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FRAMING ISSUES OF ENVIRONMENTAL SECURITY IN ANGOLA & MOZAMBIQUE – THE NEXUS OF LAND, CONFLICTS AND SUSTAINABLE LIVELIHOODS IN POST-CONFLICT SITUATIONS

BY

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A THESIS SUBMITTED TO THE FACULTY OF SCIENCE

UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

JOHANNESBURG, 2007

SUBMITTED IN FULFILMENT OF THE REQUIREMENTS

FOR THE DEGREE OF DOCTOR OF PHILOSOPHY (PH.D.)

IN THE

SCHOOL OF GEOGRAPHY, ARCHAEOLOGY AND ENVIRONMENTAL STUDIES,

FACULTY OF SCIENCE

UNIVERSITY OF WITWATERSRAND

SOUTH AFRICA

NOVEMBER 2007

PREFACE

The poverty-environment issue as a development concern has been an interest of my adult career for as long as I can remember, although I started my academic career studying the political dynamics of African countries. During the 1990s my career took me more closely into the field as a development practitioner. In 2000 I resumed my interest in research on Africa to focus on humanitarian concerns, based within the conflict analysis and early warning unit of a research organisation. A research visit to Angola in mid-2002, a mere four months after the ending of 27-years of violent conflict, strengthened my interest in the issue of post-conflict recovery, and debates around the security-development nexus. Further studies undertaken thereafter in my personal time on environmental issues, and in particular conflicts over environmental resources, coupled with a very personal experience of the complexities of implementing land restitution projects, coalesced and resulted in a decision to undertake further research on the centrality of land and land resources to securing peace and development.

I first published during the 1980s, covering a variety of topics that included environmental issues as a development concern. Working in field during the 1990s my attention turned to more practical development concerns, including being employed in a national initiative that sought to integrate ecology and poverty alleviation objectives. Since resuming research in 2000 I have published on a variety of subjects that includes the following:

Clover, J. (Forthcoming) "The role of land as a site and source of conflict in Angola" in a book entitled, The Changing Politics of Land in Africa: Domestic Policies, Crisis Management and Regional Norms.
Clover, J & Eriksen, S.: (Forthcoming) Strengthening the sustainability of savannas: the nexus of land, conflicts and livelihoods in Southern Africa, to be published as a chapter in a book on Southern African Savannas,
Clover, J., 2005: Human-centred environmental security: The link between environmental care and the creation of a more secure society, in Huggins, C. & Clover, J. (Eds) *From the Ground Up: Land Rights, Conflict and Peace in Sub-Saharan Africa*, Institute for Security Studies, Pretoria.
Clover, J., 2005: Land reform in Angola: Establishing the ground rules, *ibid*.
Clover, J., 2005: It's Poverty, Stupid, in *Our Planet* (Environmental Security) Vol 15 (4), UNEP, 2005. (In electronic version).
Clover, J., 2005: Human centred environmental security in Africa, *African Security Review*, Vol 14 (2), Institute for Security Studies
Clover, J., 2004: Conflict and Human Security in Cornwell, R. & Clover, J. (eds), *Supporting Sustainable Livelihoods: A critical review of assistance in Post-conflict situations Monograph* No. 102, Institute for Security Studies
Clover, J., 2004: *HIV/Aids In Africa And Scenarios For The Future: Conflict As A Stressor*, in <www.unaids.org/unaids_resources/images/AIDSScenarios/AIDS-scenarios-2025_appendix_en.pdf>
Gomes-Porto, J. & Clover, J., 2003: *The Peace Dividend in Angola: Strategic Implications for Okavango Basin in Transboundary rivers, sovereignty and development: Hydropolitical drivers in the Okavango River basin*, edited by Anthony Turton, Peter Ashton & Eugene Cloete
Clover, J., 2003: Food Security in sub-Saharan Africa, *African Security Review*, Vol 12 (1), Institute for Security Studies.
Clover, J., 2002: *Genetically Modified Food in the African Context: Behind the smokescreen of the debate*, Situation Report, African Security Analysis Programme, Institute for Security Studies.

DEDICATION

To my three daughters – Helen, Claire and Kate - who are an inspiration to me and have given me their love and encouragement throughout, and to all those individuals and civil society organisations that work so tirelessly to address problems of land tenure insecurity and contribute to building secure livelihoods of poor communities.

ABSTRACT

Violent and protracted conflicts, such as those that affected Mozambique and Angola (both countries with a Lusophone colonial heritage), have had severe consequences in terms of wartime dislocation and destruction, especially in rural areas. Land issues per se are not endogenously conflictive, but in post-conflict settings, the scramble for access to the assets necessary to (re-)establish livelihoods for large numbers of people, as well as the pursuit of land access by large-scale commercial interests who capitalise on a fluid land tenure situation to acquire resources, may occur.

A nuanced and comparative study of Mozambique and Angola is undertaken that explores the relationship between violence, resources and the environment. It asks two questions: i) What accounts for the relationship between violence (evidenced in both brutal physical acts, threats and increasing vulnerabilities) and land as a resource? ii) Are there lessons to be learnt from these findings that are particular to countries emerging from protracted civil wars? The thesis explores the changing discourses around the concepts of human security and environmental security, and the pressing land issues confronting the African continent. It highlights the complexity of issues – political, social and economic – and the necessity for a theoretical shift away from the popular approaches towards alternative ways of understanding the connections between the environment, violence and resources. It examines the specific dynamics of a post-conflict environment, an area that has received little attention, despite its potential for playing a significant role in ensuring broad-based development and in peace-building. A *modified* livelihoods framework is also used to analyse land issues on the basis that land is an element of a wider livelihoods approach with a focus on poverty alleviation and wealth creation.

Findings mirror those of other international researchers who have found that conflicts over land often have less to do with resource scarcity, but that "violence is more likely when resources are in great abundance or have great economic and strategic value" (Peluso and Watts, 2001: 5). Furthermore, findings support the calls for taking a more inclusive concept of violence and non-violence that recognises that the outward manifestation of disputes may not be violence in the form of civil war, but social disruptions (Liotta, 2005). The value of a post-structuralist political ecology for analysing these various connections is demonstrated in the research findings. It is one which does not search for 'environmental triggers' of violent conflicts, but looks at the reciprocal relationship between nature and humans. Both countries are confronting many of the land issues that are common to Africa and which suggest an important new phase in the politics of land. In Angola land tenure and shelter are now insecure for many in both rural and urban areas, while in both countries there is mounting competition and conflict over land and landed resources. There are increasing threats of exclusionary practices and land grabs, but also the more subtle, 'non-traditional' security threats of the destruction and damage to livelihoods, of deepening impoverishment, evident in "creeping vulnerabilities". The findings of the research confirm that in dealing with both equity and efficiency issues, and environmental sustainability and political stability, land policies need to be well integrated into wider social, economic and environmental planning – at various levels, local to global – to strengthen sustainable security.

Land conflicts are generally contained as local-level disputes, often camouflaged by government or suppressed. While conflict theory points to apparent triggers – differential impacts and political mobilisation – it must be acknowledged that these tensions are more often than not politically sustainable, as leaders justify overriding the interests of the poor in the interests of growth. Furthermore, peace is not the default mode of society: conflicts are at times an integral part of the transformation of land tenures systems and not necessarily destructive in themselves. Concerns need to focus, rather, on those cases where inequity and violence are politically sustainable, and what this means for human security. It is this issue that is recommended for further research.

> "In contrast to thinking about violent conflict, a human-centred conceptualisation of environmental security asserts the need for cooperation and inclusion to manage the environment for the equal benefit of all people and future generations" (Barnett, 2001: 128).

DECLARATION

I, Jeanette Lee Clover, declare that this thesis is my own, unaided work. It is being submitted for the Degree of Doctor of Philosophy in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other University.

_____

On this _____day of_____2007.

ACKNOWLEDGEMENTS

My journey to this point has been a long, rich and varied one spanning a career of some twenty five years. Many people and experiences have influenced and informed my perceptions, beliefs, knowledge and insights, some of which go as far back as my childhood. Growing up in rural Zimbabwe, (Rhodesia as it was then) and witnessing the injustices and destruction wrought by the political and economic system left a lasting impression. My parents, who always led by example, ensured that I grew up conscious of the world beyond my own zone of comfort; I hope they would be proud to know that I honour their values.

I have had the privilege to have had a diverse range of career experiences in research and as a development specialist, meeting many people along the way who have contributed in different ways to my personal development, challenging me to a deeper sensitivity and to question assumptions I may have made. Two very special friends, Richard and Linda Cornwall, have been central throughout my career, mentoring me at various times each in different ways, consistently encouraging and believing in me. I have been able to visit many (sometimes remote) parts of my own country and several other countries in Africa, and had many a humbling experience as I have witnessed the determination of land activists, civil society organisations, and poor people who strive with such determination and courage to improve their lives and those of their children. The insights of my eldest, Helen, who is working in the area of informal settlement upgrading, has been another source of inspiration and heightened awareness, reminding me at all times of just how much more I have to learn.

It was at a meeting of the Southern African Vulnerability Initiative in 2003 where I was exposed to diverse insights from a range of people from different disciplines seeking common ground that “things began to make more sense,” and my determination to study further in the environmental field reached a point of no return. Coleen Vogel played a central role in creating the possibility for me to study further; subsequently she has been my lecturer and my supervisor. At all levels of contact I have been inspired by her dedication and determination. I am proud to have been supervised by Coleen and am grateful for the direction and encouragement she has given me in her enthusiastic and positive manner.

During the course of my field work many people and organisations in Angola and Mozambique have openly shared with me, helping me to learn with sensitivity about the local environment and people’s livelihoods. I wish to extend a special thanks to Egidio vas Raposa whose professionalism, loyalty and commitment to the people of his country are exemplary. The quality of my field research was greatly strengthened by his assistance.

I wish to thank my family, most especially my three daughters who never doubted me – and Claire and Kate for ‘sharing’ me with my books for so long. And lastly to so many friends for their encouragement, most of all Penny and Digby without whom I could never have accomplished this – their support in so many ways has been exceptional. My sincere thanks goes to all who have believed in me and encouraged me to persevere.

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GLOSSARY OF KEY TERMS	
Assimilado(s)[1]	A small minority of African population who were given rights as Portuguese citizens, by virtue of their education. Those African and *mestiços* considered by the colonial authorities to have met certain formal standards indicating that they had successfully absorbed (assimilated) the Portuguese language and culture.
Bairro[2]	Literally "district" but is generally used to refer to a suburb/residential area of the city. It has acquired an Angolan connotation of "slum"[3]
Baixa[4]	Literally means the "low" part of the city.
Bifurcated	A modernised sector with the majority of land and a minority of people on the one hand, and a small part of the land and the majority of the people on the other.
Cadastro	Property register.
Colonatos	Planned settlements.
Common property[5]	Common property is typically land and other resources in which entitled beneficiaries, whether individual or community defined, have specific common rights. For example, community members can use a common pasture for grazing their cattle independently of one another. The community controls the use of the common property and can exclude non-members from using it.
Communal ownership	"Communal ownership" is a commonly used term to describe those situations where rights to use resources are held by a community. It often includes communal rights to pastures and forests, and exclusive private rights to agricultural and residential parcels. In such community-based tenure regimes, people may not have the right to transfer their land to others, or may have strictly limited rights to transfer.
Concession	A concession is defined as the granting of a territory to a concessionaire for their occupation and use.

[1] Library of Congress, n.d.; Pacheco, 2002.
[2] DW/CEHS, 2005
[3] Pearce, 2005.
[4] *Ibid.*
[5] Cotula *et al;* 2006

Conflict[6] *Violent Conflict*	Conflict can be defined as a situation in which parties pursue opposing goals. This may entail but need not be equal to violence. It can be seen as a necessary and even positive part of social change. Such conflict most often does not become violent, nor should it. Violent conflict can range from structural violence (in which social, economic, and political systems can institutionalize harm) to the classic form that involves the use of physical force.
Concessões	Commercial monopolies
Customary land tenure[7]	Customary rights (Group/communal; Family; or Individual) – Legitimate land rights derived from kinship with or inheritance from members of a land holding group who have established rights historically by clearance or kinship. Customary rules for land access vary widely. Rights held in perpetuity and may be transactable but not on a permanent basis, or not without permission of the group or a customary authority. Derived customary rights (Sharecropping; Tenancy; Gifts and grants; Loans, pledges and mortgages; Seasonal rights) – Rights transferred under customary rules to non-rights holders. These are usually but not necessarily temporary or restricted.
Degredado(s)[8]	Exiled convicts
Deslocados	Displaced people
Indigena(s)[9]	An African *mestiço* without *assimilado* status. In Portuguese terms it meant unassimilated or uncivilized.
Environmental Governance[10]	Environmental governance can be defined as a body of values and norms that guide or regulate state-civil society relationships in the use, control and management of the natural environment. These norms and values are expressed in a complex chain of rules, policies and institutions that constitute an organisational mechanism through which both the broad objectives and specific planning targets of environmental management must be articulated.
Fazendas	Commercial farms

[6] Wisner, 1988.
[7] AU/ECA, 2006: 6
[8] Library of Congress
[9] *Ibid*
[10] Mugabe and Tumushabe, 2004

Land access[11]	The processes by which people individually or collectively, gain rights and opportunities to occupy and use land (primarily for productive purposes but also other economic and social purposes), whether on a temporary or permanent basis. These processes include participation in both formal and informal markets, land access through kinship and social networks, including the transmission of land rights through inheritance and within families, and land allocation by the state and other authorities with control over land.
Land reform[12]	The redistribution of land to the rural poor for equity and agricultural efficiency purposes.
Land rights[13]	Rights held to land and other natural resources. More than one person may hold rights to a parcel of land which gives rise to the concept of a "bundle of rights".
Land tenure[14]	The relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land and associated natural resources (water, trees, minerals, wildlife, etc). Rules of tenure define how property rights in land are to be allocated within societies. Land tenure systems determine who can use what resources for how long, and under what conditions.
Land tenure reform[15]	Changes to the rules of tenure. It can include legal recognition of customary tenure rights, strengthening the rights of tenants, etc.
Land tenure security[16]	Land tenure security can be decomposed into three dimensions: breadth of rights (including use, transfer, and exclusion rights), duration (length of time these rights are held), and assurance (certainty of rights). Secure land ownership may thus be defined as comprising a full set of use and transfer rights, being able to enforce those rights against the claims of others, having ownership over a sufficiently long period of time to recoup the benefits of labor and capital invested in the land, and having assurance that these benefits can be obtained with minimal risk of loss.
Land tenure system	Comprises the set of possible bases under which land may be used: this range encompasses both rural and urban tenures and includes ownership, tenancy and other arrangements for the use of land.
Machamba	Field, 'family' agriculture plot

[11] Cotula *et al;* 2006
[12] FAO, 2003
[13] *Ibid*
[14] *Ibid*
[15] *Ibid*
[16] Roth, 2001.

Mestiço(s)[17]	An individual of mixed white and African ancestry. Several varieties, depending on the nature and degree of mixture, were recognized. Before 1961 most *mestiços* had the status of *assimilado.*
Peri-urban	Where land is being transformed institutionally from rural to urban and as such it is in state of transition from customary to statutory tenure[18]. Alternatively, it is more simply described[19] using the following indicators: (i) The absence of networks of collective public services: running water, sanitation and collection of rubbish, telephones and tarred roads; (ii) The proliferation of unplanned and unauthorised building, or at least building without government planning or authorisation.
Prazos	The Portuguese crown granted land in Mozambique to Portuguese settlers (merchants, Catholic clergymen, soldiers, and landless). This so-called prazo-system (started in 1629) guaranteed the owners almost total control over the indigenous labour force and built up private armies, also described as slave armies, and virtually independent fiefdoms. The *prazos* developed into Africanized autonomous kingdoms, ruled by Afro-Guan-Portuguese descendents and sustained by slave armies.[20]
Regulos	Village chief normally associated with rural communities in Mozambique. The *Chefe de Terra* works under the *Regulo*, in a nested hierarchy of traditional posts down to a very local level. (Community Authorities are people (s)elected by the communities to represent them, and include traditional leaders, but they are not necessarily traditional leaders.)
Sobas	Village chief/Traditional Headman normally associated with rural communities in Angola.
Tenure security[21]	The certainty that a person's rights to land will be protected. People with insecure tenure face the risk that their rights to land will be threatened by competing claims, and even lost as a result of eviction.
Title[22]	The evidence of a person's right to land, or "entitlement".
Usufruct, use right[23]	The right to use the land. A holder of use right may not have the right to sell the property, etc.

