties that had been abandoned by the Portuguese.

CASE STUDY NO. 22

LAND CLAIMED BY HEIR OF PREVIOUS OWNER

Date of Interview: October 1991
District: II
Neighborhood: Mikadjuine
Disputant: Mrs. Eduardo

I. Nature of Conflict

The grandson of the previous owner (now deceased) of the house in which Mrs. Eduardo is living claims to be the legitimate heir to his grandfather's property. He demanded that Mrs. Eduardo abandon the house so that he could take possession.

II. Background

In 1973, Mrs. Eduardo began renting the house where she currently resides. The property contains several buildings. The main building, a house, is constructed of wood with zinc panels as roofing. In addition to this main unit there is: 1) a smaller house built of the same materials, 2) a straw hut which serves as Mrs. Eduardo's office for medical consultation (she is a traditional doctor), and 3) a latrine. None of these units have electricity or running water.

Prior to the time that property was nationalized by the state, Mrs. Eduardo paid 260 *escudos* rent per month, of which 10 *escudos* were earmarked for public health and hygiene services. After nationalization, in February 1976, Mrs. Eduardo became a tenant of APIE. At that time her rent was 210 *escudos* per month, of which APIE paid a certain amount (unknown to Mrs. Eduardo) to the ex-owner (the grandfather) because he was elderly and had no other sources of income.

Last year (1990) the grandfather died. Since he was a widower and his only son lived outside of Mozambique, the part of the rent which APIE had previously been paying to him was instead paid to the next of kin--a grandson who resides in the "cement city" of Maputo. The grandson showed up at her house at the end of 1990 claiming the property. The timing corresponded with the end of 1990 when the National Assembly was debating the possibility of selling nationalized properties to the current tenants or to ex-property owners.

III. Institutions Involved

Due to the claim made by the grandson, Mrs. Eduardo took the case to the Secretary of the *Grupo Dinamizador* (GD) of the *bairro* of Mikadjuine. Fortunately, the grandson never came back. Still, Mrs. Eduardo feels worried, knowing that at any moment the grandson might again reappear. Should that happen, she would take the case to the Secretary of the GD and the APIE office of District I.

Mrs. Eduardo does not question the right of the grandson to try to claim his rights as inheritor, even though he has never presented documentation proving that he is the legitimate heir. But she also feels that the conflict should be resolved by the institutions that represent the government in the nationalization of residential properties. Her own rights should be respected, especially because she has lived in the house for nearly 30 years and has invested a lot of personal resources in maintaining the house and property. Within the last several years she has obtained authorization from the GD to build a cement addition to the house. In theory, APIE is supposed to reimburse expenses for improvements that are made to houses they control. However the functionaries of APIE refuse to reimburse anything in the peri-urban zone, arguing that these expenses benefit the well being of the renters and therefore there is no need to compensate.

Mrs. Eduardo believes that she is not free from the threat of losing everything she has invested in the house. She fears both the possibility that the grandson may win the right to the house, or that APIE could invent a motive to evict her from the premises. As of the date of the interview, no monetary costs had yet been incurred by Mrs. Eduardo in the conflict.

What Mrs. Eduardo wants most is to purchase the house that she is renting from APIE. It makes no difference to her whether she deals with APIE or with the grandson. She claims that she is willing to pay whatever price that is suggested. If she were not able to negotiate the purchase of the house she would at least want compensation for the maintenance and improvements that she has made in the property.

IV. Other Opinions

The conflicts involving nationalized property have recently intensified. The debates at the end of 1990 and since regarding divestiture of state properties have boosted the expectations of the ex-owners on reclaiming the properties they lost following independence. She is not aware of the occurrence of other conflicts in her *bairro*. However, she states that in colonial times these conflicts did not exist because there was an articulation (relationship) between the *regulos* (traditional *bairro* chiefs) and land owners. Rental rates and taxes were determined in coordination with the Ministry of Finance.

After independence, the worst problem that could afflict a tenant was eviction from not having paid the rent. Otherwise there were no conflicts because all property was under control of the State. But as time passed, the State relinquished much of its centralized power, causing the many land conflicts now arising over property rights.

In her opinion, if the government were to recognize the rights of the ex-owners they would certainly be placing the current tenants and the ex-owners in direct conflict. The tenants would not accept eviction after having lived in the houses for so long, and after having invested so much of their time and money in maintenance and improvements. She feels that after assessing the value of investments made on maintenance and improvements, the tenants should be given the chance to pay the residual value left in the property (i.e. total property value less the value of investments).

CASE STUDY NO. 23

DISPUTE OVER LAND INHERITANCE

Date of Interview: 3 October 1991

District: II

Neighborhood: Xipamanine

Disputant: Mr. Souza

I. Date of Conflict

The conflict began in March 1990 when the daughters of Mr. Souza's first wife (now deceased) showed up at his house to claim possession of the property where Mr. Souza is living.

II. Background

Mr. Souza's first wife acquired the plot in 1973, upon which she built her house. At that time, she purchased the property from the *regulo* for 2,500 *escudos*. The payments were spread over a 23 month period, including 250 *escudos* the first two months then 100 *escudos* monthly for the remainder of the period. When she married Mr. Souza, she already had two daughters. At that time, Mr. Souza moved from his previous residence to the disputed house where he is still living.

Mrs. Souza died in 1984 leaving Mr. Souza and the two children to live together in the house. Shortly thereafter, the two daughters married and moved away from home. In March 1990, the two daughters asked Mr. Souza to cede to them part of the parcel in order to build a house for a cousin of theirs who had recently arrived from the countryside as a result of the war. For the next several months, Mr. Souza talked with the daughters' families in an attempt to resolve the dispute within the family.

In October 1990, the deceased wife's sister and her husband arrived at the house and demanded that Mr. Souza cede to them the property. They argued that since it was Mr. Souza's wife who had purchased the parcel, the property rights to it automatically passed to her family. Therefore, as a widow, Mr. Souza had no right to remain in the house, and no longer being part of the family, he was not the legitimate heir.

His attempt to reach an agreement proved unsuccessful. Shortly thereafter, he discovered that his wife's family was planning to build a house on the property, at which time Mr. Souza took the case to the *bairro* authorities. The *bairro* leader (*chefe do quarteirão*) declared that the house could not be built without the consent of Mr. Souza. However, the in-laws refused to accept this decision. On various occasions when Mr. Souza was absent, the sister's family began to place construction materials (stones, cement blocks and sand) on the property.

Mr. Souza is now hesitant to leave home; he believes that his in-laws would take advantage of his absence to begin constructing a house on the

property. Their inclination to do so has already been proven by the disregard of the in-laws for the bairro authorities decision (*Grupo Dinamizador*) as demonstrated by the placement of construction materials on the place.