[17] Library of Congress
[18] Kasanga *et al* in Nkwae, 2006
[19] DW, 2004
[20] IIASA, 2001: 1
[21] DW, 2004
[22] *Ibid*
[23] *Ibid*

LIST OF ACRONYMS AND ABBREVIATIONS		
	Portuguese	**English**
CBNRM		Community Based Natural Resources Management
CFJJ		Centre for Juridical and Judicial Training
DINAGECA	*Direcção Nacional de Geografia e Cadastro*	National Directorate for Geography and Cadastre
DNFFB	*Direcção Nacional de Florestas e Fauna Brava*	National Directorate for Forestry and Wildlife
DFID		Department for International Development
DPADR		Provincial Directorate for Agriculture and Rural Development
DUAT	*Direito de Uso e Aproveitamento de Terra*	Land Use and Benefit Right
DW		Development Workshop
EIA		Environmental Impact Assessment
FAO		Food and Agriculture Organisation of the United Nations
FRELIMO	*Frente de Libertação de Moçambique*	
HIV-AIDS		Human-immunodeficiency syndrome/Acquired immuno-deficiency syndrome
IMF		International Monetary Fund
INDER		Institute for Rural Development

	Portuguese	**English**
INE		National Institute for Statistics
LIS		Landmine Impact Survey (LIS)
MADER		Ministry of Agriculture and Rural Development
MICOA		Ministry for Environmental Coordination
MINADER	*Ministério de Agricultura e Desenvolvimento Rural*	Ministry of Agriculture and Rural Development
MINUA		Ministry for Environment and Tourism
MPLA	*Movimento Popular de Libertação de Angola*	
NGO		Non-Governmental Organisation
ORAM	*Associação Rural de Ajuda Mútua*	The Rural Organisation for Mutual Assistance
PARPA	*Plano de Acçaõ para Redução da Pobreza Absoluta*	Action Plan for Reduction of Poverty
PROAGRI	*Programa de Investimento Público Agrário*	The National Agricultural Development Programme
PRSP		Poverty Reduction Strategy Programme
RENAMO	*Resistência Nacional Moçambicana*	
SMAs		Suspected Mined Areas
SPFFB	*Serviços Provinciais de Florestas e Fauna Bravia*	Provincial Services of Forests and Wildlife

	Portuguese	**English**
SPGC	*Serviço Provincial de Geografia e Cadastro*	Provincial Service of Geography and Cadastre
TS	*Secretariado Técnico da Comissão Inter-Minsterial para a Revisão da Lei de Terras*	Technical Secretariat of the Inter-Ministerial Land Commission
UEM	*Universidade Eduardo Mondlane*	Eduardo Mondlane University
UNAC	*União Nacional dos Camponeses*	The National Peasants Union
UNDP		United Nations Development Programme
UN-HABITAT		United Nations Habitat
UNHCR		United Nations High Commission for Refugees
UNITA	*União Nacional para a Independência Total de Angola*	
USAID		United States Agency for International Development

CHAPTER ONE: INTRODUCTION

1.1 BACKGROUND

Land issues are a general development concern from the perspective of economic growth, governance, and the environment. “Land is not only the most basic aspect of subsistence for many people, it can also contain valuable structures and natural resources on or beneath it… [and] is therefore a very strategic socio-economic asset, particularly in poor societies where wealth and survival are measured by control of and access to land” (USAID, 2005b: 2). The importance of land in sub-Saharan Africa is multifaceted, being at the heart of social, political and economic life of its people: it is of “crucial importance to the economies and societies of the region, contributing a major share of GDP and employment in most countries, and constituting the main livelihood basis for a large portion of the population” (Cotula *et al.*, 2004: 1). Land is central to the rural development and natural resources sustainability challenges facing Africa, is the basis of shelter in urban and rural areas, and as a capital asset (most especially in the urban areas) it also offers opportunities for social and economic empowerment, and thus as a springboard to escape from poverty. Besides its economic attributes, land continues to have great social value (AU/ECA/ADB, 2006).

A number of major trends in land issues are identifiable across the continent, such as, *inter alia*, increasing scarcity due to a variety of pressures, tensions in southern Africa in relation to inequitable land distribution, socio-economic changes that have eroded traditional customs and institutions, and conflicts over land as a critical 'prize' in many local and national power struggles. Nevertheless, land issues are very diverse and specific to local histories, as well as geographical, economic, social, political and cultural factors, and so addressing land issues effectively demands a broad, integrated, and inter-disciplinary approach. The relationship between land and conflict, in particular, is extraordinarily complex because economics and politics frequently mingle with other influences and land is tied to a complex network of issues ranging from power relationships to economics and from symbolic attachments to systemic inequities (USAID, 2005b).

Over the course of the last decade, land issues in Africa have gained a new prominence on the political agendas of both governments and donors (Toulmin and Wisner, 2005). As an area of research, land issues also are receiving greater attention from analysts, many studies providing

perspectives on the complexity of the broader social, economic and political contexts in which different interests compete. These are evidenced in research by Peters (2004), Unruh (2004), Toulmin (2005), Daudelin (2005), Beall (2005), Quan (2006), Cotula ((2006), Lund (2006) and Alden Wily (2006). In "the current context of rapid rural-urban change and 'de-agrarianisation', land has an increasingly complex relationship with livelihoods and poverty" (Daley and Hobley, 2005: 27) and is now increasingly being seen as an element of a wider 'livelihoods approach' (Jenkins and Smith, 2003) with a focus on poverty alleviation and wealth creation, simultaneously dealing with equity, efficiency and sustainability concerns.

The challenges of land issues are enormous across the continent, some analysts arguing that Africa is at a turning point (Gore, 1994). Land is not the seemingly inexhaustible asset it once was, and exclusion from land resources is increasing in that access to productive land is becoming more restricted "given the impacts of continued population growth and demographic changes including urbanisation, globalisation of markets and activities, trade negotiations and climate change" (Cotula *et al*., 2006: 25), and as the means of exploiting land becomes more sophisticated and more dependent on money. Land rights (by which is meant especially access to and control of land and land use, rather than necessarily land ownership) for many rural as well as urban dwellers are increasingly becoming insecure and unclear and it is the most vulnerable groups – the rural poor, those in peri-urban areas, indigenous people, women, those relying on common property resources, and those in areas of conflict – who are most at risk *(Ibid).*

Land policy in Africa now faces the twin challenge of: i) providing a sound basis for secure property rights, and for investment and the generation of economic opportunities, while also ii) securing access to land for farmers and the urban poor as the basis for improved livelihoods and food security (AU/ECA/ADB, 2006). Mounting competition and conflict over land and landed resources are occurring across the continent, especially close to towns and cities and in productive, high value areas. African governments, moreover, have themselves often failed to act in a way that brings clarity to issues over land rights, and have instead used them for the ends of patronage and power. Globalisation and national elite links to transnational capital are also factors:

> "…common property ownership of pastures, forests and woodlands see constant attrition through state appropriation and reallocation to investors or interest-holders of its choice. Yet these lands provide substantial support to livelihoods, especially of

> the poor who often have no or little farmland. The lucrative and rising values of pasture, forest and woodland are still typically captured by governments in the form of logging, agribusiness land leasing and others fees. This deprives poor communities of a crucial capital base which could help them escape poverty" (Alden Wily, 2006: 2).

Three key areas have emerged from research that seeks to address the growing concerns on how to address the multiple challenges of balancing equity, poverty reduction, income growth, economic efficiency and sustainable environmental management. These are outlined below: (Peters, 2004; Quan 2004; AU/ECA/ADB, 2006; Cotula *et al.*, 2006; Alden Wily, 2006; Lund 2006; IIED, 2006):

1. How can land provide a secure basis for investment and growth?

There is, to varying degrees, consensus around the following:

- Economic factors have a strong bearing on the changing role of land in livelihoods.
- When there is tenure security it assures the value of land assets, and thus their earning potential. It also enables inward and national investment, and increases incentives to invest in long-term productivity of the land, increasing bargaining power and the value of broader economic outcomes.
- Individualised tenure reforms have widely extinguished secondary and common property interests.
- Agricultural development planning, suitable land tenure access arrangements and local economic development strategies must be coordinated.

2. How can land provide the means for reduction of poverty and inequities?

The following are some of the core beliefs:

- Land supports the high priorities of food security and agricultural development as a basis for economic growth and poverty reduction.
- For economic growth to reduce poverty, the benefits of such growth, and by extension access to and tenure of land, need to be distributed equitably within society.
- Local social and political relations around land significantly affect issues of equality and equity.

3. The need for better governance of land resources and renewal of land institutions.

Rights to land are fundamental for the participation of all people in the development process. Land, however, is also a central element in the varied and complex social relation of production and reproduction within which conflict between individuals and groups are bred (USAID, 2005: 3). While past policies and practices continue to have profound affects on the current conditions

of poor people's access to and use of land, it is the *changing relationships and changing rights to land* that are affecting urban and rural areas, and with highly differentiated effects (Peters, 2004). This brings into focus the third area of interest – the need for better governance of land resources. Researchers are increasingly acknowledging the following:

- Land is an asset of substantial value and control over this resource is often central to national and local political power.
- Valuing the environment in its own right, and not merely as a set of risks.

1.2 PROBLEM STATEMENT: THE NEED FOR THE RESEARCH

A particular area of research that is only now beginning to receive more attention is that of the complexity of challenges that countries face as they emerge from decades of conflict (USAID, 2005b). Land issues play a fundamental role in post-war reconciliation and economic rehabilitation and countries need to respond to the need to develop new land legislation that simultaneously deals with both equity and efficiency issues. In a post-conflict environment land acquires a value which it did not have during times of war and quickly becomes a potential source of tension and conflict as countries open up to market forces (Daudelin, 2003; Unruh, 2004b).

The context in which post-conflict reconstruction and development unfolds is an important consideration. Control over land and natural resources may constitute a key factor underlying conflict; conversely, armed conflict may severely affect land tenure or access. During conflict there is a disintegration of property rights, land and access to land play an important role in the conduct of conflict, and an end to conflict creates new tensions around land and possible challenges to the peace process. In the fluidity of post-conflict situations governance of the tenure regime, access to land, security of tenure and distribution of land holdings poses many operational tensions.

The effects of conflict also carry wider implications for governance. Protracted and violent civil conflicts have an extremely negative impact on the social capital of societies, and corrupt activities that are so often an integral part of the covert financing of war (and perhaps also forming part of the ongoing motivation for violent conflicts), may continue into the post-war phase (Galtung, 2003; Ballentine and Nitzschke, 2003). This has obvious repercussions for problems of post-war construction during which there are pressures for economic investment and government reconstruction and a rush to spend significant resources in a short period of

time, often at the cost of prudent administrative procedures (Unruh, 2004b). Overall, there are many social, political and economic factors that influence post-conflict recovery and peace-building, analysis of which reveals more clearly who are the winners and the losers, the processes involved in securing entitlements to valuable resources, the threats these may pose to outbreaks of conflict and how they may bring about a loss of livelihoods as the principal manifestation of insecurity.

The relationship between violence, resources and the environment has found a prominent place on the research agenda in the last 20 years or so (Elliot, 1998), the genesis of which is to be found in the substantial industry around environmental security that arose in the early 1970s in the context of "a distinctive set of geopolitical conditions" that gave rise to issues such as food shortages and oil scarcities (Peluso and Watts, 2001: 11). Environmental security today embraces a number of fields (for example, social conflicts on environmental entitlements, the burdens of pollution, the sharing of uncertain environmental risks, and the loss of access to natural resources and environmental services), and a plethora of different approaches. Contemporary renderings concerning ecological distribution conflicts have focussed for the main on concerns around environmental scarcity (of renewable and non-renewable resources, such as land) and how these can contribute to civil violence, Homer-Dixon and Baechler being the most influential writers on these themes in the mid- to late-1990s. Such mainstream environmental security approaches to resource conflicts have held the central tenet that scarcity is the main driver. They have since been seriously challenged by the *growing acknowledgment of the complexity of the nature of the linkages between violence, resources and the environment: causes and effects of tensions and vulnerabilities are moreover multidimensional, and the links between the various components may direct or indirect* (Khagram *et al*., 2003; emphasis added). Political ecology (a field created by geographers, anthropologists and environmental sociologists) argues that "we need to see the evolution of environmental facts and knowledge as part of the political debate" (Forsyth, 2003: 1). It is an exploration of the holistic links between humans and nature at large, allowing for a more complete understanding of the nature of marginal environments and comparisons of causative processes and relationships across the environments (*Ibid*). A more comprehensive analysis of the links between land, conflicts and livelihoods takes into account how entitlements are possessed, distributed, the vectors that shape the environmental process, and the actors involved. Such forms of enquiry expose the political, social and economic nature of land and *prioritise it as not only a development issue but also a*

rights-based issue – that is, they are premised upon a sense of social justice for environmental explanation and development (*Ibid*).

Alternative forms of enquiry argue also against the conflating of violence and insecurity: non-violent conflict may be as important as violent strife in undermining livelihoods and social and economic sustainability (Peluso and Watts, 2001; Liotta, 2005). This research adopts a political economy perspective, arguing that few land policy frameworks in southern Africa adequately mention, let alone diagnose, how land conflicts are created, and sustained. Concern is focussed on the environment as a source and requirement for livelihood – the "environmentalism of the poor" or what is also called livelihood or liberation ecology (Martinez-Alier, 2002). It argues that there are many diverse ways in which access to land and uncertainty and inequity over land tenure and ownership support or threaten livelihoods, and these "creeping vulnerabilities" are seldom understood nor appreciated (Liotta, 2005).

Taking a more inclusive concept of violence and non-violence that recognises that the outward manifestation of disputes may not only be violence in the form of civil war, but maybe also include social disruptions as the principal manifestations of insecurity (Peluso and Watts, 2005), this thesis focuses on two post-conflict environments, Angola and Mozambique. It explores how: i) land conflicts and day-to-day livelihoods are threatened, and ii) examines the ways in which specific environments, environmental processes, and webs of social relations are central parts of the ways in which violence is expressed and made expressive. The central argument is made for a more comprehensive perspective on the links between the environment and security that takes account of issues of equity and impoverishment, shifting the focus away from a state-centric security approach to one of 'human security'. Implicit in this is security of the environment, valuable in its own right and not merely as a set of risks, and as a crucial component of human security.

1.3 AIMS AND OBJECTIVES

The overall aim of this research is to *explore the links between land, conflicts and livelihoods,* demonstrating the importance of an integrated and comprehensive approach to framing issues of environmental security when examining the nexus of land, conflicts and sustainable livelihoods. It aims, further, to highlight the value of a more politically-nuanced understanding when exploring the links between environment and security, examining the ways in which *specific environments, environmental processes, and webs of social relations are central parts of the*

ways violence is expressed and made expressive.

1.3.1 Examples of key research aims:

- In examining land conflicts and how livelihoods are threatened or secured, this thesis takes a *more inclusive concept of violence and non-violence*, focussing more at societal levels and on evidence of social disruptions – or "creeping vulnerabilities" – (even where that disruption might not entail violent conflict but violence within the non-physical realm) as the principal manifestations of insecurity.
- That *land policies need to be well integrated into the wider social, economic and environmental planning* – at various levels, local to global – in order to strengthen sustainability. Support to land-related initiatives must also be built on an understanding of the spatial, social, economic and political interconnectedness of the lives and livelihoods of rural, urban and peri-urban poor.
- That simplistic assumptions about land and conflict cannot be made – rather we must pay attention to the multiple, shifting, recombining and constantly-negotiated practices and acknowledge that peace is not the default mode: conflicts are at times an integral part of the transformation of land tenures systems and not necessarily bad. *Concerns need to focus, rather, on those cases where inequity and violence are politically sustainable and what this implies for human security.*

1.3.2 Key questions:

- What accounts for the relationship between violence (evidenced in brutal physical acts, threats and increasing vulnerabilities) and land as a resource?
- Are there lessons to be learnt from these findings that are particular to countries emerging from protracted civil wars?

1.4 THESIS STRUCTURE[24]

The thesis is divided into two large sub-sections: the first sub-section includes the introduction; literature review; contextualising land issues as a field of research; the methodological approach, and finally the contextual analysis of the two countries, Angola and Mozambique. The second sub-section examines research results, first for Angola and then Mozambique, and finally conclusions are drawn.

Chapter One: Introduction introduces the research topic, provides a *raison d'été* for the research, and details the aims and objectives of the study.

[24] In what follows, only the major sections are denoted in the 'Contents' list for ease of referencing.

Chapter Two: Theoretical Context provides a theoretical context for changing discourses around concepts of Human Security, the philosophy and history of discourse around nature and society and how these have informed attitudes towards the environment, and the emerging concept Environmental Security. Theoretical approaches to the role played by ecological change in causing violent conflict are discussed. The section on land and violent environments in Africa deals with land as a source of conflict. This serves to highlight the need for a theoretical shift away from the popular approaches to alternative ways of understanding the connections between violence and conflict.

Chapter Three: Research Context examines the importance of land, both rural and urban, and its centrality to economic growth, sustainable resource use and peaceful development. The chapter argues that non-violent conflict may be as important as violent strife in undermining livelihoods and social and economic sustainability. Because the focus of this thesis is on land in a post-conflict environment, it is necessary to contextualise conflicts in Africa and their impact on economic development, sound environmental management and human survival. The importance of land policy in a post-conflict environment – the need to secure peace and in the interests of broad-based development – is discussed. It provides insights into why land rights are important in solving poverty and strengthening human security.

Chapter Four: Research Design, Rationale and Methodological Approach outlines the political ecology analytical framework adopted, and motivation is given for the adaptation of the Sustainable Livelihoods into a more comprehensive approach (e.g. Southern African Vulnerability approach) as a tool for analysis of livelihood opportunities and vulnerabilities. The research design and methods used in the research are presented.

Chapter Five: Contextual Analysis – Angola & Mozambique provides a contextual background to each of the countries, Angola and Mozambique and it details the current Land Laws adopted in each case subsequent to the ending of war. It provides a general political, social and economic overview and examines the core environmental issues related to land. It further, provides an historical perspective on the disruption of land occupations in these countries and examines in some depth the changes to land legislation up until today, and the processes leading to adoption of their current Land Laws that have been adopted in the peace period.

Chapters Six, Angola and Seven, Mozambique: In these chapters, the research results on Angola and Mozambique are presented, set against a profiling of vulnerabilities faced in each case. An analysis of the findings is presented, which examines the changing relations between political economy and mechanisms of access, control, and struggle over environmental resources.

Chapter Eight: Conclusion draws together the research findings, highlighting comparisons between the two countries. The findings are linked back to theoretical discourses on human security and to environmental security presented under the literature review, and to the many pressing land issues in sub-Saharan Africa. The chapter concludes by discussing the relevance of the findings for policy and outlines directions for further research.

CHAPTER 2: THEORETICAL CONTEXT – ENVIRONMENTAL SECURITY, LAND AND VIOLENT ENVIRONMENTS

> "In contrast to thinking about violent conflict, a human-centred conceptualisation of environmental security asserts the need for cooperation and inclusion to manage the environment for the equal benefit of all people and future generations" (Barnett, 2001: 128).

INTRODUCTION

This chapter provides a theoretical context for changing discourses on concepts of 'human security', the philosophy and history of discourse around nature and society including how these have informed attitudes towards the environment, and the emerging concept of 'environmental security'. Theoretical approaches to the role played by ecological change in causing violent conflict are also discussed.

The section on land and violent environments in Africa deals with land as a source of conflict. This serves to highlight the need for a theoretical shift away from the currently popular approaches to alternative ways of understanding the connections between violence and conflict. Two clear emerging changes will be shown to have occurred that underpin and frame this research:

1. *The complexity of the nature of the linkages between violence, resources and the environment*: causes and effects of tensions and vulnerabilities are multidimensional, and the links between the various components may be direct or indirect;

2. *The insidious and creeping vulnerabilities that underpins environmental security as opposed to a clear case of large conflicts*.

The motivation is given hence, for a much wider approach and framing that focuses on the relations between nature and its users as an alternative way of understanding the connections between environment and violence.

2.1 SOCIAL FRAMINGS OF THE ENVIRONMENT

Social framings of the environment have shifted considerably over the last one hundred years, with "emergent scientific and social understandings of the intimate coupling of nature and society" (Khagram *et al.*, 2003: 289) captured in the concept of sustainable development' that made its debut in 1987. The central tenets of sustainable development are that "efforts to protect nature will fail unless they simultaneously advance the cause of human betterment; efforts to better the lives of people will people will fail if they fail to conserve, if not enhance, essential resources and life support systems" *(Ibid).* Concerns on the environment and security have evolved over the years from an early focus on incorporating environmental and related concerns into the definition of 'security' to a new focus on how environmental change can be a cause or amplifier of violent conflict. A trend within this evolution has been a move towards greater emphasis on the concept of human security (Elliot, 2001; Dalby, 2002). Human security, like human development, highlights the social dimensions of sustainable development's three pillars – environment, economy, and society.

Controversies surround all of these concepts, and all continue to adapt and shift. The evolution of these concepts is presented here and the motivation given for a shift away from conventional earlier thinking about development, security, and the environment to one that gives *emphasis to the importance of political analysis and cultural factors, including the power relations and other preconditions, for economic change*. The call is made furthermore, for *acknowledging the various forms of violence*.[25]

2.1.1 Early thinking

> "Nature is paradoxical because humans are part of nature, by the theory of evolution, while at the same time nature is a social construction created by humans, and thus artificial" (Purdon, 2003: 377).

Until the 1960s most environmental problems were seen to be confined within state borders and were most often defined in scientific and technical terms, with little attention to political, social or economic impacts (Elliot, 2001). Environmentalists hardly questioned issues of development;

[25] From here on the use of italics is used to highlight key emerging themes that will be referenced and threaded through the thesis.

they were concerned instead with species conservation and rational resources management in line with the overall development paradigm. This area of inquiry was referred to variously as "human ecology" or "conservation ecology". The environmental movement today continues to be dominated by two main themes: the cult of wilderness and the gospel of eco-efficiency.

> "..the *cult of wilderness* is "concerned with the preservation of wild Nature but without anything to say on industry and urbanization, indifferent or opposed to economic growth, most worried by population growth, backed up scientifically by conservation biology…the *gospel of eco-efficiency* is concerned with sustainable management or 'wise use' of natural resources and with the control of pollution…resting on a belief in new technologies and the 'internalisation of externalities' as instruments for ecological modernisation, backed up by industrial ecology and environmental economics" (Martinez-Alier, 2002: 14). (Emphasis added).

Work in these environments has been concerned to understand the main forces determining how finite resources are used, the strategies that people use to manage those resources, and the possibilities for finding alternative resource management strategies to address, variously, problems of poverty, environment or (less so) growth. But with scientific developments and growing public anxiety about environmental degradation and its impacts, along with a sense of a planetary crisis, the number and scope of environmental concerns began to rise on the international agenda (Peluso and Watts, 2001). For the first time the links between the environment and security were explored and articulated (albeit implicitly) with the identification of the problem of human-generated environmental degradation.

The growing concern with global survival, which became the major feature of environmentalism, was a critical factor in the integration of environmental and development thinking and by extension, in the formulation of the concept of sustainable development which is a common way of conceptualising the challenge for environmental politics. In 1987 the report *'Our Common Future'* called for a new approach to environmental issues:

> "In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it" (Elliot, 1998: 6).

There are many theories of development, most of the early ones oriented to economic growth

and transformation. Most development strategies based on these have paid little attention to political analysis and cultural factors or to inclusion of the power relations and other preconditions for economic change. Numerous different development approaches[26] have emerged over the years that refer to the social and political conditions surrounding the causes, experiences and management of environmental problems. In 1987, Blaikie and Brookfield writing about "ecology" as politics in *Land, Degradation and Society*, called for critical examination of the political, social and economic content of seemingly physical and 'apolitical' measures in land 'management'; in 1996, Leach and Mearns (*Lie of the Land*), also sought to analyse the political implications of different approaches to ecological explanation (Forsyth, 2003).

2.1.2 The emergence of new paradigms: Political Ecology

"The first discussions of ecology as a science with political content emerged in the 1960s during the growing concern about human impacts on the biophysical environment" (Forsyth, 2003: 4). In response, and arising from a critique of (the much contested) sustainable development doctrine, a new wave of thinking developed, involving a more socio-culturally embedded analysis of nature. This furthered debates on the nexus between the environment and development and subsequently to a new focus on how environmental change – as cause and effect – is linked to violent conflict. Over the last two decades, as environmental problems have become politicised and more prominent, forms of inquiry within this tradition have led to the substitution of conservation ecology with 'political ecology', which is concerned with imbalances in power between actors, and in problematising discourses which exclude or ignore certain viewpoints. Spearheaded by writers such as Blaikie (1985) who articulated that environmental problems in the Third World were less a problem of poor management, overpopulation or ignorance, than of social and political-economic constraints, political ecology is an exploration of holistic links between humans and nature at large, allowing for a more complete understanding of the nature of marginal environments and comparisons of causative processes and relationships across those environments (MacNaghten and Urry, 1998). Political ecology now represents a huge body of work to which geographers, anthropologists and

[26] For example, the 'Red Greens' and 'Deep Greens' (Pepper, 1993).

sociologists have contributed to work on resources, environment, culture and politics.

From its inception, political ecology recognised the importance of management, but not merely in a technical sense – regulatory systems, local knowledge systems, and the importance of civil society, community or resource user groups, were all interpreted in ways which reflected the belief that injustices were being committed against both local peoples and environmental resources. Early conceptions, however, were somewhat diffuse and vague about political economy, unclear about how to express these concerns. A theme within most approaches to political ecology was the assumption that environmental politics could be separated from the principles and laws of environmental science, thus avoiding the politics inherent in the creation of the science itself (Peet and Watts, 1996). This tension between the social and physical sciences tends to frustrate effective environmental management, and begs the question of whether it is possible to deconstruct scientific "laws" built on orthodox frameworks of science, yet still achieve a biophysically grounded form of explanation that is still socially relevant.

Recognising the contradictory character of relations between societies and natural environments led to work on discourse within political ecology. Known as post-structural theory, it is the deconstruction of the Western myths of science, truth, and rationality (Escobar, 1996).

2.1.3 Post-structuralism

Over the last decade alternative thinking and research about nature and the environment has developed, that reflects a more socio-culturally embedded analysis of nature that is concerned with knowledge-power, institutions, regimes of truth, and cultural differences (Peet and Watts, 1996; Kidner, 2001). This political philosophy of environmental science that has emerged indicates how social and political framings (the role of language in the construction of social reality) "are woven into both the formulation of scientific explanations of environmental problems, and the solutions proposed to reduce them" (Forsyth, 2003: 1). It blends the realists' biophysical predictions with social and political constructions, integrating political ecology with debates concerning the construction of science. In questioning western concepts of biodiversity, Escobar (1998: 82) highlights how knowledge is embedded in societies and behaviours, and not as an abstractable 'commodity':

> "Although 'biodiversity' has concrete biophysical referents, it must be seen as a discursive invention of recent origin. This discourse fosters a complex network of actors, from international organisations and northern NGOs to scientists, prospectors,

> and local communities and social movements. This network is composed of sites with diverging bio-cultural perspectives and political stakes."

These new theoretical engagements between political ecology and post-structuralism[27] challenge the apparently modernist and Eurocentric character of development, positing alternative understandings of development. Discourses around sustainable development are being reshaped, the concept (despite its semantic ambiguity) now focuses on the links between wealth, poverty, governance, the natural worlds and a variety of risks (Wisner, 2003; Reed, 2004). Thus the connections between three hitherto relatively disconnected discourses – the global environmental crisis, poverty and inequality, and Malthusian-type concerns around population growth – are being made (Peet and Watts, 1996).

Such changing frameworks of analysis have also led to a rethinking of environmental history – a rethinking which in turn has profound implications for contemporary understandings of the environment and the links between environment, development and security. *If "one understands the notion of the 'environment' to include humans"* (Shellenberger and Nordhaus, 2004:12) *, then the way we define problems alters and we arise at a reformulation of environmental security in terms of human security, and one which draws on the insights of ecological security. It also acknowledges that the ways we use the environment are historically, socially and politically constructed.* Jane Lubchenco (1998: 491) appositely sums it up:

> "As the magnitude of human impacts on the ecological systems of the planet becomes apparent, there is increased realisation of the intimate connections between these systems and human health, the economy, social justice and national security. The concept of what constitutes 'the environment' is changing rapidly."

An ecology which does not discriminate between nature and society may well serve to facilitate the communication required for achieving sustainable security that integrates human, state and environmental security – in other words, making security more human and more sustainable (Khagram *et al.*, 2003). This however, will be influenced by local concerns and perceptions that can act as the impetus for effecting change (Peet and Watts, 1996). The implications for environmental security are to ensure the inclusion of public participation, for we are always

[27] Post-structuralism is a critique of how power manifests itself inadvertently in the ways society constructs and reinforces reality (Peet and Watts, 1996).

deciding for both people and nature, so that cultural struggles over meaning, as much as over material conditions and needs, are heard (Escobar, 1992). Communication based on discourse ethics is critical, and this implies guaranteeing that the procedures for justification of rightness claims are subject to the scrutiny of the public, of communal management.

2.2 THE SHIFT FROM STATE SECURITY TO HUMAN SECURITY

The concept of human security emerged with the collapse of the Cold War, and with it the removal of a major source of military conflict that had provided focus for the Western world's militaristic perception of security built upon changes in how development and security are understood (Duffield and Waddell, 2004; Amouyel, 2006). Security came to be re-examined with the discovery of the importance of internal war, as opposed to wars between states, in which some states are the principal perpetrators of violence against their citizens.[28] There has also been a growing realisation that the threat of military force is not the only security challenge faced by states – threats are both direct (violence) and indirect (structural violence):

> "Security is a complex cultural politics of defining danger: the concept of security, however, seldom makes explicit who is endangered and by what" (Dalby, 2002: 72).

The concept of human security gained prominence in the 1990s, first popularised by institutions such as the UNDP or the UN, and by the governments of so-called middle powers – Canada, Japan and Norway (Amouyel, 2006). It did not emerge as a ready made idea, but is one which takes the individual, not the state, as the ultimate referent of security. By the end of the 1990s, it had produced a growing number of dedicated networks, research programmes and international commissions bringing together governments, UN agencies, international financial institutions, NGOs, private companies and individuals (Duffield and Waddell, 2004). Two critical reports came out that have defined the centrality of this concept: at the end of 2001, *The Responsibility to Protect*, and in 2003, the Commission of Human Security's *Human Security Now (Ibid)*. By 2005 human security has become the theme of two important UN reports – the report of the Secretary General's High Level Panel on Threats, Challenges and Change, and the Secretary

[28] In Africa, the concept of "state" is itself questionable: in some cases, the state has essentially disappeared from the political scene. Internal armed conflicts often surface against the background of 'collapsed states' and involve a number of non-state actors over which state institutions have little or no control (Cornwell, personal communication, 2005).

General's own report, *In Larger Freedom.* Four key elements distinguish human from state security (Khagram *et al.*, 2003; Amouyel, 2006):

- It requires answering three questions: Security for whom? From what/whom? And by what means (which actors and which actions)?
- An expansion from a focus solely on survival (of states) to both survival and dignity (of human beings);
- The claim that the survival and dignity of human beings requires "freedom from fear" and "freedom from want", not just the freedom that is associated with the security of states; and
- The protection and promotion of human rights trump state's rights (i.e. territorial sovereignty).

It recognises that the threats to human security are far more numerous, diverse in type and complex than threats to state security. Much of the writing about environmental security has been concerned with the continuity and stability of the nation state and the political and economic status quo, yet in some cases it is precisely this status quo that is a root cause of endemic poverty, destruction of livelihoods, and social vulnerability. The focus is on protecting the individual from critical and pervasive threats such as hunger, disease, natural hazards and repression. The origins of today's insecurities are diverse and can be found *inter alia* in social, economical, environmental, and health factors. These insecurities are increasingly transcending state borders and having global repercussions. They include growing poverty, globalisation of the economy and communications, climate change, the dysfunctioning of some technologies e.g. nuclear and chemical plants, an increase in criminal activities, in terrorism, conflicts, refugees and displaced persons, and infectious diseases such as HIV-AIDS. Globalisation and the preference for democracy, favouring non-state actors, have given "a voice to those who refuted state security and national interest as of the utmost importance" (Amouyel, 2006: 11-12). Referred to as the "sustainable human development conception of human security" (Amouyel, 2006: 13), it has built upon changes in how development and security are understood, embracing "the optimism of sustainable development by emphasising the expansion of life-choices while, at the same time, urging action on the conditions that threaten human survival and dignity" (Duffield and Waddell, 2004: 2).