Until now, the conflict has not generated monetary costs. However, once it is apparent that resolving the dispute within the family is impossible, Mr. Souza will spend money to involve the district administrative authorities.

III. Other Opinions

Several women who are neighbors and friends of the deceased wife joined in the discussion at the end of the interview. They were unanimous in their views that this type of conflict, in which the family of a deceased individual attempts to claim the land of the widower, has never before occurred in the bairro. The more frequent type of conflict arises when residents want to make investments in their property, and that investment affects their neighbors. For example, when a neighbor decides to construct a fence to demarcate his or her property, and one or more of the neighbors cannot afford a fence, the neighbor that builds it may feel that she or he has the right to expand the property at the expense of others. These cases generally end up being resolved by the GD. In 1990 there were three such cases.

In the opinion of Mr. Souza, this type of conflict (i.e. the fence conflict) was less frequent in colonial times as the properties were simultaneously sold and demarcated by the buyer and seller. Property rights were clearly and publicly established. If any type of doubt or conflict arose regarding property borders, it was easy to find the institution or individual who could officially establish the boundaries. After independence this responsibility was passed to the housing commission (*comissão de habitação*) of the bairro. Now this commission is only responsible for distributing land, not resolving conflicts. The situation of land conflicts has worsened as a result of the soaring cost of living, and with the war which directly or indirectly continues to affect Maputo. Both a better relationship among neighbors and granting residents property titles are necessary to improve the situation of land conflicts.

CASE STUDY NO. 24

DISPUTE OVER RESIDENTIAL PLOT BORDERS

Date of Interview: 3 October 1991

District: II

Neighborhood: Chamanculo B

Disputant: Mrs. Mondjane

I. Date and Nature of Conflict

In 1989, Mr. and Mrs. Mondjane had a dispute with a neighbor over the boundary line between their residential plots.

II. Background

Mrs. Mondjane asked her neighbor's permission to extend her yard into her neighbor's property. She wanted to construct a garage to store her sons' cars when they came to visit on weekends, but she needed a very small portion of her neighbor's yard. Without the garage, there was no other way to protect the vehicle at night.

At first the neighbor accepted the request. Yet when Mrs. Mondjane began constructing the garage, the neighbor protested the violation of her property. She claimed that she had agreed initially only because she did not think that Mrs. Mondjane was serious about building the garage.

Both Mrs. Mondjane and the neighbor presented the case to the *Grupo Dinamizador* (GD). The GD ruled in favor of Mrs. Mondjane because the neighbor failed to give a valid reason for why she reversed her earlier decision permitting the construction, and because the construction had already begun. The conflict was resolved without monetary costs. The greatest cost was the loss of friendship between Mrs. Mondjane and the neighbor.

CASE STUDY NO. 25

REASSERTION OF CLAIM TO NATIONALIZED HOUSES

Date of Interview: 2 October 1991

District: II

Neighborhood: Chamanculo D

Disputant: Mr. Wilfredo

I. Date and Nature of Conflict

The conflict occurred in 1989 when Mr. Wilfredo attempted to reclaim the houses that were taken from him by APIE after they were nationalized following independence.

II. Background

Mr. Wilfredo owns 3 houses in Chamanculo which were nationalized in 1976. He has children and grandchildren that are now in need of housing. Since he retired this year, he asked APIE to return the nationalized houses to him, and if this were not possible, that they sell them to him. He claims he needs the houses since he is old, no longer works, and only survives by doing temporary jobs.

The *Grupo Dinamizador* (GD) was informed by Mr. Wilfredo of his attempt to recover the houses. Beyond delivering a declaration confirming that the properties of Mr. Wilfredo had indeed been nationalized, the GD could not do anything further to help him. No costs were incurred in this conflict.

III. Current Situation

The conflict still remains unresolved. APIE eventually rejected Mr. Wilfredo's request, provoking his anger and indignation. While he was still working, Mr. Wilfredo did not have the right to receive the subsidy from APIE (a percentage of the rent paid by the renters to APIE). He therefore feels that since he is no longer working he should at least be provided the subsidy. He plans to resubmit the request to APIE along with documentation confirming his retirement so that they at least return one of the houses, and/or grant him the appropriate percentage of the rental revenue.

IV. Other Opinions

This type of conflict, involving attempts to reclaim nationalized property, have worsened since the Assembly in 1990 raised the possibility of divesting APIE's stock of houses and property. He is unaware of other conflicts in the *bairro* but feels that land conflicts in general are more frequent now than in the past. He also feels that if the properties are to be sold the conflicts will become much worse. The owners will want to buy them back and the renters will refuse to vacate the properties. In order to avoid these conflicts (if indeed the houses are to be sold) the rights and responsibilities of the renters and the owners must be made very clear and explicit.

CASE STUDY NO. 26

DISPUTE INVOLVING HOUSE SQUATTING

Date of Interview: 4 October 1991

District: II

Neighborhood: Chamanculo D

Disputant: Mr. Xavane

I. Date and Nature of Conflict

The conflict began in 1983 when friends of Mr. Xavane's brother, who were allowed to live in two rooms of his house while he was still living, failed to vacate the house after Mr. Xavane inherited the property following his brother's death.

II. Background

The house and lot originally belonged to the brother of Mr. Xavane. The brother was single, and while still alive, had several rooms in his house that were unoccupied. A friend of the brother, who was a soldier, asked if he could occupy the empty rooms. The brother agreed. After his brother died 4 years ago, Mr. Xavane, a painter and farmer in Marracuene, inherited the house and lot.

Since he has a large family and was living in Marracuene (an outlying district with security risks), he asked the soldier-friend to leave the house so that he could occupy it with his own family. The house, being in Chamanculo, is much safer than life in Marracuene. Mr. Xavane acquired a parcel for the soldier's family in bairro T-3, purchased building materials for a house, rented a truck to move the materials to the site, and began constructing a house for the soldier's family, all in an attempt to facilitate the friend's move. The soldier's family moved to the new house once it was finished, but instead of completely vacating the house of Mr. Xavane, he placed two new family members in the rooms he had been occupying and threatened Mr. Xavane with a gun.

III. Current Situation

The house that he inherited is in deplorable condition and needs major repairs before Mr. Xavane would feel comfortable installing his own family. But since the conflict is at an impasse, he is waiting for the *Grupo Dinamizador* (GD) to resolve the case before making any improvements. In the meantime, the family members that the soldier placed in the inherited house are not paying rent, either to APIE or to Mr. Xavane.

Mr. Xavane and his family tried to force the two individuals to vacate the house earlier in 1991 by removing the zinc roof sheets that cover the two rooms in which the individuals live. But they simply found more material to cover the house and did not leave. In spite of pressing the case frequently to the GD nothing has been resolved, in Mr. Xavane's view, because the soldier and the

new occupants are friends of the local police squad. He claims that if these individuals do not vacate the house by January 1992 he will destroy the house and build a new one, since the house is already in poor condition.