2.3 ENVIRONMENTAL SECURITY – AN EMERGING CONCEPT

Throughout human history environmental resources have been an issue of contention. The finiteness of environmental resources and the implications for peaceful coexistence was debated in the late eighteenth century by Thomas Malthus, providing the basis historical pillars of

discussion on scarcity and conflict. However, it was only in the post Second World War era that concerns about the environment being a fundamental security issue emerged in the post Second World War era, arising from the dropping of the atomic bomb. Subsequent concerns shifted from natural and other disasters to environmental and subsistence concerns related to food shortages and oil scarcities. A number of scholars played an important role in establishing the link between environment and security, with their interdisciplinary debate on whether and how environmental issues should be incorporated into security concerns (Rønnfeldt, 1997). Fairfield Osborn wrote *Our Plundered Planet* in 1953, and Harold and Margaret Sprout *The Ecological Perspective on Human Affairs: With Special Reference to International Politics* in 1965; others were Lester Brown, 1977, and Johan Galtung, 1982. However, a benchmark for the first generation is generally regarded to be Richard Ullman's criticism of what he considered too narrow an understanding of national security, expounded in Redefining Security, 1983. According to him, national security is defined as protection from "military threats arsing from beyond the borders of one's own country' (*Ibid*). It was at the 1972 Stockholm conference (UNEP, 1972) on the environment that the environment and security were first explicitly linked and the first clear manifestation of international interest in protecting the environment was made. These concerns were all about control of resources for strategic purposes and associated with the security of the state (Elliot, 1998).

The growing interest in the 1990s in the defining and redefining of security was connected to another, more empirical discussion of the narrower question of whether environmental change actually caused, or could cause, security concerns (Dalby, 2002) and in particular policymakers have turned much of their attention to environmental conflicts. There are numerous connections between environmental change and human security – the environment affects security by supporting or undermining livelihoods, or by its linkage to conflicts. Insecurity and violent conflict can also have negative impacts on the environment:

> "The relationship between the environment and human security are certainly close and complex. A great deal of human security is tied to peoples' access to natural resources and vulnerabilities to environment change – and a great deal of environmental change is directly and indirectly affected by human activities and conflicts" (Khagram *et al.,* 2003: 289).

The relatively new term of 'Environmental Security', which reflects a common concern for the implications of environmental change, has generated considerable confusion and contentious debate about how the environment and security are linked, most particularly *what* it is that is to

be secured. Policy debates tend to follow one of two paths: the 'environment-and-security' approach in which the primary referent for security is the state and the primary security concern is the potential for violence or conflict as result of and in response to environmental degradation. The second approach emphasises 'securing the environment' "by which the integrity of the environment is both security referent and security goal and in which environmental degradation is to be taken at least as seriously as traditional military threats" (Elliot, 1998: 219). The field of environmental security studies, which is still largely an emerging one, is complex and the term, which embraces a number of fields and contains a plethora of different approaches and theoretical positions, has been hotly contested (Peluso and Watts, 2001). Much of this debate has been over the concept of *security* itself; and as field of knowledge it embraces fields ranging from environmental consequences of war to environmental terrorism. It also contains a plethora of different approaches and theoretical positions.

Assessing the nature of linkages between the environment and security is challenging because of the complexity of multiple interactions and feedbacks – the environment is background to tensions, sometimes a channel leading to tensions, and sometimes it triggers tensions (Khagram *et al.,* 2003). *The causes and effects of tensions and vulnerabilities are multi-dimensional, and the links between the various components may be direct or indirect.*

2.3.1 Environmental conflicts

A sub-field of environmental security is that of the environment and conflict. Over the last twenty years a rigorous research agenda has examined and contested the role played by ecological change in causing violent conflict, and the academic legitimacy of framing such a question. The themes have evolved and enlarged. Most of these discussions of environmental conflict have been, however, more about resources than environments (Barnett, 2001b). Then in 1977, an article entitled *Redefining Security* by Lester Brown of the Worldwatch Institute (Schwartz and Singh, 1999: 6) sparked debate about the links between the environment and scarcity on the one hand, and conflict on the other, a policy issue that came to the fore in the 1990s an has since increasingly been of concern. 'First wave' discussions focussed on the nature of security and the role of environmental scarcity and degradation. Much of this early work was undertaken by the Environmental Change and Acute Conflicts Project (ECAP) lead by Homer-Dixon, while Baechler's Environmental Conflicts Project (ENCOP) on environment

and acute conflict focussed on environmental stress as a cause of conflict (Peluso and Watts, 2001).

In the 'second wave' of research, attempts set out to prove direct causal links between the environment and conflict in case studies. Two of the central findings of the ENCOP project are that environmental degradation triggers conflicts and that violence requires a combination of weak states, environmental discrimination, the possibility for coalition building, and existing histories (*Ibid*). In his seminal work published in 1999, *Violence through Environmental Discrimination*, Baechler notes that "passing the threshold of violence definitely depends on socio-political factors and not on the degree of environmental degradation as such" (Klem, 2003: 13). Homer-Dixon's (1996) book *Environment, Scarcity, and Violence*, rests on the notion of environmental scarcity, and identifies three sources that exist: demand-induced scarcity; supply-induced scarcity and structural scarcity. He divides the causal process linking environmental scarcity and violence into three key stages: the origins of environmental scarcity, its socio-economic and political consequences, and the outbreak of different forms of violent conflict. In this process, resource degradation, demographic pressures and distributional inequalities interact to create environmental scarcity. It was Homer-Dixon's notion of the 'ingenuity gap' that was his main contribution to the debate. In this he acknowledges the power of human ingenuity to deal with environmental scarcity, but observes that the human capacity to innovate is not evenly distributed. Thus it is that the groups most affected by ecological scarcity are the least capable of innovation. Homer-Dixon therefore counters the Malthusian argument that scarcity challenges the world as a whole; rather it aggravates an already existing inequality both internationally and within societies (Klem, 2003).

The point of departure for a 'third wave' of research was to explicitly place poverty as a central issue as the cause of environmental scarcity. It sought, moreover, to examine the ways in which the environment inter-relates with other drivers of conflicts or other factors that influence whether conflict arises. Much work has been done in this field, for example, by the Swedish International Development Cooperation Agency (SIDA). This body did considerable work to promote environmentally sustainable development based on an increasingly complex analysis of the role of environmental issues in development cooperation (Ohlsson, 2000). The Peace and Research Institute in Oslo (PRIO) under the main figurehead Nils Petter Gleditsch, has been a challenger of the Toronto school. It turned the environmental-scarcity-conflict argument on its head, suggesting that the connection between resources and violence in the South is more a

matter of fights over control of resources that are in abundance. It concluded that economic and political variables are more significant contributors to conflict than are environmental variables. Paul Collier of the World Bank wrote widely on the issues of natural resources and violent conflict, addressing in particular issues of greed and grievance (*Breaking the Conflict Trap: Civil War and Development Policy*) arguing that 'greed' is the central driving force behind recent wars. Overlapping in part with the ENCOP, the Global Environmental Change and Human Security[29] project argues that vulnerabilities of populations to changing environments and specifically concerns with climate change disruptions are the driving force where welfare and survival of people rather than States are the key focus of research. Interesting debates emerged from the work on freshwater conflicts and agreements by Aaron Wolf and his colleagues at the Oregon State University. They argued that water scarcity has never led to international armed conflict; rather, water scarcity is a catalyst of international cooperation. All these debates have contributed in varying degrees to a growing acknowledgement that environmental security should be part of a comprehensive approach to security.

Debates are still evolving, and views on whether environmental scarcity or degradation cause violent conflict are far from consolidated. One of the most recent and significant contributions to the debate has been made by Colin Kahl in *States, Scarcity, and Civil Strife in the Developing World* (2006). Kahl states that while current research suggests a possible correlation between population and environmental pressures, "the causal mechanisms linking demographic and environmental strife are still poorly understood…[as]…several crucial causal pathways and interactions with social and political variables are ignored" (Kahl, 2006: 4). In a significant departure from much of the existing literature, he takes a careful look at the social and political factors that exacerbate, or mitigate, the potential for violent conflict. He, furthermore, provides a more nuanced view of the scarcity versus abundance hypotheses.

[29] www.gechs.org

2.3.2 Environmental security and Human Security: a more comprehensive approach to security

Standing in stark contrast to the 'statist'[30] approach, is the argument for a more interdisciplinary and integrative method that sees environmental security as a crucial component of the broader concept of 'human security' (Elliot, 1998), which is a 'holistic' paradigm that allows for integrated and interdisciplinary analysis and policy design. Jessica Mathews (*Redefining Security*, 1989) and Norman Myers (*Environmental Security*, 1989) have also contributed to a deepening of the agenda on security studies to the level of human security. They have attempted to broaden the neorealist conception of security to include a wider range of potential threats, ranging from economic and environmental issues to human rights and migration, calling for a redefining of security in environmental terms.

At the 2000 Millenium Summit an Independent Commission for Human Security was launched, an initiative of the government of Japan. The Canadian government has also taken a leading role in bringing the Human Security agenda onto the global arena, incorporating human security[31] into their foreign policy frameworks and taking a leadership role in operationalising it. (In 2003 the Commission for Human Security published its first report; it omitted, however, to specifically acknowledge environmental security concerns.)

While Liotta and Owen (2006: 37) argue that both the broad and narrow schools of Human Security suffer from conceptual and practical difficulties; they promote the need to focus on a broad – and broadening – understanding of the meaning of security because of the importance this holds for policy actions. Specifically, Liotta argues that:

> "not all security issues involve 'threats'; rather the notion of vulnerability is as serious to some peoples, and some regions, as the more familiar concept of threat. The issue is not one of 'hard' traditional security (often based on state-to-state power relationships) or 'soft' non-traditional security (which involve multiple transnational

[30] Traditionally security was defined in state centric terms as the absence of military threats between states. During the final stages of the cold war and thereafter this traditional emphasis weakened.

[31] The term 'Human Security' has many useful definitions and characterisations. Some are narrower than others. The following working definition is accepted by this author: "The objective of human security is to safeguard the vital core of all human lives from critical pervasive threats, in a way that is consistent with long-term human fulfilment" (Alkire,2003: 2)

> aspects), *but rather the need for a focus on both*" (Liotta, 2005: 49). (Emphasis added).

Liotta appositely draws a distinction between threats and vulnerabilities: "A threat is identifiable, often immediate, and requires an understandable response…A vulnerability is often only an indicator, often not clearly identifiable, often linked to a complex interdependence among related issues, and does not always suggest a correct or even adequate response" (*Ibid*: 51). *Long-term vulnerability – creeping vulnerabilities – are characterised by their complexity and non-linear unpredictability*, for example: HIV-AIDS, climate change, urbanisation and pollution – *non-traditional security issues which have potentially profound implications for a changing security environment*.

Liotta's argument for a broadening of Human Security to embrace far more than just the absence of violent conflict has parallels to John Galtung's[32] concept of structural violence that includes socio-economic inequalities[33]. The ENCOP and ECAP projects are seen to exclude many of the behaviours that "fall within the rubric of violence" (Peluso and Watts, 2001: 23), ignoring the many organisational forms of non-violence. In its broadest sense Human Security is, in the words of Kofi Annan, "Freedom from want, freedom from fear, and the freedom of future generations to inherit a healthy natural environment – these are the interrelated building blocks of human – and therefore national security" (Amouyel, 2006: 13). It is argued by Najam (2003: 59) that analyses of environment and security need to focus more at societal levels and on evidence of social disruption, "even where that disruption might not entail violent conflict".

Likewise, Elliot (1998) and Peluso and Watts (2001) call for a shift in emphasis away from focusing on conflict as an outcome of resource scarcity, to the prevention of resource scarcity, and for more concern with social disruptions than with violent conflict as the principal sources of insecurity – that is shifting the terrain away from a conventional understanding of conflict to

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[32] In 1969 Johan Galtung, presented a paper entitled 'Violence, Peace and Peace Research' (Galtung, 1969).

[33] Galtung (2001) shows how violence can have many faces, and that evil can exist in many subtle and evil ways. Structural violence is violence that does not hurt or kill through fists or guns or nuclear bombs, but through social structures that produce poverty, death and enormous suffering. Structural violence may be political, repressive, economic and exploitative occurring when the social order directly or indirectly causes human suffering and death.

a more encompassing, inclusive sense of violence and non-violence that would include "the destruction of home and humanity, of hope and future, of valued traditions and the integrity of community" (Nordstrom, 1997, cited in Peluso and Watts, 2001: 29).

In similar vein to Liotta, Maltais *et al*., (2003) have made a case for using a "vulnerability approach in thinking about environmental security, emphasising that the vulnerability perspective places focus on livelihoods and poverty and expands the focus of analysis from state security and violent conflict to other security issues central in the lives of vulnerable groups.

Amouyel (2006: 15) notes there is a "clear failure of coordination between conflict, security, human rights, and development studies...[f]urthermore, a number of root causes of human development, conflict or human insecurity…are the same." While peace may hold, when inequity is embedded in social relations and the political and conflictual significance of distributional problems are not addressed, what may follow is the transformation of violence into still pervasive but different forms, including localised rural conflicts and widespread urban violence (Cramer, 2001). Inequality does produce conflict, and often violence, but this need not take the form of civil war (Cramer, 2001). In other words, civil war must not be seen as a field of study different from other forms of social conflict and violence. As the renowned conflict analyst, Duffield (cited in Luckham *et al.*, 2001: 3), states "Similar processes operate in both peace and conflict; consequently war economies may be a different expression of what constitutes normality in peacetime economies, and war and peace represent different degrees of each other rather than absolute or contrasting stages". *Both war and political violence affect the allocation of power and resources that in turn impact negatively on poverty and inequity.*

Khagram *et al* (2003) call for a conception of environmental security in which the environment is connected to human security – in which "Environmental threats are linked to their overall impact on human survival, well-being and productivity" (2003: 293). These linkages must extend to include environmentally related opportunities presented by the environment – of how a better environment provides opportunities for human security: improved chances for survival, realisation of basic rights, and increased human capabilities:

> "Aspirations for security and development must go beyond efforts to protect individuals from environmental threats. They must also be based on practical steps to seize upon the opportunities presented by the environment, in recognition of its inherent value and its deep connections to human beings, societies and economies" (*Ibid:* 296).

While such a broad, holistic definition appears to be complex it has conceptual value and constructive implications for policy because as a paradigm that allows for integrated and interdisciplinary analysis it helps to examine interconnections such as those between war, poverty, and governance. As Barnett (2001: 128) states, *"In contrast to thinking about violent conflict, a human-centred conceptualisation of environmental security asserts the need for cooperation and inclusion to manage the environment for the equal benefit of all people and future generations"* (emphasis added). This calls for the urgent need for mitigation against the causes, and management of environmental insecurities. Implicit in this is recognition that human generated risks to the natural environment are also central to environmental security (Khagram *et al.*, 2003), and by default that security of the environment is valuable in its own right and not merely as a set of risks and as a crucial component of human security (Elliot, 1998). Implicit in the broader concept of human security is the need to move beyond a needs-based focus, to a rights-based focus.

The first part of this chapter has traced the evolving discourses on the environment, development and security and how these are linked. It has shown *that Human Security is an outgrowth of trends which argue for the interconnectivity among societies, economies and natural environments*. Having explored in depth theoretical work on the nexus of resource environments, environmental processes and violence (violent conflict and more subtle forms of violence or "creeping vulnerabilities"), and presented arguments for a post-structural political ecology, attention now turns to the issue that is central to this thesis, land, conflicts and livelihoods.

2.4 LAND CONFLICTS – RESOURCE PROBLEM OR A PROBLEM OF INSTITUTIONS AND GOVERNANCE?

Conflict is widespread in many parts of Africa and struggles for control of territory and natural resources and the power and revenue they yield have frequently been identified as a significant cause of, or contributor to, conflict[34]or social disruptions, across Africa (Bigagaza *et al.*, 2002;

[34] Conflict can be defined as a situation in which parties pursue opposing goals. This may entail but need not be equal to violence. It can be seen as a necessary and even positive part of social change. Such conflict most often does not become violent, nor should it. Ref: Wisner, B. (1988).