To date, he has incurred costs totalling 100,000 meticaís to resolve the case including costs of truck rental and the materials he purchased to build the new house for the soldier's family.

VI. Other Opinions

Mr. Xavane feels that this type of conflict arises because people do not respect inheritance and property rights of rightful owners. He feels that land conflicts, while not very frequent, are more common now than 10 years ago. If the *bairro* authorities do not help the owners in resolving such conflicts, and if bribery continues, Mr. Xavane feels that there will be an inevitable increase in conflicts in the future.

ANNEX E
SECRETARY INTERVIEWS

CASE A

DISCUSSION WITH THE ACTING SECRETARY, GRUPO DINAMIZADOR, MIKADJUINE

Date of Interview: 29 September 1991
District: II
Neighborhood: Mikadjuine

I. Bairro Context

The adjunct secretary estimates that the population of Mikadjuine is 9,000 people, distributed among 28 blocks (*quarteirões*). The largest ethnic group is muslim, among which the highest rate of private house ownership can be found. They are also the largest group to hold land upon which taxes to the Executive Council (*Concelho Executivo*) are still paid.

The *Grupo Dinamizador* (GD) knows which houses were nationalized and fell under APIE control and which ones are privately owned. There are houses that were never nationalized because their owners "gave" them to relatives or friends who pretended to be the legal owners of the dwellings.³ During the last 15 years these individuals continued to pay rent to the real owners of the houses. If the GD finds houses being illegally rented in this manner it is required to intervene, by modifying their status to conform to the nationalization policy. Even though there are strong expectations that the land law will be ratified, the local authorities must rule according to prevailing law.

II. Conflict Sources

Nationalization of Land and Houses

The predominant conflicts in the neighborhood are related to land nationalized in July 1975. These conflicts occur with every type of dwelling affected by the policy of nationalization, principally the prohibition on renting and on private exploitation of dwellings. In many cases, those people living in nationalized houses are neighbors of their former landlords. Sometimes they even share the same yard. Due to the resentment of ex-landlords over the government's action of nationalizing property, ex-landlords frequently have conflicts with the occupants of those houses that are currently under state control. Such conflicts are frequently taken to the neighborhood authorities for resolution, usually to the GD.

In some instances, former owners intervene to prevent tenants of APIE from making changes or improvements on land which they lost under nationalization.

3. Owners of multiple residential properties were forced by law to relinquish all but one (which they were allowed to keep) to the state (APIE). If the affected landlord chose to remain in the country, he was entitled to a percentage of the rent received by APIE.

These conflicts occur both because former owners have never accepted the expropriation of their properties and because they are aware that if the new occupant makes improvements, there is greater incentive for them to fight for the right to maintain possession of the house.

Dishonest Transactions

Another type of conflict involves trickery, particularly among relatives. Recently the GD had to arbitrate a conflict involving a woman, who upon her arrival to Maputo after a period of absence, discovered that her son-in-law had sold her house for 600 contos (1 conto=1,000 meticaís). The case did not go to court because the GD was able to resolve the conflict in favor of the woman.

The only way to reduce the number of conflicts such as the ones described above, is to prevent the ex-owners from harassing the tenants of the state expropriated houses. Rational behavior by all parties is necessary. Above all, the problem that the state created should not evolve into conflict and feuding among persons in the community.

Influx of War Refugees

In Mikadjuine, the arrival of refugees, due to the intensification of war in the southern provinces, has resulted in the occupation of previously vacant plots. The institution with the power to authorize the construction of permanent houses (those constructed of cement blocks) should be the Directorate of Construction and Urbanization (*Direcção de Construção e Urbanização*). Currently, the *bairro* authorities authorize the construction of temporary houses (those made of reeds or zinc sheets). If a migrant wants to build a permanent house, she must submit a written statement surrendering the right to any future compensation from the State should the State need that property for construction of a public project.

III. Agricultural Land

Because Mikadjuine is predominantly residential the population goes to other outlying areas such as Boane and Kilometro 15 to look for agricultural plots.

IV. Possession and Transfer of Use Rights

In general, the GD does not participate in the transfer of agricultural land or residences. These transfers are carried out by the private parties involved in the transaction. The GD does not mediate in any kind of monetary arrangement between buyer and seller. The usual procedure is that once the two parties reach an agreement they invite the GD to witness the new occupation and registration of the property.

CASE B

DISCUSSION WITH THE ACTING SECRETARY, GRUPO DINAMIZADOR, XIPAMANINE

Date of Interview: 3 October 1991

District: II

Neighborhood: Xipamanine

I. Bairro Context

Because of its central location, Xipamanine is densely populated and strongly influenced by the dynamic of the more urbanized cement city, which it borders. According to the acting secretary, the *bairro* has a population of approximately 24,000 persons. Because there is no agricultural land in the neighborhood, the interview dealt principally with housing issues and matters related to business and industry.

II. Conflict Sources

Unclear Land Rights

Land conflicts have been exacerbated in Xipamanine because some of the residents have tried to gain lodging space for their recently arrived relatives who have sought refuge from the ongoing war in the countryside. The conflicts arise because, in spite of nationalization, the ex-owners still believe that the land is theirs. Problems arise, for example, when former landholders realize that a house has been built on their previous holdings. Such an incident recently happened. An individual constructed a house on a lot owned by an individual of Indian descent. The Grupo Dinamizador (GD) decided to demolish the house, both because it had been built without local authorization and because it caused many problems with the ex-owner.

Claims for houses are also lodged by potential heirs to the lots. Sometimes the heirs continue to pay taxes, and thus do not accept the occupation of their property.

Another recent conflict originated when a group of people requested permission to build a church on an apparently empty lot. The GD asked the DCU about the status of the lot, realizing that it was registered under the name of the Chamusse family. The owner of the lot, who was in Mozambique, learned of the attempt to build a church on his property. Instead of proceeding immediately to protest the claim, he waited for the group to clean the lot. Only after it was cleaned and prepared for occupation, was the church group informed by the owner that the land was his and that he was going to fence his property, giving rise to the dispute.

When the secretary of the GD was informed that the conflict was worsening, he called both sides together. The owner, expressed deep disappointment, and stated that he would not forgive the transgression, as his lot was not "the land of nobody".

After further discussions, the GD discovered that the church group had been using two separate explanations for their desire to occupy the lot. They had told the secretary that they wanted to build a church, while they had informed the owner of their desire to build a house. In the end it was clear that they wanted to acquire a large house on a separate lot to serve as the church. The owner of the house, which was to be the future church, would be given the contested lot and the materials to build a new house. But the owner of the contested lot would not yield, especially after he was informed of the misunderstandings related to the group's real purposes. The man was firm in his decision and did not yield until the GD confirmed his right over the lot. The church thus lost the labor it had invested in clearing the land.