AU/ECA/ADB, 2006). In turn, violent conflicts[35] have had considerable impacts on land and natural resources, resulting in severe social, economic and environmental consequences (Huggins and Clover, 2005). (This is dealt with more extensively in the next chapter.)

That land is often a significant factor in violent conflict is undisputed. However, the two projects that have provided the theoretical building blocks for much of the mainstream literature on environmental conflicts, the ENCOP and ECAP approaches, are considered to present several conceptual weaknesses with their theory that presents as "Environmental Change → Scarcity → Social Consequences → Conflict" and have increasingly been challenged (Conflict, Security and Development Group, 2002). While these debates provided valuable new insights, they remained narrow and limited and conclusions, with respect to the central role of scarcity in causing violent conflict, are at best highly speculative (Lund *et al.*, 2006). There are documented cases where the link between competition for scarce resources and conflict is explicit, but the nexus is not always straightforward: environmental stress alone rarely leads to conflict and a deterministic causality between the social and economic effects of environmental scarcity and degradation and conflicts cannot be assumed. For one, scarcity is often determined by politics rather than by the physical limitations of natural resources; furthermore, defining ''scarce resources' also requires a rethinking of what resources are determined to be 'strategic' and therefore important not only to national security, in traditional discourse, but also to the security of people and communities" (Elliot, 1998: 223). Competition for land increases when rapid demographic growth combines with decreased opportunities to acquire income from non-farm activities; the potential for conflict arises where other trigger factors such as a "politically manipulated class or ethnic tensions" are a factor (UNFAO, 2005a, cited in Cotula *et al.,* 2006: 23).

Issues of 'good governance'[36] and the political processes and institutions through which actors

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[35] Violent conflict can range from structural violence (in which social, economic, and political systems can institutionalize harm) to the classic form that involves the use of physical force.

[36] Environmental governance can be defined as a body of values and norms that guide or regulate state-civil society relationships in the use, control and management of the natural environment. These norms and values are expressed in a complex chain of rules, policies and institutions that constitute an organisational mechanism through which both the broad objectives and specific planning targets of environmental management must be articulated (Mugabe and Tumushabe, 2004).

cooperate to solve and manage common environmental and economic problems are important: degrees of political participation, perceptions of legitimacy and the effectiveness of institutions in resolving problems in a peaceful manner often prove to be more important determining factors in the outbreak of conflicts. It is, in fact, frequently the interactions between institutions which lead to conflicts over natural resources, or to competing bases for claims. Discriminatory policies and lack of control are often more important than resource scarcity itself, just as the way that people deal with limited resources may be the cause of confrontation, and not the scarcity per se. In their Toolkit for Intervention, USAID advise that when land lacks adequate legal or institutional protection "it quickly becomes a valuable and symbolically powerful commodity, easily subjected to manipulation and abuse" (USAID, 2005b: 3). More social scientists have started to emphasise what they call the social construction of scarcity (Lund *et al.,* 2006), that competition over land is not just a matter of insecure rights or scarcity but is determined by politics rather than the physical limitations of resources (Elliot, 1998). Najam (2003), for example, argues that chronic and structural impoverishment rather than scarcity alone forges the connection between environmental degradation and conflict, and that at its core environmental security is more a problem of institutions and governance. (This matter is discussed in depth in the next chapter.)

Both the ENCOP and ECAP models presume shortage and are only concerned with it, but Fairhead (2001), alongside many other researchers, have noted that conflicts are less generated by resource poverty and bankruptcy than by resource value and wealth. Peluso and Watts (2001) contend that more extensive and destructive violence is likely when the resources are either *in great abundance or have great economic or strategic value.* These gain value through increased global and regional demand. That these are not merely problems linked to reduced supply or degraded resources, highlights the importance of taking into account the spatial levels of conflict – local through to global.

Implicit in "greed or grievance" debates, such as that posited by Collier and Hoeffler (2002) in *Greed and Grievance in Civil War,* is the idea that environmental factors can and should be integrated into traditional security affairs in so far as they threaten national interest. The issue then is not seen to be environmental degradation or scarcity per se, but the fact that it poses a security concern because of the potential for violence or conflict. This "environment-**and**-security" debate offers only a partial broadening of the security agenda: what is to be secured remains predominantly the survival of the state and thus environmental insecurity becomes

synonymous with environmental threats to the state (Elliot, 1998: 231). Such an approach is consistent with conventional, narrow notions of national security, which do not necessarily guarantee the security of individuals and communities. One of the problems that arising from this is that it narrows policy options by focusing on symptoms rather than causes (Elliot, 1998). As Peluso and Watts (2001: 35) note, *the issue is not so much about "scarcity or abundance per se, but about the ways in which particular entitlements are shaped by specific regimes of accumulation and by particular social forces". The social and political relations should, then, be the starting point for analysis, not scarcity or abundance.*

As illustrated above, the relationship between land and violent conflict is, in fact, highly complex: tensions over land tenure security, access rights and land distribution "are often inter-connected with other issues, stresses or events, which may trigger or fuel local level violence" (OECD, 2005: 2). Competition is often, at its core, about power, both socio-economic and political. Peters (2004: 269) calls for more emphasis to be placed on who benefits and who loses, for analysis of pervasive competition and conflict over land in sub-Saharan African reveals "processes of exclusion, deepening social divisions and class formation…and of expropriation of land by local and non-local elites". How these outcomes are produced is a product of complex, intersecting processes and events – "there is rarely, if ever, a single cause of competition or exclusion" (*Ibid:* 291). Likewise, Peluso and Watts call for an alternative way of understanding the connections between environment and violence, rejecting "automatic, simplistic linkages between 'increased environmental scarcity', 'decreased economic activity' and migration' that purportedly 'weaken states', and cause 'conflicts and violence'", as argued by Homer-Dixon (2001: 5). *Environmental security is not, they argue, about scarcity (or abundance), but about the relations between nature and users.*

An overview of land conflicts in Africa, as traced below, indeed reveals that both indirect and direct drivers of conflict land issues need to be better understood. There is, however, certainly no single land issue or no single remedy or instrument to deal with land conflicts.

2.4.1 Land as a 'critical prize' in conflicts in Africa

Land issues (which are the focus of the next chapter) are a general development concern from the perspective of economic growth, governance, and the environment; land also has enormous symbolic, social and cultural value. It is all these interrelated social, institutional, and political factors involved in land that make it an asset different from all others (Lund *et al.*, 2006).

There is a common image of Africa as land-rich and sparsely populated, but while it may have once seemed an almost inexhaustible asset, population growth and market development are creating mounting pressure and competition for land resources, especially close to towns and cities because of urbanisation trends, and in resource rich, high value areas (AU/ECA/ADB, 2006: 2), issues that are probed further in the next Chapter). That land rights for many rural as well as urban dwellers are becoming increasingly insecure and unclear (Lund *et al.*, 2006) adds further to tensions, while the impact of civil war on land tenure and management are a further aggravating factor. (See the next chapter for an in-depth examination of the impact of war on land).

Land is a critical prize in many local and national power struggles (USAID, 2005a: 1). Testimony to this is the significant increase since the mid-1990s of published research and other sources that describe mounting competition and conflict over land and land related resources across the continent (Peters, 2004: 270). *Widespread land-grabbing that is taking place in many parts of the continent* (Peters, 2004; Toulmin, 2005; Lund *et al.*, 2006; Manji, 2006) *is a major new challenge, and one that serves to highlight the inter-linkage between land and power:*

> "Land is a central element in the varied and complex social relations of production and reproduction within which conflict between individuals and groups are bred. As a result conflict over land often combines strong economic and emotional values" (OECD cited in USAID, 2005b: 2-3).

Disputes and conflicts about land occur at all levels – for example, between individuals such as pastoralists and farmers, between communities, the state and indigenous people, between external investors and communities or individuals over the rights to exploit resources. Many localised conflicts arise over overlapping rights under different legal regimes. The question of rights to land and territories has been the source of civil wars as well as wars between nations. Many of the conflicts in Africa, including the recent wars in Rwanda, Burundi, the Democratic Republic of Congo and Côte d'Ivoire, are associated with failures in systems related to the governance, control and use of land and natural resources. Côte d'Ivoire is a case where land conflicts are related to a change in the political climate; in Burundi and Rwanda 'conflict entrepreneurs' politicised the issue seeking to manipulate grievances in the pursuit of power (OECD, 2005). In Southern Africa, unequal land distribution has led to political and racial tensions.

Current research shows that competition and conflict over land are increasing because of a

confluence of factors. "Many rural-based families need to draw more from their land even in the face of declining inputs; entrenched and pensioned-off civil servants and other workers look to family and other land as source of food and/or cash cropping; governments and environmentalists seek to demarcate conservation areas; internal and external groups intensify their exploitation of valuable resources form/in/under the land (minerals, trees, wildlife, crops and water)" (Peters, 2004: 286). To this can be added the role of states as exploiters, of institutional and governance arrangements, and chains of patronage that operate at all levels local to global. (These are analysed in more depth in the next chapter).Conflict is inherent to all societies – it is itself not necessarily something to be avoided or crushed as if it was something abnormal – see Box 2-1. Conflicts, in fact, are a natural part of human interaction and are necessary for positive social change, but violent conflicts are the most destructive form of

Box 2-1: Definition of Land Conflict (sourced from FAO, 1999).

A land conflict is a natural phenomenon and refers to the legitimate but opposing interests, activities and impacts on the environment resulting from the different goals and objectives of the many groups and individuals involved or affected by the use and exploitation of land.

In extreme situations this can result in physical conflict or war, but in most cases conflict is regulated by socially accepted norms of behaviour, by custom or by law, and is resolved through compromise and exchange of values in the framework of economics and negotiation. Conflict is natural and will always exist.

conflict between human beings and they are costly for all sides. The other side of this is that inequity, which is a contributor to conflict, is often politically sustainable and many issues, such as those of inequitable land rights may not be endogenously conflictive because those who are the winners in this secure their positions. Daudelin (2005: 16) who has conducted research on land and violence in post-conflict situations, emphasises that "land issues per se are rarely endogenously conflictive. The passage from grievances, be they class-based or ethnic, to conflict or large-scale violence depends on political interventions from outside". He recognises the normative ambiguity of conflict resolution or prevention in that a "strong and consistent regime, a valid one, is by definition sustainable politically, independently of its impacts on various groups" (*Ibid:* 13).

He notes that the central quality of a legal-political order is its validity, which is derived from the broader political regime in which it is embedded, and from the extent to which its rules are

respected and the decisions of its various instances enforced. The validity of a regime, however, says nothing about the fairness of its arrangements, their economic efficiency or their environmental sustainability (*Ibid:* 8), so validity has to be assessed separately from normative issues:

> "In its simplest possible terms, inequity, inefficiency and environmental sustainability can be perfectly sustainable in political terms, i.e. can be very much compatible with a valid order… In other word, one must be careful not to confuse, for example, validity with fairness, or inequity with instability" (Daudelin, 2005: 8).

2.5 A POLITICAL ECOLOGY APPROACH

Flaws in the theoretical premises made by mainstream academic scholarship in understanding the nexus of land and violent conflicts serve to emphasise that analysis needs to be situated in the broader political, economic and social changes taking place. A political ecology approach calls for expanding the horizon of both what is contended, and how "places and people must be situated within a theorized political economy to understand the various expressions of power affecting them and the specific circumstances that precipitate violence" (Peluso and Watts, 2001: 24).

Understanding the connections between the environment and violence (Peluso and Watts, 2001: 25), is one which *does not search for 'environmental triggers' of violent conflicts, but looks at the relations between users and nature.* "This is a reciprocal relationship between nature and humans – humans are naturalised and nature is humanized – in which labour is active, transformative, and social" (Watts, 1983, cited in Peluso and Watts, 2001: 27). The Peluso and Watts approach aims to "provide accounts of the ways in which specific environments, environmental processes, and webs of social relations are central parts of the ways violence is expressed and made expressive: [of] What difference does environmental difference make?" Peluso and Watts (2001: 25).They challenge the approaches of Homer-Dixon and others that they claim provide a partial account of environmental transformation and do not "stand on a theory of social transformation or political economy", believing that to understand structural scarcity requires a theoretical understanding of how systems of access to and control over resources emerge and are reproduced. They reject assumptions that environmental causality should be taken as politically neutral – seeking, rather, to account for ways that specific resource environments (land, oil reserves, minerals), environmental processes (deforestation, conservation, or resource abundance) and cultural politics are constituted by, and in part

constitute, the political economy of access to and control over resources.

Peters also call for analysis to be situated in broader political and economic and social changes, (2004: 270-1) suggesting that "this theoretical move has been inhibited by what might be called 'sticky' paradigms – analytical frameworks and theoretical premises that have been highly productive in the past but that, in fast-changing circumstances, are proving to be blinkers rather than power lenses". That land tenure is a social relation and that relations, therefore, have to be seen to be embedded in broader context of social, cultural and political relations, has been recognised. Peters (*Ibid*), however, believes that research must go beyond a formulation of relations over land being socially embedded to ask more precise questions about *the type of social and political relations in which land is situated, particularly with reference to inequality*. In support of this she points to two relevant debates for land: i) commodity production and diversification among rural 'peasant' families which entail increased socio-economic differentiation; and ii) the situating of land conflicts within the national, regional, trans-national or global processes of which they are inextricably part.

Analysing the political economy of access to and control over resources, the starting point called for by Peluso and Watts is the appropriation of nature, historical and social – the "entitlements by which differentiated individuals, households, and communities possess or gain access to resources within a structured political economy" (*Ibid:* 5). Understanding the processes by which some factors become causes is seen to be central. By conceptualising violence as a site-specific phenomenon rooted in local histories and social relations, yet connected to larger networks of power relations and processes of transformation, they analyse the forms of violence, who engages in them and their dynamics. Different forms of violence are seen to emerge from particular forms of governmentality – the "calculated practices by which the state and other institutions and practices direct categories of social agents in specific ways" (*Ibid:* 6). The call for exploring how environmental violence, in its different forms, reflects or masks other forms of social struggle, is made. In summary, Peluso and Watts identify three vectors in the social relations of production as arenas of opportunity and constraint that frame the key environmental processes:

- The patterns and regimes of accumulation (how entitlements are distributed, reproduced and fought over);

- The forms of access to and control over resources (the specific institutions and processes of production, accumulation and resource access, as well as the forms that nature and social relations take in aiming to understand the nature of resource conflict); and
- The actors (farmers, indigenous people, workers, the state, transnational capital) who emerge from the social relations of production.

This research adopts a political ecology perspective, a main thrust being a concern with 'environmentalism of the poor'. Otherwise referred to as livelihood or liberation ecology, political ecology has grown out of ecological distribution conflicts caused by economic growth and social inequalities. Unlike the two other main currents of environmental concern and activism (the 'cult of wilderness' and the 'gospel of efficiency'), the environmental justice movement is concerned primarily with a material interest in the environment as a source and requirement for livelihoods (Martinez-Alier, 2002). "Struggles of land rights continue to form a vital past of this fight for global justice, for poverty reduction, sustainable livelihoods and equality" (Palmer, 2005: 2). It is an area that is becoming a strong force for sustainability and for environmental justice – for "forcing the economy into ecological adjustment and social justice" (*Ibid:* xi). This third cluster is potentially the most powerful current of global environmentalism.

Concluding thoughts

Concerns on the environment and security have evolved over the years and with the new focus on environmental security came a wave of research on how environmental change can be a cause or amplifier of violent conflict. Such thinking was rooted in notions of security in which the state is the main referent. A growing interest in the redefining of security and a reformulation of environmental security which does not prioritise security and the issue of conflict above the needs of those who are most environmentally insecure has taken root. It draws on the insights of ecological security that calls for a conception of environmental security in which environmental threats are linked to their overall impact on human survival, well being and productivity. It combines the concerns of ecology and a broadly defined political economy, recognising the notion of vulnerability as being as serious as threats and is premised upon a sense of social justice for environmental explanation and development. Livelihood ecology – 'environmentalism of the poor' – is highly relevant for understanding land as a cause of conflicts, as a critical issue in post-conflict environments, and for analysing the political economy of access to and control over land and natural resources. The next chapter now turns to a more in-depth look at land issues in Africa and the analytical frameworks for understanding the nexus of land, conflicts and livelihoods.