Hairro Development Projects

Many conflicts originate when individuals undertake neighborhood development projects that involve land unofficially occupied.

One of the most controversial cases involved an entrepreneur from Maputo and eighteen families that lived in a contested zone. The lot had belonged to a Portuguese man who had left the country in 1974; he had built a compound with a group of houses to lodge his tenants. After the period of nationalization, the rented houses came under the responsibility of APIE, to which the tenants paid their rents.

Recently, a businessman obtained authorization to build a nightclub and a hotel on the lot. At first, he asked the DCU only for the space where a hotel had previously existed. But when DCU officials were appraising the lot, they informed the man that before independence the property title also included the area where the eighteen houses of the compound were located. The businessman then demanded the whole area, as it was registered in the DCU files.

One day, the man appeared and started knocking at the doors of each house, telling the families that they should leave. This infuriated the families, not only because of the way in which they were being informed of the decision, but also because they were current with their rent payments. The families became very angry, to the point that they armed themselves with iron bars to defend their right to stay. The GD intervened immediately to calm the families and to avoid physical injuries.

The businessman was first asked for his authorization to occupy the lot, which he presented. With his documents in order, the GD found it very difficult to find a solution that would satisfy both sides. The GD was accused by both parties--the businessman and the families--of siding with the adversary. The businessman argued that he had been granted the lot because he had demonstrated the potential to generate a project that would benefit the community economically. On the other hand, the families criticized the DCU for prioritizing a project to build a hotel and nightclub over the rights of eighteen families.

The families also criticized the businessman because he was demanding a lot that had never been his. If he were the legitimate owner, things would be different. Instead, the families felt that he was able to claim the grounds and evict them only because he was influential with the DCU. The real owner

had left the country after independence and according to the law had lost his rights to the lot both because he was not in Mozambique and because he was a foreigner.

But the businessman persisted. In addition to the authorization of the DCU he later showed up with the plans of the project he intended to implement. He also had convinced the DCU to designate sixteen lots in Zimpeto (District V) where he proposed that the families be resettled. In the beginning, the businessman did not want to assume any responsibility for moving the families or for building them new houses. But once the GD had obtained the families' acceptance to leave the disputed lot, the entrepreneur decided to finance the cost of moving the families to their new place.

The conflict lasted six months; it ended by November 1990. By then the priest of a nearby church started to protest, because in his opinion the opening of a nightclub on the property would adversely affect the neighborhood youth.

III. Post War Hopes and Expectations

Return of Refugees

If the war were to end soon most people expect that the war refugees would want to return to their place of origin, in particular those that presently have not been able to achieve a means of livelihood in Maputo. To live for a long time with only 7,000 *meticals* per month, as some families do, is inhumane.

Furthermore, land conflicts will not be easily solved in a context of war. To an extent, the resolution of problems will be achieved once the outskirts of the city are made safer, because the city can no longer grow inward. Peace is needed so that the city can grow outward, towards those places where it is presently not possible to live because of threat of violence.

Pressure from the Cement City

Compared to in-migration from rural areas, migrants coming out to Xipamanine from the cement city are more important sources of property conflicts. There are more and more people who previously lived in the cement city that are now moving to this *bairro*. They are selling the keys to their city apartments in exchange for the materials to build a new house in Xipamanine. Other residents in the cement city simply sublet their houses or apartments in foreign currency or in *meticals* and then take up residence in Xipamanine.

People are able to return to the *bairro* from the cement city because they are able to sell their city apartment keys primarily to Mozambicans of Indian descent. The acting secretary suggests that these *Indianos* want to control the housing market even before peace is made. Growth of the urban housing market has encouraged owners to recover their former suburban properties. If this continues to happen, many more problems related to property conflicts will occur in the future.

CASE C

DISCUSSION WITH THE SECRETARY, GRUPO DINAMIZADOR, POLANA CANIÇO A

Date of Interview: 6 October 1991

District: III

Neighborhood: Polana Caniço A

I. Institutional Conflicts

Conflicts in Polana Caniço A, a densely populated urban *bairro* bordering the cement city, mainly stem from the lack of coordination between the centralized DCU and the local district and *bairro* institutions. The following three conflicts illustrate the various dimensions of this lack of coordination.

Case 1: Private Individual Versus Local Institution

This conflict, not yet resolved, originated when the DCU granted a concession to a private individual for the lot where the buildings of the *Grupo Dinamizador* (GD) and the elementary school are located. The individual intends to build a bakery there and has the support of the DCU which argues that, because it has never been officially claimed, the lot is illegally occupied by the GD.

According to the testimony of the GD secretary, the DCU had never before shown any concern about the illegal occupation of the lot by the GD. Nor did the DCU involve the GD at any stage of their allocation of the lot to the private individual. By failing to involve or even inform the GD of the allocation process, the DCU violated the concept according to which the local institutions (*Estruturas*) should coordinate lot allocations among themselves. The DCU had decided to grant the lot without any consultation. The local authorities only found out about the concession when the person to whom the lot had been allocated showed up to claim it.

Case 2: Youth Group Versus a Church

A second conflict occurred between the Organization of Mozambican Youths (*Organização de Juventude Moçambicana*) and a church--*Igreja dos Velhos Apostles*. The latter sought a concession from the DCU to the lot where the neighborhood soccer field is located. The DCU granted the lot to the religious group in order to build a church. This was not expected by the young men who refused to give up their field. The GD was not informed that the concession had been allocated to the church group by the DCU until members of the youth organization informed them. This conflict still remains unresolved.

Case 3: University Housing Versus Neighborhood Residents

Still in the same *bairro*, another conflict with the DCU occurred because the director of the DCU had ordered the relocation of several families living adjacent to Eduardo Mondlane University. The DCU told the GD of the *bairro* to inform the neighbors that the University intends to build houses for university

students and that the area occupied by the houses had been assigned as the University's expansion area long ago.

This case, together with that of the bakery mentioned above, would require the relocation of 60 families. The *bairro* authorities were greatly shocked and offended by the allocation of the properties to the University. Only recently the local authorities and the University administrator had re-confirmed the campus perimeter, which did not include the area in which those families facing eviction reside. Moreover, as one of the *bairro* officials pointed out, facing the street that divides the University from the neighborhood there is a large patch of land owned by the university that, to this date, has not been used.

According to the information presented by the GD secretary, when they approached the University administrator he claimed to be unaware of the procedures that the DCU had undertaken in the name of the University. Hence, they decided to take up the problem with the District Administrator (*Administrador do Distrito*) who said he would discuss the problem with the DCU director. This case also remains unresolved.

II. Conclusion

Two points were emphasized by the secretary of Polana Caniço A:

First, the DCU seems to decide the reallocation of lots within neighborhood borders without coordination with either the district or *barrio* authorities.

Second, the conflicts generally originate from the recent increase in (a) private ventures, including investment by small businesses and private institutions, and (b) the expansion of the cement city into areas of this *bairro*.

CASE D

DISCUSSION WITH THE SECRETARY, GRUPO DINAMIZADOR, INHAGOIA A

Date of Interview: 15 October 1991

District: V

Bairro: Inhagóia A

I. Bairro Context

Inhagóia A was never officially demarcated and parceled. Before independence most of the land belonged to a Mr. Lima who rented out the parcels for an annual fee. A guard was responsible for the property. Those that had the money could rent more than one lot. Many built two or more houses, living in one and renting out the others.

According to the secretary, housing conflicts dominate agricultural conflicts in Inhagóia A. People seeking access to an agricultural plot go to other *bairros* within Maputo or to the less secure agricultural lands outside Maputo city such as Boane. Most of the residents seeking agricultural land from Inhagóia A have acquired plots in the Infulene valley (Districts V and VI). There are over two hundred residents of Inhagóia A with *machambas* in Infulene. Many others retain access to a *machamba* through the FAO's experimental plot near Michafutene.

II. Conflict Sources

Nationalization of Housing and Land

Within the last several years, those who owned lots or houses before independence have reappeared to reclaim their properties. If they go to APIE, they are told to file a claims form (*requerimento*), which they then take to the *Grupo Dinamizador* (GD). Ex-owners feel pressure to reclaim their properties as conflicts appear within their own families. Frequently their children get married but, due to lack of alternatives, continue to live in their parents' house. After a while, problems emerge.

Other claims are filed by ex-owners who, before the armed conflict, had moved to the interior of the country. Many have been obliged to return to Maputo as a result of the war and have sought to reclaim their properties.

In-migration of War Refugees (Deslocados)

Generally the refugees that come to this neighborhood first seek a relative's house where they are offered temporary shelter. They then ask the GD to help them find a permanent place to live.

For those refugees who have no relatives in the *bairro*, finding housing is more difficult. According to the secretary,

"We have no alternative except to ask those persons to go to Boane or Zimpeto. Zimpeto is a peripheral neighborhood of Maputo which has been

subject to frequent armed attacks, while Boane is approximately 20 km outside Maputo City. If a refugee accepts, the GD writes a declaration (*declaração*) asking the authorities of the other neighborhoods to help them find a place to stay."

Out-migration of Cement City Inhabitants

The arrival of people from the cement city is a problem in this neighborhood. Generally, inhabitants of Inhagóia A originally came from the southern provinces of Inhambane and Gaza. Immediately after the period of nationalization some people left the countryside as well as the peripheral *bairros* of Maputo to occupy apartments in the cement city; a relative was normally left behind to care for the house in their place of origin.

As long as living was cheap, there were few problems in the cement city. But now there are people who cannot afford to pay their electric bills, and the time is coming when they will not be able to pay their rent. And, they are now remembering what they left behind. Only a few are able to make a decent living in the city while the majority of the immigrants are waking up from the dream in which they lived during these past years. Many now want to return to the less expensive peri-urban *bairros*. But they are also beginning to realize that things have also changed there.

When former owners return they find that properties have undergone changes. Some discover that the tenant has replaced the reed walls with cement blocks. These tenants refuse to vacate the property without at least being compensated for the investment they made in the house. When the people involved are not able to solve the problems on their own, the GD or the district administrator is called upon to mediate and find a solution.

III. Post War Expectations

People's decisions to return from Maputo to their places of origin will depend more on economic conditions than on the political situation. While it is true that many people left their houses as a result of the war, it is possible that when peace arrives there will be a return to a situation that was common decades ago--i.e. the man lives in the city to earn a salary while the woman and children stay in the countryside. They will visit each other every now and then. The house from the countryside will send agricultural products to the city (beans, manioc, and corn); similarly the man will send urban products (mainly rice, sugar) to his family in the countryside. Each family will effectively be two separate but dependent units.

CASE E

DISCUSSION WITH THE SECRETARY, GRUPO DINAMIZADOR, JORGE DIMITROV

Date of Interview: 17 October 1991
District: V
Neighborhood: Jorge Dimitrov

I. Bairro Context

Unclear Land Rights

The secretary emphasized the fact that many conflicts are occurring in the nationalized houses which are managed by APIE. Since 1989, many ex-owners have visited the office of the *Grupo Dinamizador* (GD) to reclaim the houses that were nationalized in 1976. Some of them have demonstrated persistence and determination in recuperating their properties; others make their initial demands but do not show interest afterwards. In either case the *bairro* authorities are made aware that residential property rights in the peri-urban areas are not well defined. For that reason they try to dissuade current tenants (*inquilinos*) from investing in the houses they live in until they are certain that no one is going to appear to reclaim the property. In spite of these efforts, many renters have made improvements in the houses they live in.

Recent Involvement of Local Authorities in Conflicts

During the last year the GD intervened in the resolution of three conflicts. In all cases the dispute was resolved in favor of the plaintiff. In two cases, those who claimed to be former owners argued that they wanted to bequeath the houses to their children. They were also able to prove that the current tenants were destroying the house. After an initial disagreement, the local authorities were asked to mediate. They endorsed the rights of the ex-owners but also tried to defend the rights of the families that were being evicted. Eventually the conflict was resolved when the owners accepted to build reed straw houses for the evicted families.

Lots Reserved for Public Projects

A large area within the neighborhood of Jorge Dimitrov is demarcated as a state reserve (*reserva do estado*). This reserve was initially set aside to implement several non-residential projects such as small businesses, industry, and schools. Instead, with the intensification of violence in the Southern countryside, the local authorities have been using this area for temporary housing for the flood of incoming war refugees. According to the Secretary,

"When we were assigning lots in the reserved area we asked the refugees to write a letter saying that if asked to leave they would not demand any compensation. We also told them that they were only allowed to build straw, wooden or zinc houses. But in 1990 we stopped assigning lots both because the neighborhood was overpopulated and because we were concerned that we would have problems when trying to evict people from the lots

located in the reserve zone and other areas not intended for housing. At that point every space was occupied, including the lots that were supposedly reserved for World Bank projects, the paper recycling factory, and many other projects."

Land and housing conflicts have increased due to the presence of both war refugees coming into the peri-urban area from the countryside and people leaving the cement city to look for residential land in the peri-urban *bairros*.

The task of residential settlement is not carried out exclusively by the *bairro* authorities. Since 1987, some of the block leaders (*chefe do quarteirão*) have been distributing lots in the reserve zone. These block leaders have also been involved in the sale of residential lots (see appendix E of Roth, Boucher, Francisco 1992).