CHAPTER 3: RESEARCH CONTEXT

LAND AS A RESOURCE & LAND IN POST-CONFLICT ENVIRONMENTS

INTRODUCTION

Chapter Three is intended to inform and highlight the challenges faced in assessing the nature of linkages between land, conflicts and livelihoods. This chapter, together with Chapter Two, feeds into the logic that informs the theoretical framework and research methodology adopted in this thesis that is discussed in Chapter Four.

The first part of the chapter deals with current land issues that the continent as a whole is facing. It examines the importance of land, in both rural and urban contexts, and its centrality to economic growth, sustainable resource use and peaceful development. A synopsis is given of access and rights to land in rural and urban area and the challenges generally facing the southern African region. One of the challenges is that of dealing with the devastation wrought by violent and protracted conflicts. Because the focus of this thesis is on land in a post-conflict environment, attention turns in some detail to conflicts in Africa and their impact on economic development, environmental management and human survival. *The chapter argues further that non-violent conflict is as important as violent strife in undermining livelihoods and social and economic sustainability.*

Countries emerging from war, and which are often inherently unstable, face particular challenges for effecting land policy and legislation that facilitates growth and the re-building of land based livelihoods. The importance of land access, rights and policy for broad-based development and for securing peace in a post-conflict environment is illustrated, as numerous assessments have identified to be key issues – see, for example, Unruh, 2004; Daudelin, 2005; USAID, 2005. When well integrated into the wider social, economic and environmental planning, land policies and land management strengthen sustainable security.

The next section explores the social, political and economic factors that influence the effective governance of land and natural resources: policy making and its links with development

agendas, legal frameworks, administrative and institutional infrastructure and the actors who influence the governance of land.

3.1 CONTEXTUALISING CURRENT LAND ISSUES: CHALLENGES AND OPPORTUNITIES

Land is one of the most vital assets for millions of poor people in Africa and is central to the social and economic development of Africa. As a principal source of natural capital and for earning a living, land has been a central element in the evolution of African societies – most African economies are heavily reliant on agriculture and natural resources for a significant share of GDP, national food needs, employment and export revenue. Furthermore, land is also the basis of shelter in urban and rural areas, and has major historical, cultural and spiritual significance. As a capital asset most especially in the urban areas it also offers opportunities for social and economic empowerment, and thus a springboard to escape from poverty:

> "The importance of land in Africa is multifaceted, being at the heart of social, political and economic life of its people. Besides its economic attributes, land continues to have great social value – as a place of settlement, providing a location within which people live and to which they return. It also has symbolic and ritual associations, such as burial sites, sacred woodlands, and spiritual life" (AU/ECA/ADB, 2006: 1)

For economic growth to reduce poverty, the benefits of such growth, and by extension access to and tenure of land, need to be distributed equitably within society. The fact that property rights are frequently weak or unclear creates a major obstacle to investment, both large and small, for both agribusiness and smallholders alike need secure tenure in order to invest in the land (AU/ECA/ADB, 2006). Tenure security is widely acknowledged as a precondition for intensifying agricultural production as it makes it possible for producers to gain access to credit, thereby improves the functioning of financial markets. Enhancing tenure security not only assures the value of land assets, and thus their earning potential, but also increases incentives to invest in long-term productivity of the land and increases bargaining power and the value of broader economic outcomes.

Increased land access for the poor can bring direct benefits of poverty alleviation especially in societies which remain predominantly rural and in which agricultural is a main activity. The poverty reducing effects of land access include household income gains, food security benefits, the safety net and investment effects where land assets provide a buffer against external shocks and frees up resources for investment, and the dynamic income distribution effects of more

equitable land distribution across society (Carter, 2003, cited in Quan, 2006: 3-4). Secure access to land also provides the most powerful incentive for the sustainable management of natural resources, providing security for the environment and for people, higher levels of tenure security inducing better land management (AU/ECA/ADB, 2006). The alternatives may well be to work the land in a way that degrades the natural resource base, or if economic instability becomes a further aggravating problem, the choice may be to migrate to the city. The former undermines environmental sustainability; the latter may fuel political instability.

For rural as well as urban or semi-urban dwellers, the value of land is not merely economic; its value is embedded in the social structure and history. It represents an important source of identity and is a source of prestige and often power. Land tenure changes – and there are many factors that influence changes – therefore affect both social as well as economic sustainability since rights to land are the basis of social relationships and cultural values, (UNFAO, 2002). As the hub around which customs, culture and traditions revolve, land holds very high symbolic – even emotional – values.

3.1.1 The politics of land

Land, once seemingly an inexhaustible asset in Africa can no longer be assumed to be plentiful for all who want – most Africans have only very small plots and an increasing number are landless (Gore, 1994; Raikes, 2000, cited in Peters, 2006; AU/ECA/ADB, 2006; Cotula *et al.*, 2006). Rapid population growth, globalisation and market development are also resulting in increasing populations in towns and cities. Land rights for many rural as well as urban dwellers are increasingly becoming insecure and unclear and it is the most vulnerable groups who are being hardest hit. There are rising pressures and tensions stemming from competition for this valuable resource, and those with weak rights find it more and more difficult to assert their claims– and rights once lost are difficult to re-establish. Land policy in Africa now faces the twin challenge of i) providing a sound basis for secure property rights, and for investment and the generation of economic opportunities, while also ii) securing access to land for farmers and the urban poor as the basis for improved livelihoods and food security (AU/ECA/ADB, 2006):

> "…exclusion from land resources is increasing and some analysts argue that, with respect to land, Africa is at a "turning point", in that access to productive land is becoming more restricted, as population densities rise, land concentration occurs, land degradation accelerates, and as the means of exploiting land becomes more sophisticated and more dependent on money" (Gore, 1994: 1).

3.1.2 Trends in the politics of land:

The shared history of colonialism and with it the dispossession and impoverishment of rural people has shaped both patterns of landholding and discourses (such as dualistic land tenure). Land remains extremely inequitably distributed in several countries and across the region land policy changes are underway to address these concerns and a diverse array of approaches to strengthening land rights is now emerging (AU/ECA/ADB, 2006).

Land tenure and shelter are insecure for many Africans in both rural and urban areas and (AU/ECA/ADB, 2006). The growing predominance of market mechanisms results in significant problems for both the urban and rural poor in securing tenure (IIED, 2006).

Mounting competition and conflict over land and landed resources are occurring across the continent, especially in productive, high value areas and close to towns and cities. The growing pressure on resource rich areas is also being expressed in trends towards privatisation and enclosure (AU/ECA/ADB, 2006).

The growing impact of neo-liberal globalisation in terms of both direct influences on agriculture and rural economies generally, and on the policies being promoted by national governments and international agencies (deregulation of markets, withdrawal of support to agricultural producers and reliance on the private sector as the principal agent of development) (Peters, 2004; Alden Wily, 2006).

The increasing role of the elite: Restrictions are occurring, albeit more subtly, through commercialisation. Land grabbing and the enclosure of customary lands are on the rise in most countries within the region by powerful indigenous elites at the expense of the poor (Peters, 2004: Daley and Hobley, 2005).

“Governments have often been complicit in the erosion and loss of land rights, maintaining and consolidating power through patronage in the distribution of key assets to selected individuals and groups” (Barraclough, 1999, cited in Cotula *et al.*, 2006: 4). This sentiment is echoed by Toulmin (2005: 1) when she states “African governments have often muddied the water on land rights…In practice, they have used them for patronage and power”.

Ongoing impoverishment of the mass of the rural population and the extreme precariousness of rural livelihoods: The mounting pressure on urban and peri-urban areas raises land values and

increases the vulnerability of livelihoods of informal settlers.

Increasing pressure on land and the commodification of it also acts to undermine its social, cultural and spiritual significance (IIED, 2006).

Concerns about poor management of land and natural resources are increasing awareness of the importance of harmonisation and integration of land law and policies with the wider development context (AU/ECA/ADB, 2006).

The re-emergence of the rural poor as political actors to varying degrees throughout the region.

The trends outlined above are clearly very complex. Some of these are reinforced and are articulated for ease of comparison in Box 3-1.

Box 3-1: Land – the challenges and opportunities (AU/ECA/ADB, 2006; Alden Wily, 2006; Cotula *et al.*, 2006; Quan, 2006).

Social equity and rights

Sharp inequalities in land distribution in respect to race and ethnicity persist in Southern Africa.

The growth of markets and commodification of land, especially in urban areas can threaten livelihoods.

More has to be done to ensure women's equal rights to access, own and control land, adequate housing and property.

The rapid pace of urbanisation calls for the urgent need to improve living conditions of and security of tenure in Africa's growing informal settlements.

Pastoralists are being progressively excluded from the land and water they traditionally use. Innovative legislation is required that offers flexible arrangements to ensure access to grazing resources rather than exclusive ownership rights.

Political stability

Land is an asset of substantial value and control over this resource is often central to national and local political power.

Land issues lend themselves to be used for political means as they arouse strong emotions and it is easy to mobilise support around land issues.

Land and resource conflicts are generating wider insecurity.

Challenges of urban land management and evictions are a constant threat as urban land values increase.

Land as contested property is increasing and there is a prevalence of disputes and conflicts relating to land, as well as processes of exclusion and deepening social divisions.

Land grabbing and the enclosure of customary lands by powerful indigenous elites and corporations, often in alliance with international capital, are on the increase.

Supportive civil society groups and networks are vital for providing checks and balances, for informing communities and in the development and implementation of land policy.

Economic efficiency
Land access issues need to be mainstreamed into the wider development agenda, in particular through a country's Poverty Reduction Strategy.
If appropriate conditions are not in place, natural resource-based investment projects may undermine the ability of local communities to access the resources on which they depend for their survival as well as pose a threat to the environment.
Balanced land access policies and programmes are needed to promote agricultural development and to protect vulnerable groups. Balancing equity and growth poses challenges and requires strong political power and sustained commitment.
Redistributive programmes have brought mixed results. Synergy of equity and agricultural growth requires the delivery of supporting programmes.
There is limited administrative and institutional capacity and widespread inefficiency.
There is a need to put in place distinctively African forms of tenure security and land management institutions incorporating customary concepts and principles.
Environmental sustainability
When land rights are secure, people are more likely to consider environmentally sustainable practices when making long-term decisions over land use.
In areas where people are already extremely vulnerable and often have few options other than increased use of resources, the use of natural resources – particularly common property resources – in sustainable ways is critical to the problem of resource degradation.
Harmonisation of land and environmental legislation are critical to effective environmental management
Governance of land management be it through community based natural resource management programmes, local levels structures or government institutions are central to ensuring sustainable use and management of natural resources.

3.1.3 Changes in property rights to land

Access and tenure are key components for building livelihoods dependent on land (and natural resource use), but for many Africans in both urban and rural areas they are insecure and more needs to be done to tackle the legal and institutional blockages that maintain structural inequalities in access to land (Cotula *et al.,* 2006):

> "Land tenure security refers to the degree of reasonable confidence not to be arbitrarily deprived of the land rights enjoyed or of the economic benefits deriving from them. It includes both objective elements (clarity, duration and enforceability of the rights) and subjective elements (landholders' perception of the security of their rights)" (Lund, 2000: 9).

Colonisation had a devastating effect on land use patterns most especially in southern African countries (Adams *et al.,* 1999). Prior to this period landholdings were based on the laws and culture of different language groups and on dominant land use patterns. Such communal

ownership or tenure implied a corporate entity (tribe, village, extended family), which exercised joint ownership over lands shared by multiple users for grazing and for gathering products. Under colonial rule, a minority held granted rights of occupancy in terms of a statutory land regime, while the majority held land under the deemed rights of occupancy, with marked difference in what these two interests offered their holders (Adams and Turner, 2005). The promotion of individual tenure was motivated by the drive to 'develop' or 'modernise' African agriculture. In the process, existing land ownership systems were disrupted. In order to bring customary systems under the (indirect) control of the colonial powers, the role and responsibilities of customary leaders were often altered. Today in all countries where there is a history of large-scale, historical expropriation of land rights, a dual, racially-based system of land rights introduced by colonial regimes continues to prevail (AU/ADB/ECA, 2006). It is effectively a hybrid system of both private tenure and customary law, with elements of competing jurisdictions of customary and statutory systems constituting a critical divide.

In general African land-holding is complex, variable and fluid, as evidenced in the multiple, shifting, recombining and constantly-negotiated tenure practices in response to population growth, patterns of urbanisation and urban expansion, technological development, wars and conquests, and changes in government (Lund, 2000; Cotula *et al.*, 2004; IIED, 2006). Several legal systems – statutory, customary and a combination of both – coexist in most of Africa, and this has resulted in overlapping rights, contradictory rules and competing authorities – what is termed 'legal pluralism'. This situation creates confusion and fosters tenure insecurity, which discourages agricultural investment and enables elites to grab common lands (Cotula *et al.*, 2006). "One of the defining features of the land rights situation in Africa is the dichotomy between customary and land arrangements and the statutory systems based largely on western models, which dominate in urban and particularly high-value areas" (Huggins and Clover, 2005: 9). In many countries the ultimate ownership of land remains in government hands, with land allocated administratively, rather than through the market.

Efforts to improve land tenure security have traditionally emphasised large-scale individual titling. Such systems tend to equate property rights with individual private ownership – in other words the right to exclude others. They have proved to be slow, expensive, difficult to keep up

to date, and hard for poor people to access (Cotula *et al.*, 2006). As a result very little land has been registered and formal tenure[37] covers only between 2 and 10% of the land (Deininger *et al.*, 2003: xxi), while the vast majority of the land area is operated under various customary tenure arrangements, even in some peri-urban areas with high land values, although contempt for customary law remains common. More than 30% of the land in Africa is jointly held by members of a group or community, making property rights as important as individual rights. Customary systems, on the other hand, do not define each person's 'rights' – they are procedural and not codified, but as Pottier reminds us (2005: 72) we need to recognise the dynamic quality of customary land tenure and acknowledge that customary law as practiced today "is not only entwined with statutory law, but needs to be understood in the context of recent changes in the realm of kinship and descent organisation." It is important to understand that customary land tenure is very much alive, and that it is not static but it takes many shapes and is continually evolving (Gore, 1994; Pottier, 2005).

Titling, which has led to a weakening of land rights most especially for women and pastoralists, has heightened awareness of the need to guarantee the security of rights to land for these groups and that there is no one size fits all solution to improving land rights (Meinzen-Dick and Mwangi, 2006). The various dimensions of rights to land for these groups are explored below.

Pastoralists

Livestock keeping and pastoralism are major sources of livelihood in many rural areas, but in recent decades secure access to the natural resource base required to sustain livestock dependant livelihoods has become increasingly problematic (Quan, 2006) and pastoralists are often marginalised in a variety of ways and accused of being backward and primitive (Palmer, 2006). Their way of life and use of land are little understood: herd mobility and secure access to strategic resources such as water and dry season grazing are critically important and require flexible arrangements that allow herders to access grazing resources, rather than exclusive ownership (Cotula, *et al.*, 2006). Colonial authorities generally perceived rangelands as largely unoccupied, so they were often expropriated for other uses, primarily agriculture and

[37] This is land possessed and used relatively exclusively by individuals or households for residential, farming or other business.

commercial rangelands, usually under private tenure arrangements and also for wildlife reserves and conservation purposes (Quan, 2006). Post-independence governments have continued these policies and sought to modernise the livestock economy.

Women's Land Rights

Although women provide the majority of farm labour and carry the greatest responsibility for harnessing land for food security, development and the upkeep of the environment, they are the most marginalised members of society and not able to fully benefit from the wealth created by the use of land and its resources (Kameri-Mbote, 2005). The majority do not own or control land and other natural resource because while the way that land is inherited is critical to the enhancement of women's ability to control land on their own, empirical studies show great diversity and complexity in factors affecting women's access to land (Whitehead and Tsikata, 2003, cited in Fortin, 2005). Many tenure regimes, including statutory, customary and informal regimes, discriminate against women either formally, or in practice. Under both customary and statutory systems social, economic and cultural factors have served to disadvantage and marginalise women, relegating them to subordinate roles (Cotula *et al.*, 2006). While customary laws can provide poor households with greater access to land and security, they too are in need of reform as many women are prevented from owning and inheriting land because their property rights are often tied to their social relations with men. Widowed women traditionally do not inherit land from their husbands, but are allowed to remain on the land until death or remarriage. It is common for only use rights to be granted to women, based on the labour they provide to the lineage, and rights of possession do not pass to a spouse but to the male progeny on their marriage (Fortin, 2005: 6). It is for this reason that achieving equality involves more than just land tenure changes – socio-cultural attitudes are fundamental to change as are the strengthening of women's rights under the constitution, family and inheritance law.