II. Conflicts Over Residential Purchases

In the last several years the number of persons wanting to buy colonial *quintas* has increased. Conflicts arise when these individuals discover that the parcel, as it was originally demarcated and still registered in the municipality's books, has already been occupied by several families. The following examples of this type of conflict occurred during 1991.

Family of Government Member Versus Local Residents

One of the most recent cases involves Mrs. Mucumbi, the wife of a prominent member of government. She applied to buy a *quinta* adjacent to the principal church in Jorge Dimitrov. After the DCU accepted her request, Mrs. Mucumbi called together those families that had occupied the *quinta* and told them that she intended to cultivate the land where they had built their houses. Although the people listened to her explanations they refused to leave, arguing that they had been living there a long time. Some of the families claimed that their children had been born there. They became infuriated when she continued with her demands to occupy the *quinta*. Even though she is the wife of a member of government, they felt that she has no more right to occupy the lot than they have.

After several failed attempts to convince them to abandon the *quinta*, Mrs. Mucumbi tried to use aggressive tactics [no specifics given]. However, the families that she was trying to evict belonged to two popular neighborhood organizations--the *Associação Força do Povo* and the *Cooperativa Maguiguane I*. Both organizations have strengthened and unified the families to such a point that the secretary advised Mrs. Mucumbi to renounce her claim to the families' *machambas*. She refuses to do so, arguing that she was granted the entire extension of the *quinta* including the house, the orchard and the irrigated land adjacent to the Infulene irrigation channel. This conflict still remains unresolved.

Local Authorities Involved in Land Sales

Other conflicts occur when persons wanting to take up residence in the *bairro* arrive claiming that they had lived there previously and now want to return. After independence, many people left the *bairro* and went elsewhere,

frequently to the cement city, looking for a place to live. Upon leaving the *bairro*, they normally left a relative in charge of their land and property. Many of these individuals are now returning to reclaim the properties they left years ago. According to the secretary, many of these individuals want their lots back in order to sell them and not, as they claim, to give them to other landless relatives.

Recently a young member of the local authorities committed suicide after trying to sell the same lot to several persons. He became desperate when he could not clear up the confusion he had created. The eventual buyers had given him 1,000,000 *meticais* for the lot. After building a reed hut (*palhota*) they were able to sell the lot and the house for only 10,000 *meticais*.

Conflicts Between Family Members

Another conflict occurred in 1986 between an individual from Marracuene and his cousin to whom he had left a house in Jorge Dimitrov. Recently the man showed up asking the cousin to return the house. The cousin refused to leave, arguing that he had been living in the house for more than ten years and was its legitimate owner. There was no written proof supporting the two men's claims. Therefore the cousin was evicted. After his eviction, the cousin returned to re-occupy the house. He was imprisoned and was still in jail at the time of the interview.

Private Resident Organizing Land Sales

The biggest conflict in the neighborhood was caused by a private resident who organized a thriving business selling lots. He even had bodyguards to defend him. He lost his business when he sold the same lot to several different persons. He was imprisoned for some time and, upon his release, the persons whom he had cheated took their revenge by burning his house.

CASE F

DISCUSSIONS WITH THE SECRETARY OF THE GRUPO DINAMIZADOR, MAXAQUENE C

Date of Interview: 6 October 1992
District: III
Neighborhood: Maxaquene C

I. Assimilating the War Refugees

According to the secretary, incoming refugees to this *bairro* come mainly from the southern districts of Manhiça, Magude, and Macia. Upon arrival in Maputo City, they first seek out relatives. In the case of Maxaquene, almost all the refugees coming in have either close or distant relatives in the *bairro*. No one shows up asking for a place to stay without having family contacts.

Consider the secretary's family as an example. In early 1991, one of his uncles arrived in the *bairro* fleeing the war and moved in with his son. The latter had his own family, including a wife and children, and lived in a small one bedroom house. Along with the uncle came his two wives and children as well as a brother and his wife. With the additions, the former six person household expanded to twenty people.

The uncle was offered a house when he first arrived. At first he did not accept, but by the end of the week he decided to move to the house. Nevertheless, he still visits his son's house daily.

Refugees resort to the *Grupo Dinamizador* (GD) after having failed to find housing within their family networks. They ask the GD for a "little place" where they can live with their family. The problem is then assumed by the official in charge of housing who has to find a ten by sixteen meter lot. If one is available, they authorize its occupation. The concession of the lot does not imply any payment because the law prohibits land sales.

Such was the procedure for land allocation while there were still lots available; but now there are not. On the contrary, there are blocks that should have only twenty five houses, but currently have fifty. For this reason the GD is advising the refugees to go to another neighborhood and gives them a letter of recommendation. Some manage to find a lot on their own; generally they buy one in spite of the law. This is possible because there are powerful persons who work in South Africa who are always willing to sell land.

II. Conflicts with Ex-Owners

At the moment there are no procedures for dealing with owners that attempt to reclaim their former properties. In discussions between the government and local authorities, there were some officials who proposed that the houses should be given back to former owners while others thought that current tenants should have the right to buy the houses. The secretary feels that the nationalization of reed houses in the peri-urban zones was a mistake; but

nevertheless it was a fact.⁴ The pressing need now is to solve the problems caused by that mistake. According to the secretary,

"Many of the neighborhood secretaries have told the government that the houses should not be given back to their former owners; to do so would provoke another war. It would cause great confusion among current tenants and ex-owners who for one reason or another have already lost their houses. For example, when some houses were demolished, the GD kept the zinc roof strips and in some places streets were built. No compensation was paid. What are we going to give back now?"

The secretary felt that the most appropriate and least controversial decision would be to sell the houses to the tenants, even if at a symbolic price--because many tenants have spent a lot of money improving the houses. Nevertheless he feels that the houses should not be donated to the tenants. If the houses are sold, the government could then give those ex-owners who want to reclaim their properties the sale price of the house.

III. Conflicts Due to New Projects

The secretary talked about the project that built houses for teachers of the Industrial Institute (*Instituto Industrial*) near the *Praça da OMM*. The project stipulated that the existing tenants should be moved to *Laulane*. The authorities bought the materials to build reed houses and the project beneficiaries provided the doors and locks. Instead of being managed by APIE, the new houses were the beneficiaries' property.

There are also regulations that ban the construction of brick houses in certain areas. The tenants that occupy those places know that they are temporary dwellers and that someday they will be requested to leave. The secretary reflects on one pressing problem:

4. Both permanent buildings (those made of cement or brick) and temporary dwellings (those made of reed and zinc sheet) were nationalized after independence. Owners, who were allowed to keep one house themselves (see footnote 3), naturally opted to retain the more durable and valuable dwelling, turning over to the state those of more temporary nature. While not a terribly divisive issue at the time, because land was in abundant supply, ownership rights to the former reed housing and property, have recently become a hotly debated issue. Those individuals, who lost dwellings, face the risk of permanently losing a portion of their land if the new occupants make permanent improvements that act to strengthen the tenants' rights in the property. The scarcity of residential land has also created a booming real estate market in recent years. Former owners are now trying to re-assert their claims, no doubt in part to capitalize on the soaring land prices now being realized in the land market. In April 1992, the National Assembly voted to end APIE's authority over these temporary houses. The tenants were guaranteed the right to remain by purchasing the property over an extended number of years. The pre-independence owners, if they are Mozambican citizens, are to be reimbursed the price of the house--an amount not to exceed 10 times the annual rent received by APIE (*Noticias*, 2 April 1992).

"What worries me is that the lots were distributed in 1977 and at that time there was an architect who thought that the lots should measure 10x16 meters instead of 16x24 meters. At that time I was secretary and thought that everything had been approved. The lots were given out for free, maybe in pursuit of the principles of socialism. Now the DCU has come with a different architect saying that the zone is not yet urbanized. They want to get involved and redo everything again. That could cause chaos."

IV. Ex-residents Returning from the Cement City

After independence some people sold their houses and hurried to claim the vacant apartments being offered by the government in the cement city; others left their houses to relatives. One current resident was left a cement block house by his brother, who went to occupy an apartment in the cement city at the time of independence. At the time, the brother only wanted to maintain claim to the zinc roofing strips. Recently he returned, but claimed the whole house. The brother, having resided in the house for the last fifteen years, already had a refrigerator, a stove and many other things. He was in a very difficult situation because he did not know where to find a house to take his family and belongings. He decided to call a family meeting and tell them what his brother had done. With the intervention of the GD he managed to stay in the house.

Similar problems have divided several families. There are persons who are heartless even with their siblings. People sometimes offer building materials and 300,000 or 400,000 *meticals* to persons who are willing to sell their land and house. People go crazy over the knowledge of such offers, and to reap the economic benefit, seek to reclaim property they abandoned fifteen or twenty years ago.

The secretary recalls even more severe family conflicts. The family of the wife of a recently married couple offered the newlyweds a house. Soon thereafter the wife died. After ninety days mourning, the widower took another wife. The deceased wife's family accused him of having killed his former wife. They forced him to give the house back as it had been given to his wife and not to him. The husband, however, refused to leave.

When the conflict was presented to the GD they decided that the husband should abandon the house within ninety days. But that time passed and he still refused to leave. The case went to the *bairro* court which gave him an additional fifteen days to vacate the place, but he insisted on staying. The case was then forwarded to the district court. With both sides having some local influence, the case finally arrived at the office of the Presidency. The President himself sent the district attorney to resolve the case. He met with the district administrator who gave the husband one last chance to leave the house. But again he would not leave. The administrator ordered the GD and the police to notify the man of the date they were going to evict him. When the time for eviction came, the eviction committee visited the house and threw the man's belongings into the street. At noon, the husband, who had been away in Moamba, showed up in a truck and moved his personal effects somewhere else.

V. Post War Expectations

Although native Maputo residents want the refugees to go back to their homelands, things are not so easy. Each family member is making his or her own

plans. The elderly will return to where they came from; but young men and women will either stay in Maputo to study or go to South Africa. In the secretary's view,

"The houses (reed huts) will never disappear. Some people will leave but others will come and occupy them. Some can sell the houses and return to their homelands. But there will also be new waves of people that will show up, including soldiers, either from Renamo or Frelimo, and the refugees currently living in camps in the neighboring countries. The end of the war will not bring the end of property conflicts."

CASE G

DISCUSSION WITH THE SECRETARY OF THE GRUPO DINAMIZADOR, 25 DE JUNHO

Date of Interview: 28 October 1992

District: V

Neighborhood: 25 de Junho

I. Conflict Sources

Nationalization of Houses

Before independence people had the tradition of buying lots to give their children as inheritance. When land was nationalized people found themselves confronted by a different set of rules. Some had just paid off their lots. Others had only signed a contract and had not yet made any payments, and there were those who had paid off their lots, built houses and were renting them out.

Almost everyone was happy with the nationalization. Because most people had nothing to begin with, nationalization gave them the opportunity to acquire land and property. In the beginning, even Mozambican landowners were happy with the measure since they thought it was directed only at the white Portuguese. But the revolution against exploitation affected everyone. Frelimo brought with the armed struggle the conviction that they would not simply substitute the Portuguese flag with the Mozambican flag, nor would they simply replace a white exploiter with a black one.

The people are now divided. Politics have changed and those who were damaged by revolutionary measures feel that it is time to reclaim their rights. There are several causes of conflict. First, in the span of only a few years the government has issued many contradictory laws. Second, the rights of one group of persons are beginning to conflict with those of another group. Third, the Economic Recovery Program instituted in 1987 and the war have worsened the standard of living. Life has become difficult for many people.

Another problem originates from the fact that many people are unfamiliar with the requirements of land utilization. As noted by the secretary,

"In order to maintain the right over land it is necessary to develop a productive infrastructure on it. But many people do not do that. They work and work until one day somebody shows up saying 'this is my land, I have a document that proves it' and then the conflict starts".

War Refugees

In 25 de Junho, there are approximately three hundred families that are considered war refugees. Most are from Manhica, Marracuene and other districts in the regions surrounding Maputo. If the family demonstrates the capacity to build their house the local authorities can authorize construction. Generally those who can afford to build a house are individuals with relatives working in South Africa. Normally lots are assigned only to refugees who have relatives in the neighborhood; those who do not, are granted only temporary occupancy.

Within the confines of the lot, each family decides how its members are going to live. They can live together or build separate houses for each nuclear group.

Due to security problems in the peripheral *bairros* some families have moved into this *bairro* in order to have access to a secure house at night. They only sleep in 25 de Junho, then every morning they go to Intaca, Infulene, Michafutene or other outlying *bairros*, many to work on their agricultural plots.

Bairro Development Projects

Development projects undertaken in the *bairro* are coordinated by the *Grupo Dinamizador* (GD), the Green Zones Office (*Gabinete das Zonas Verdes*) and the authorities related to each project. Whoever wants to develop a project has to go through the GD. Problems start when initiatives do not follow the usual procedures.

For example, by independence all the land in the *bairro* had been parceled. One of the current problems is that the areas designated in the colonial period for industrial use have been occupied by houses. Also, in 1980 the Executive Council (*Concelho Executivo*) and the Directorate of Construction and Urbanization (DCU) wanted to introduce a new plan that consisted of dividing each lot in half so that instead of one family the same space would shelter two. The purpose of this plan was to increase access to health care and other urban services for very poor families. But the people from the *bairro* never agreed, because of the habits of Mozambican families--households start with a few members at first, but after a couple of years become very big.