The introduction of title deeds and private ownership has often served to aggravate women's dispossession, stringent legalities and costs deterring the obtaining of title deeds (Adams and Turner, 2005; Meinzen-Dick and Mwangi, 2006). Governments have generally showed an unwillingness to make land policies that take women's needs into account. Where progressive policies have been developed, implementation has often been patchy (due to lack of legal awareness, limited access to courts and lack of resources), and this has ensured the persistence of discrimination against women (Cotula *et al.*, 2006). The more recent adoption of land

restitution and redistribution has failed to improve women's access to land in any meaningful way.

In many cities in southern Africa more than half the population lives in slums and informal settlements, in sub-standard housing, and without basic services. Women in urban areas face particular difficulties, forming a high proportion of single household heads. Exclusion from access to rural land or displacement resulting from armed conflicts may have pushed them in the first place towards the cities, but once in the urban areas a big problem many women face is insecurity of tenure. Legal security of tenure for women is almost entirely dependent on the men they are associated with: widows may be evicted by in-laws upon the death of their husband; they are also affected disproportionately by forced evictions, resettlement schemes, slum clearance and development projects carried out by or through state actors (Benschop, 2004). The precarious nature of their existence is aggravated further by the fact that women headed households and single women have little access to credit and other resources– in many cases the consent of husbands are required before a woman can take a loan.

3.1.4 Contemporary land reform in Africa

Since independence, African governments have adopted policies and programmes aimed at increasing land tenure security, but policies have more often than not ignored existing customary and local institutions, and disregarded the distributive issues underlying tenure security (Cotula *et al.*, 2004). "Land reform is fundamentally about recognising and changing a certain distribution of power over land and resources represented by that land" (Fortin, 2005: 2). In sub-Saharan Africa the impetus for land tenure reform, in addition to land redistribution, is growing through increased calls for the reform of both legal and administrative aspects of land rights.[38] Several countries in eastern, central and southern Africa are currently reforming their land policies and laws. Within the SADC, new national land policies and in some cases draft laws have been adopted in Malawi, Mozambique, Lesotho, Swaziland, South Africa and Zimbabwe. These involve both land administrative issues, and the way in which private

[38] Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. It constitutes a set of rules defining rights of access (Land tenure and Rural Development, FAO Land Tenure Studies, No. 3: Rome 2003: 7).

property – formal land titling– is viewed. Important new land tenure laws have been promulgated in the last decade and are in the early stages of implementation.

These reforms are addressing fundamental issues, such as land policy principles, land tenure and distribution. The process of reforming land laws includes looking for a redefinition of how property rights in land are allocated and who can use what resources and for how long. Also important are the issues of the legal recognition of customary tenure rights and the strengthening of the rights of tenants, as well as land management and use, land administration, and overall legal structures (AU/ECA/ADB, 2006). The more recent impetus for substantive change, as opposed to merely 'tinkering' with the system, comes from many quarters – environmentalists, market forces, communities wanting to accelerate entitlement programmes and those wishing to redress racially discriminatory laws. Several of these aspects are re-examined in Chapters Six, Seven and Eight.

3.1.5 Access to land and agricultural development

Providing the agrarian structure plays a positive role, agricultural growth can and does reduce poverty and inequality. This makes land fundamental to livelihood security for many people. But in Africa the rural poor are facing an increasing number of challenges to securing land and livelihoods. The increasing commercialisation of land-based activities have increased pressure on land and raised the monetary value of land, undermining its social, cultural and spiritual significance (IIED, 2006). This is evident in the widespread phenomenon of the encroachment on common land by commercial agriculture, and the marginalisation of small-holders, often by large scale foreign investors *(Ibid).* The consequence of globalisation and the neo-liberal policies is the withdrawal of support to agricultural producers and reliance on the private sector as the principal agent of development. Livelihood strategies are changing because of the stagnation of African agriculture, with off-farm and particularly urban forms of income (such as remittances) becoming more important. Nevertheless, access to land remains fundamental to most family asset bases (Cramer and Pontara 1999; Rigg 2005) as agriculture continues to play a critical role in diverse livelihoods and in household food security (Ellis and Allison, 2004). Access to land per se does not ensure the means of making a living, but it is an important safety net for many of the multiple strategies in which rural peoples engage in pursuit of economic security are based on access to land (Pitcher, 1999). The poorest and most vulnerable in particular, remain highly reliant on subsistence agriculture and access to natural resources,

whether based primarily on 'agriculture' in its narrow sense or not and so the way that land tenure arrangements promote or inhibit on-farm and non-farm diversification (Ellis and Allison, 2004) has important implications for human security and sustainability.

While many reasons have been put forward for the stagnation of African agriculture such as input constraints, climate change and HIV-AIDS, it is widely agreed that the factors that affect rural development are highly complex, and inter-related. One which threatens the sustainability of agriculture generally is that both state and market led approaches to land redistribution and reform programmes have not been integrated with wider local, social, economic and environmental planning (Quan *et al.,* 2003). Land reforms can be a source of violence and frustration should expectations be raised but not met, or where economic performance deteriorates, or is perceived to deteriorate, as a result – directly or indirectly – of reforms (OECD, 2005). Such is the case when tenure reform acts to constrain local coping strategies: too often it has been assumed that a new land rights system will function by virtue of technical changes to land title-holding. Land access programmes have to link into more comprehensive development of social and physical infrastructure, credit, production, plus technical and marketing support programmes if they are to offer any chance of success.

Accessing the natural resource base

A process central to the social competition and conflict over land is that centred on conservation, "sustainable" resource use and community based natural resource management. The influence of environmentalism in development in Africa since the 1980s has produced renewed state efforts to demarcate conservation areas, as well as community-based natural resource management. Variants of the latter have developed in the form of game-based tourism and ecotourism, many as public-private or community-private ventures (Peters, 2004).

Conservation and issues of land rights, tenure and conflicts are closely interlinked (Lund *et al.*, 2006). Since colonial days a number of countries in Africa have set aside substantial areas for conservation and with the support of the international community these policies continue to be a part of the policy agenda of African governments. While these are measures to protect natural resources, they also result in increased competition for and pressure on land and other resource in non-reserved areas, and under certain conditions have increased poverty (Fisher *et al.,* 2005). Against a background of intensifying competition over land and landed resources, new schemes to promote environmental protection along with benefits to locals have themselves become new

resources over which groups compete (Peters, 2004: 300):

> "At present, the game-rich areas of countries in southern Africa are awash in such conflicts. Not only do many ecotourist projects fail to devolve the income from tourists to 'locals', but they set various locals against one another and these against various outsiders in the struggles over claims to land."

While most of today's conservation efforts adopt measures to integrate with development goals – popularly termed "Integrated Conservation and Development Projects" – with the aim of bringing benefits to local communities, the intent and outcomes of these are often a matter for dispute. This is particularly true of cases where the establishment of a conservation area entails the removing of indigenous communities (such as the Transfrontier Parks)[39]. Questions of who really benefits and the degree to which such initiatives are genuinely able to benefit participating communities are common. Much depends on the nature of governance in the implementation of these initiatives – corruption, patronage and institutional capacity all playing a role. Equally, "environmental legislation and programmes play a significant role in how social relations around land and landed resources are changing", (Schoreder, 1999, cited in Peters, 2004: 275). Calls by aid agencies and NGOs for governments to put in place more effective means to protect environmental resources are closely linked to discourses around nature and society, degradation and loss of biodiversity. Molnar *et al* (cited in Fisher, 2005: xiii) report that "communities' own conservation efforts probably equate to forested areas currently within formal protected areas networks and that many communities spend more per hectare on conservation than national governments".

3.1.6 Land and urban development

Urbanisation is a global phenomenon caused by a combination of economic and socio-cultural factors. The total population of sub-Saharan Africa in 2002 was about 641.0 million, 35 per cent (approximately 224.4 million) of which was urban – and for the whole of Africa the figure rises to slightly above 50 per cent (AMCHUD, 2005). This is due to changes in the countryside, high rates of fertility, falling death rates and inward migration. Africa (along with Asia) is expected to experience the highest rates of urbanisation in the world so that by 2030, 54% of inhabitants

[39] For more on this see Wolmer, W. (2003) *Transboundary Conservation: The Politics of Ecological Integrity in the Great Limpopo Transfrontier Park.*

will live in urban areas (Jenkins, 2005) – and this is bound to put more pressure on urban and peri-urban areas, raising land values and increasing the vulnerability of livelihoods of informal settlers. The key challenges arising from rapid urbanisation that are being faced across the continent, and certainly in southern Africa, are now examined in more detail: the growth of informal settlements, peripheralisation, service delivery and specific peri-urban challenges.

Growth of informal settlements, "peripheralisation" and evictions

Addressing the UN hearing in 2006 on "Housing and Urbanisation Issues in Africa", Dr. Tibaijuka highlighted sub-Saharan Africa's plight where 72% of its urban dwellers live in informal settlements (Tibaijuka, 2006). In the majority of urbanising regions, urban development has lagged behind economic development and this has led to informal land development in and around cities, leaving the poor to "fend for themselves" (Jenkins, 2005). As land markets have been liberalised, opportunities for migrants to access land have reduced, pushing migrants into peripheral and marginal areas and options for land ownership have declined. In late 2006 the Schlein report (Schlein, 2006) said that the practice of forced evictions was increasing dramatically in Africa. Calling forced evictions one of the most widespread and unrecognized human-rights violations in Africa, the joint report by Amnesty International and the Geneva-based Center on Housing Rights and Evictions, noted that more than three million Africans in 20 countries have been forcibly evicted from their homes in the past six years. As land prices rise, poor people are priced out of even the less desirable areas by middle-income earners and forced to move into temporary settlements. Peri-urban land is often lost to residential development, reducing the potential for peri-urban subsistence farming and the cultivation of high value produce. Disputes over access to and control over peri-urban land often gives rise to social conflict, and this is compounded by clashes between formal and informal land right systems. The poor who are living in good locations find themselves displaced by market forces with payments linked to the lower informal market, yet economic gains being determined by the emerging formal market (Jenkins, 2001). Most of the poorest live in the informal sectors, which predominate in most sub-Saharan African cities and are growing while opportunities for low income households to access land for housing through non-commercial channels have declined (IIED, 206). Customary land access, which is modified in the urban context, is under threat. Developing appropriate legal, regulatory and administrative mechanisms must be based on a thorough understanding of the actual situation, and changes in the legal and management system for urban land needs to take into consideration both *de jure*

and *de facto* occupancy, taking into consideration the broad legitimacy of informal mechanisms. Rising values of land are a fact, and while this does not mean that land needs to be privatised, "the exchange values are as important as the use value and both need to be represented in the management process through taxation of land use and transfers, permitting differential taxation to be addressed to different situations of social consolidation and economic development" (DW, 2002: 2).

Poor service delivery

Rapid urbanisation in the southern African region has meant that urban centres, designed and planned for smaller populations than they are having to cope with, are struggling to supply serviced land for housing to the growing populations and workforce. Women headed households form a high proportion of many slums and informal settlements, living without basic services, secure tenure to land or adequate housing (Benschop, 2004). Governments face many challenges as they try to combine the need to build a prosperous local economy with meeting pro-poor needs. In particular they have to attract new investment, increase local revenue to allow for investment in infrastructure and service provision, and to support the prosperity of economies through which most low-income groups obtain their livelihoods (E&U, 2003). In a winner-takes-all global economic environment, the prospects for African cities to be engines of growth and serve as centres of employment generation are slim (Beall, 2005).

Peri-urban challenges

In most sub-Saharan African urban and peri-urban[40] areas land development and problems of tenure security are common (Jenkins, 2005). Peri-urban areas are 'grey zones' that fall into those areas that do not fall into the discretely designated sphere of 'urban' or 'rural'. They are the interface where urban and rural activities meet, "socially and economically heterogeneous and subject to rapid change. Small farmers, informal settlers, industrial entrepreneurs and urban

[40] Peri-urban has been defined by Kasanga *et al* (1996, cited in Nkwae, 2006: 4) "as a locus of abrupt tenurial transformation" where land is being transformed institutionally from rural to urban and as such it is in state of transition from customary to statutory tenure. Development Workshop, more simply uses the following indicators: (i) The absence of networks of collective public services: running water, sanitation and collection of rubbish, telephones and tarred roads; (ii) The proliferation of unplanned and unauthorised building, or at least building without government planning or authorisation (DW, 2004: 8).

middle class commuters may all coexist in the same territory but with different and often competing interests, practises and perceptions" (Allen and Dávila, 2002: 1). Peri-urban agriculture provides a number of benefits, including income and employment, import substitution and environmental improvements such as protection of topsoil (UNFAO, 2006) and a base from which to access both informal and formal markets and employment opportunities. Land is also a physical asset that may be used to gain credit, and that may increase in value providing a base from which to economically improve one's status. When these areas come under threat, significant livelihood opportunities are destroyed.

Nkwae (2006) points to several problem areas in peri-urban areas: haphazard and unregulated land development, illegal and informal land transactions, rapid land tenure transformation, proliferation of informal settlements, environmental degradation due to pollution and the loss of agricultural land associated with food insecurity. He believes these problems to have arisen not only from high levels of rural to urban migration, but also misconceptions about customary tenure and the extension of ill-adapted land administration systems into the peri-urban environment that lack the capacity and resources to deal with the problems.

A number of other features characterise peri-urban areas (*Ibid:*5-6):

- intermixing of rural and urban economies and cultures;
- opportunities for multiple livelihoods;
- "fragmented land holdings and structures";
- "rapid, and probably permanent, sudden transformation from traditional agriculture to intensive commercial and urban residential uses";
- lack of basic services such as piped water, sanitation, electricity, properly designed and constructed roads; and
- "unregulated rental markets, which increases insecurity and risks for both landlord and tenant".

3.2 VIOLENT ENVIRONMENTS – THE IMPLICATIONS FOR LAND AND LIVELIHOODS

Having examined the challenges and opportunities that current land issues present, this chapter now shifts attention to explore in depth the specific challenges to land and livelihoods that violent environments present. It first presents the contextual setting that illuminates the post-conflict challenges for effecting land policy, legislation and management that facilitate growth, broad-based development and poverty reduction. Violent environments are then understood as

those where there is violent, armed conflict and also where there is structural violence that destroys or undermines livelihoods.

3.2.1 Structural violence– the violent impact of inequitable distribution of resources

Poverty and inequity are the common denominators in many of the conflicts that have plagued Africa, although the outward manifestation of these may not be violence in the form of civil war, but threats to human security: conflict at a localised level, or loss of livelihoods. It is not so much the extent of inequality as the kind of inequality that matters (Cramer, 2001), such as unequal distribution of land embedded in social relations.

"The most striking common factor among war-prone countries is their poverty – the poorest one-sixth of humanity endures four-fifths of the world's civil wars. The strong correlation between conflict and poverty includes deep inequality, unequal growth and the unequal distribution of resources…..Structurally, these may be related directly back to the allocation and distribution of resources, including the scarcity of land and the compromising of land tenure rights" (Huggins and Clover, 2005: 2). It is widely acknowledged that inequitable land distribution in Southern Africa (especially South Africa, Zimbabwe and Namibia) has been both a cause, and a product of continuing poverty: it constrains local economic development, social mobility and in some parts of the region the inability to address a history of unequal land distribution has led to racial and political tensions and hampered economic development (Roth, 2002). "Since independence, landholdings in Southern Africa have remained highly skewed between the rich and poor reflecting the land agricultural policies adopted in colonial times and after independence" (Fortin, 2005: 1).

An analysis of the socio-political and historical forces that have shaped the political economy of southern Africa and given rise to systems of power that marginalise certain groups, reveals how these factors have profiled the contours of resource exploitation, defining and shaping the legal and institutional framework that has largely determined the issues of access. The use of land in southern Africa during the colonial period is a clear example of one-sided stakeholder interest: the way land was viewed, managed and used resulted in racially skewed land distribution, dual tenure systems and severe degradation of communal areas. Such events occurred elsewhere in Africa, but the intensity and scale were unique to this region, in southern Africa's 'settler' states of Namibia, Zimbabwe and South Africa in particular. Although the settler states of Angola and Mozambique share a history of Portuguese occupation, it was the political instability after

independence and decades of war that uprooted and dislocated populations, destroyed assets, and created widespread trauma, that have had the greatest impact. Common to all southern African countries are the dual economies that developed, where access to resources and markets remains historically segmented: between 'white' and 'black', rich and poor, socially advantaged and socially disadvantaged.