II. Post War Expectations

The secretary feels that once the war is over families will revert to the life style that was enforced during colonial times: employed men and children going to school will stay in the city, while the women will return to their places of origin. The war has cut the umbilical cord that tied country and city. Almost certainly people are going to reestablish their former way of life. Much will depend upon what people find in their birth places in the countryside.

CASE H

DISCUSSION WITH THE SECRETARY, GRUPO DINAMIZADOR, LAULANE

Date of Interview: 4 November 1991

District: IV

Neighborhood: Laulane

I. Bairro Context

Laulane is divided into residential, industrial and agricultural zones. The *bairro* has a large area of naturally irrigated land where intensive horticulture is practiced. Not long ago this neighborhood was considered to be far away from the city, and for that reason many lots had absentee owners while others were completely vacant. In 1978, the Executive Council (*Concelho Executivo*) of Maputo carried out the first land allocation in the *bairro* and in 1985 the second. The second was characterized by lack of coordination between the DCU and the *Grupo Dinamizador* (GD) and by the arrival of many war refugees. The allocation of many lots during this period provoked severe problems.

II. Land Sales

The majority of conflicts arise in regard to residential lots. Recently a man sold a lot to a person for 70,000 *meticaís* (see annex E in Roth, Boucher, and Francisco 1992) then sold it again to another person for 200,000 *meticaís*. At this point the GD had to mediate to defend the first buyer.

III. Conflicts Between Local Authorities and the DCU

The worst problems have been with the DCU, mainly in the last several years because they have declared themselves the highest authority on matters related to land allocation. At the same time, people have started selling lots on their own and many times the GD has had to solve problems created by the DCU. For example, not long ago, a topographer from the DCU started placing markers on lots that belonged to several persons, causing problems that the GD had to resolve.

IV. War Refugees

The war refugees occupy lots however they want to, as there are no resources for a planned and controlled occupation. The majority make arrangements to stay in the *bairro* through contacts with their relatives. But the final decision of allocation of temporary lots is made by the block chief (*chefe do quarteirão*).

V. Agricultural Conflicts

There is an important difference between agricultural areas that have been officially parceled and those that have not. Many conflicts occur in the parceled areas because people present documents showing they have rights to a demarcated parcel. Starting around 1985 there were so many conflicts in the

demarcated irrigated zones that the local authorities decided to cancel the land allocations in order to diminish conflicts. The measure did not have the intended effect because many people from the cement city began showing up with written authorization to occupy the land. Some individuals with money tried to occupy plots that had already been assigned.

In an attempt to avoid additional conflicts, the GD decided to promote the establishment of small farmers associations (*Associações de Produtores*). These associations were aimed at protecting the small farmers' interests. Since then, the problems have diminished significantly. The small farmers have become aware of their ability to organize themselves and they have gained tenure security. Organization of the small producers has been such that the producers associations are officially recognized by the government. Also people from the cement city with written authorization for occupation of these lands no longer show up.

CASE I

DISCUSSION WITH THE SECRETARY OF THE GRUPO DINAMIZADOR, ZIMPETO

Date of Interview: 29 October 1991

District: V

Neighborhood: Zimpeto

I. Conflicts Related to War Refugees

Zimpeto, according to a pre-independence development plan, was divided into three zones: residential, industrial/commercial, and agricultural. Because of Zimpeto's location as one of the outlying peri-urban *bairros*, continually subject to armed attacks, there are fewer war refugees than in other *bairros*. Refugees fleeing the war head toward the more secure zones nearer the cement city. Nevertheless, the industrial zone has already been occupied by war refugees.

The vast majority of the refugees come from Gaza and have relatives in the *bairro*. Some come from other conflict zones nearby such as Intaca and Kongolote. These refugees usually spend the night in Zimpeto and then return to their plots during the day.

Some of the refugees who came from Intaca built reed huts (*palhotas*) in the agricultural zone. The Administrators of Districts V and VI have already made it clear that the zone was not intended as residential. They told these refugees that it was a dangerous zone to live in and tried giving them an area located behind Mabor (a local industry) called FO2. The people requested authorization to remain there but the authorities of FO2 demanded a written promise that they would abandon the place once the war was over. The district administrator did not want to get involved as he envisioned problems when they would have to ask the refugees to leave.

II. Conflicts on Agricultural Lands

Before independence the agricultural zone was reserved for large Portuguese landowners (*quintaleiros*) and entrepreneurs. There were numerous enterprises such as the Empresa Algodoneira (cotton processing plant), the Vulcanizadora (rubber processing plant), the Fabrica de Licores (alcohol company), and the hospital. The land belonged either to the *quintaleiros* or to the entrepreneurs. Most of the rural land was controlled by the traditional local leader (*regulo*). When the *bairro* was urbanized it was divided into lots that were then bought by different persons. According to current law a person can legally own only the lot where his or her house is located. If anyone tries to officially claim a lot that formerly belonged to someone else during colonial times, the previous owner, if still in the *bairro*, will not allow its occupation.

After independence, Zimpeto had only owners, no tenants. The only rentals that occurred were of plots in the agricultural zone. Presently it appears that some of the Portuguese owners want to return.

One former Portuguese has already regained a *quinta*. He is the owner of a business that makes metal fences for *machambas*. People say he is not the real owner but that he bought the factory from the owner who had a *quinta* in the neighborhood. When the purchaser arrived he found that the *quinta* had already been occupied. The purchaser, however, had acquired authorization from the DCU to occupy the parcel. Even though this concession was given without consideration that the parcel was already occupied, the new claimant appeared with policemen to evict the occupants. The case was taken by the current residents to court where it is still pending.

Many people use the *quintas* for subsistence production. According to the secretary,

"In such cases I agree that people who can afford to produce for the market can claim the land. The city needs the produce and it is not fair that a family keeps the land to cultivate it only for their own consumption needs. The person who can implement a commercial project on those lands, in addition to producing more, pays taxes to the state and creates jobs."

Most of the conflicts in the irrigated plots surface because of the drought. If the drought were to end many farmers would go to the rainfed plots and abandon horticulture. People are not interested in kale. At present they are only producing kale and lettuce because they cannot cultivate corn and peanuts because of lack of rain.

III. Conflicts from Local Development Projects

The process used to allocate land by the DCU to projects ostensibly claiming job creation, create many conflicts with those families that have already occupied land. According to the secretary there are only two solutions: either stop granting land to new people or evict the persons who squat on the land. In either case, coherent legislation is needed. It is likely that priority will be given to those people that can implement profitable business ventures, because, they are the ones who make investments that provide money to the government. The small farmers do not.