This next section closely examines armed conflicts – such as the protracted and violent, civil wars experienced in Angola and Mozambique – and which impact on society at various levels in the short, medium and long term, increasing levels of poverty and vulnerability.

3.2.2 The impact of armed conflicts

Armed conflict and access to land are linked in two main ways. Control over land and natural resources may be a factor (but rarely the cause) in underlying conflict. This issue is a concern and was explored in the previous. Conversely, armed conflict may severely affect land tenure or access.

Attention now turns to this issue as one of the significant challenges to land issues. During conflict there is a disintegration of property rights, land and access to land play an important role in the conduct of conflict, and an end to conflict creates new tensions around land and possible challenges to the peace process. More broadly, land issues play a fundamental role in post-war reconciliation and economic rehabilitation (Unruh, 2004b).

Africa is no stranger to violent conflicts (see Box 3-2 for more details) which carry significant implications for land based livelihoods, most especially in the rural areas. Overall the negative effects on peaceful development, economic growth, levels of poverty and sustainable resource use are severe and long term.

There are many common features to war-torn economies, the impacts of which are both short and long-term. Violent conflicts cause horrendous human suffering, retarding if not reversing development achievements, and create a vicious circle or a "conflict-poverty" trap (IPA, 2005).

Box 3-2: Conflicts in Africa – An overview

Africa entered the 21st century facing a security and development crisis of immense proportions. It is the continent hardest hit by growing poverty and inequity, has changed from being a key exporter of agricultural commodities into being a net importer[41], has the highest percentage (33%) of undernourished people[42] and has shown the least progress on reducing the prevalence of under-nourishment in the last 30 years with nearly 200 million people suffering from malnutrition. Civil strife and the existence of internally displaced people or refugees were responsible for more than half of the reported food emergencies in Africa as of February 2005. The proportion of food emergencies that can be considered human-induced has increased over time. Indeed, conflict and economic failures were cited as the main cause of more than 35 % of food emergencies between 1992 and 2004, compared with around 15 % in the period 1986-91 (FAO, 2005b). In many cases, natural hazards are compounded by human-induced disasters, leading to prolonged and complex emergencies. Africa is also threatened by the lack of access to resources: the loss of arable land, water scarcity, over-fishing, deforestation and loss of biodiversity present enormous challenges for sustainable development. For many people the word "Africa" has become synonymous with conflict and the various stages of conflict, which all affect human security. Over half the countries in Africa and 20% of the population were affected by conflict in 2000, while six of the top 10 countries on the 2006 Failed States Index are in Africa (IDC, 2006: 11). There are continuing civil conflicts, countries in danger of descent into conflict, countries facing renewed conflict, countries economically, socially or militarily affected by neighbouring conflicts, countries directly involved in neighbouring conflicts, and countries in transition from war to peace. Ending post-colonial conflicts in Africa and reconstructing states and societies has been the focus of many international efforts for more than a decade, but peace is often fragile, making it difficult to apply the term "post-conflict", in other cases conflict has re-asserted itself.

War accentuates inequality (Addison, 2005) not only in real income but also in human development indicators and poverty deepens. Even with peace, security may be fragile, particularly in the countryside. An examination of the different ways in which impacts are experienced at different levels – from the household to the macro level – is now illuminated.

The household level

At the household level the more direct effects of conflict are displacement, forced migration, changing household composition and the impact on income generation, labour and productivity,

[41] FAO has stated that Africa's annual food imports are the equivalent in hard currency of US$19bn, while its agricultural exports are valued at US$14bn (SAPA, 2002).

[42] The highest prevalence of under-nourishment is found in sub-Saharan Africa, where FAO estimates that 33 % of the population is undernourished. This is well above the 16 % undernourished estimated for Asia and the Pacific and 10 % estimated for both Latin America and the Caribbean and the Near East and North Africa (FAO, 2005b).

and the loss, depletion and maintenance of assets all of which result in considerably limiting livelihood options (Longley and Maxwell, 2003). During conflict situations it is most often how wars are fought that puts civilian populations at risk, far more so than the fighting itself (Clover, 2004). Massive population displacement is often a crucial part of the overall intent of the warring parties. Rural societies, best described as 'distressed livelihoods' as they experience a dramatic increase in risk and uncertainty (Korf, 2003), suffer disproportionately as attacks on civilians are often part of deliberate strategy than a side effect, 'scorched-earth' tactics having severe effects on the livelihoods of civilian populations (DeRose *et al.*, 1998). Conflict cause hunger through the deliberate use of food as a weapon:

> "Adversaries starve opponents into submission by seizing or destroying food stocks, livestock, or other assets in rural areas and by cutting off sources of food or livelihood, including destruction of markets in urban and rural areas. Land and water resources are mined or contaminated, to force people to leave and to discourage their return...combatants commandeer and divert relief food from intended beneficiaries and keep emergency rations from affected civilian and displaced populations" (Messer, 1998: 166).

Displacement can rupture social relationships but in certain circumstances it can also diversify and strengthen them. Households with access to the wartime shadow economy and connection to local-level elites benefit from political instability and accumulate assets, while poorer households fall further behind. Civilian incomes from illicit activities may compensate for the state's failure or incapacity to provide basic services, exacerbating the vulnerability of communities, impelling them to deepen their involvement in conflicts:

> "A protracted conflict can undermine and even destroy social capital: conflict entrepreneurs – new political actors legitimised by the rule of force and violence – often play a fundamental role in determining access to resources. They patronise their own clientele (their own ethnic group) and thus reinforce intra-ethnic identities and inter-ethnic grievances" (Korf, 2003: 20).

Segments of the elite, themselves frustrated by violent competition, exploit situations of political instability for their own economic purposes, and are able to mobilise large numbers of foot soldiers relatively easily in a situation of pervasive poverty and insecurity.

Conflicts often cause extensive and long-lasting damage to the environment, consequently undermining rural livelihoods which are so dependent on natural resources (Luckham *et al.*, 2001). The changing patterns of mobility are a key response to people in risk-prone environments as evidenced in refugee camps and settlements for internally displaced people that

often put the environment under severe pressure as concentrated populations of people seek firewood building materials, (and in so doing degrading forests), water and arable land to survive off (Vanasselt, 2003). Armed conflict can also wreak havoc on government conservation efforts, especially in protected areas (Mathew *et al.*, 2003 cited in Vanasselt, 2003). In countries where nature tourism provides a major source of income for biodiversity protection, that source soon dries up, and war often leads to the breakdown of law and order, leaving protected areas and species vulnerable to exploitation. Political conflict and environmental degradation are closely interrelated, though the causal link is by no means clear cut or uniform, and cause and effect are difficult to separate.

Limited accessibility to natural resources restricts the freedom of livelihood options, causing households to gradually deplete their capital stocks, while investment in sustainable land management is not rational for farm households that are uncertain about future development affecting the fundamentals of their lives (Korf, 2003). Agriculture and trade, crucial for most peoples' survival, decline rapidly as conflict devastates agriculture and compromises food security. Widespread food insecurity and chronic malnutrition become the norm. Lands are often not tended, and protection and storage of stocks are compromised because of massive displacement, insecurity, and the presence of landmines, as well the conscription of manpower (OECD, 2005). Communities are often pushed onto marginal lands, which in turn results in soil erosion, and depletion or destruction (e.g. deforestation and poaching) of natural resources that are not managed. Livelihoods are threatened because access to food is limited, the collapse of small industry and social services, the increased risk of disease, the collapse or fragmentation of communities, and an increase in the number of female-headed households. The rural economy becomes geared towards obtaining food security through subsistence activity and poverty increases as coping mechanisms falter. An indirect effect of conflict on the environment is the tendency of increasing food insecurity resulting in growing dependence on bush resources, such as bush meat for survival, reinforcing poaching by armies.

Resilience to natural and other shocks is undermined at both the household and national levels and disaster mitigation is extremely limited. Conflicts thus act to drive disaster risk upwards, so that all that is required to trigger widespread suffering is a modest environmental hazard such as an unexceptional drought or heavy rainfall. It is such combined political-environmental disasters over several years which produce the "complex emergencies" that now confront the international relief community (Messer, 1998).

Meso- and macro- level

At a meso- and macro- level the impacts of war include, *inter alia*, the breakdown of social and physical infrastructure and services, collapse of local markets, changes in the wider economy, and changing governance structures. The structure of the economy is deeply affected. GDP/capita falls; inflation is generally high and the exchange rate overvalued, and the financial system is very weak; the fiscal system is also weak, but the peace dividend that might accompany lower military spending is usually illusory; the industrial sector tends to be abnormally small (Draman, 2003; Addison, 2005). Wartime economic management has a long-term impact. Public expenditure is reoriented toward the military effort. Arms purchases not only increase foreign debt, they require the growing of more export/cash crops, often at the expense of food crops, to earn the necessary foreign exchange. Sometimes weapons shipments have even been paid for by the direct transfer of internationally provided emergency food shipments. The economic legacy of civil war is to reduce the level of income for a considerable period, which puts all forms of government expenditure under pressure. Because civil wars often do not end decisively, military expenditure cannot easily be reduced, so post-conflict governments commonly maintain far higher levels of military expenditure than prior to the conflict. Foreign and local investment dries up. National savings are depleted; economic assets fall prey to criminal groups. Government spending during the war deepens inequality further as most social spending favours safer, urban areas (World Bank, 2003a). New kinds of war economies often emerge with the elite and/or war-lords readily exploiting the chaos of war to create new systems for profits, power and even security (Ohlsson, 2000). Natural resources – from diamonds to ivory – may be a part of this new economy.

Conflict wrecks the physical infrastructure, from hydroelectric schemes at one end of the scale to village wells at the other, and roads, railways and bridges are destroyed. The lack of maintenance during the years of war compounds the breakdown in infrastructure. At a broader level infrastructural damage disrupts transport, local markets and the broader economy, and there is a change to governance structures. During war rural households live in a completely deregulated economy (USAID, 2005a). The ability of the state to function effectively is weakened, its power and penetration weakened, or even rendered illegitimate in some areas, as financial resources are diverted to the war effort and administrative functions crippled or rendered inoperable and rules unenforceable (Unruh, 2004b). As conflict continues over time, overall national reduction in capacity deepens. Scarce resources and energy are diverted towards

war efforts, and trained and skilled manpower is redirected from the economy and administration. The result is a lack of or weak coordination and planning, impairment of regional co-operation, and weakening of local government skills.

Land tenure

Three broad processes change the land tenure situation during conflict::

- The physical separation of people from established home areas and the ways of land use and tenure due to war dislocation;
- Civil conflict necessarily results in a reduction in the power and penetration of state law (Unruh, 2004b) and
- Localised conflicts are particularly likely in situations of rapid demographic change as tenure security is often compromised because of loss of social capital: "Armed conflict and its repercussions reconfigure the network of social relations upon which all land tenure systems depend" (Unruh, 2004 cited in Unruh, 2004a: 11).

Forms of land tenure may be created which are directly connected to the opposition, and legitimised by military occupation – such is the case in Mozambique with a checkerboard effect of community-level alliances to Renamo or Frelimo (Hanlon, cited in Unruh 2004a) – further explored in Chapter Seven. Agriculture and trade, crucial for most peoples' survival, decline rapidly as conflict devastates agriculture and compromises food security (Addison, 2005). Lands often are not tended, and protection and storage of stocks are compromised because of massive displacement, insecurity, and the presence of landmines, as well the conscription of manpower. Landmines, used an offensive weapon, reconstitute the natural landscape because a primary objective is the purposeful disruption of access to land-based resources by both farmers and one's opponents, thus denying food supplies to the enemy (Kalpers, 2001). This then results in large abandoned agricultural areas that return to bush and forest, while unmined agricultural areas become degraded due to over-population (Unruh, *et al.*, 2003: 844). Landmines act to restrict or endanger access to land and other crucial resources such as water. Mine accidents increase during the agricultural season when returning populations begin cultivating unused lands. The civil wars and protracted social conflicts throughout the region, including Namibia, Angola, Mozambique and Zimbabwe, have left a legacy of landmines, rendering areas unavailable for use as arable or grazing land (UNFAO, 2005a; ARCHI, n.d.). In Mozambique, as will be shown, it was unsafe for many people to tend farm plots or graze animals due to soldier attacks and dependence on food distribution, food insecurity and chronic malnutrition resulted (Newitt, 1995).

3.3 POST-CONFLICT RECOVERY AND RECONSTRUCTION – THE CENTRALITY OF LAND

Having examined the impact of violent conflict – political, social, economic and environmental – this section explores the centrality of land issues in a **post-conflict** environment. As has been noted in the previous chapter, land as a cause of conflicts has been the topic of much research in recent years. The need to pay attention to land issues in a post-conflict environment, however, has until recently received far less attention. While every country has a unique set of issues specific to the locality and influenced by historical factors, there are certain commonalities that inform a deeper understanding of the challenges for effecting land policy and legislation that facilitates growth, broad-based development and contributes to reducing poverty. Conflicts indirectly affect livelihoods and environmental change through the effect on land access and rights, in particular of post-conflict processes. Re-establishment of land ownership, use and access rights form an important part of social and political processes that take place in the aftermath of conflicts. Countries emerging from war, and which are therefore often inherently unstable, face particular problems as regards land-related conflicts. It requires understanding of the wide range of causal factors of such conflicts – what drives and sustains environmentally related conflicts, and the solutions proposed to reduce the incidence of these. But the emphasis cannot only be on conflict as an outcome of resource scarcity – it is equally important to take note of social disruptions and the 'loss of livelihoods' as a principal source of insecurity as well as recognising that nature is valuable in it owns right in addition to its instrumental value for human beings (Khagram *et al.*, 2003):

> "Ending post-colonial conflicts in Africa and reconstructing state and societies in their aftermath is the focus of much international activism since the 1990s. In cases such as Mozambique and South Africa, the movement from war to peace has resulted in tangible economic and social improvements in the lives of individuals and the communities. And yet, for all the successes that can be pointed to, there remain numerous instances where peace still has only a tenuous grip on society or conflict has re-asserted itself. A common denominator of those states which have succumbed to political violence is the failure of post-conflict reconstruction to address the issue of land" (IFAS, 2005: i).

3.3.1 Return, resettlement and reintegration

Access to land and secure tenure is essential as the social reintegration of communities depends to a great degree on their ability to resolve land conflicts and to receive IDPs (Internally Displaced Peoples), ex-combatants and refugees without prejudicing their own livelihoods. "Land access for migrants and returnees is one of the first potential points of tension – the

settlement of refugees and IDPs in areas occupied by local communities can result in the property rights being compromised, and calls for consultation with host communities. However, decisions about where government and donors locate concentrations of refugees and returnees are rarely made with local community consultation, compensation, or coordination, especially with regard to how land is accessed for this purpose" (Unruh, 2004b: 14). Vested interests of military authorities may also influence locations – such as in Angola where powerful role players located displaced communities near to commercial agricultural ventures for the purpose of cheap labour (Acord, personal communication, 2004).

In the immediate post-conflict setting there is often a scramble for access to the assets necessary to (re-) establish livelihoods for large numbers of people. Disputes may arise as displaced people return only to find that their land and property may have been damaged or destroyed, or access is denied. The persistence of pre-conflict structural inequities may exacerbate such problems (Daudelin, 2003). It is critical for there to be institutions and laws to meet claims for property restitution, and for resolving possible disputes over competing claims (Fitzpatrick, 2001). Government institutions need to establish legitimacy and capacity to recognise and resolve land tenure problems arising from return of refugees and IDPs. (In all likelihood, however, this will have to be preceded by the rebuilding of state institutions and efforts to enhance their administrative capacity on the basis of good governance principles.)

Governance of the tenure regime, access to land, security of tenure and distribution of land holdings provide the building blocks for sustainable security, but in post-conflict situations they are also more fluid and open than perhaps at any other time. There is often a lack of adequate legal or institutional protection over land and administration mechanisms and records have been disrupted. Records need to be collected and restored, and a functioning system of land administration needs to be re-built. In the absence of these protections, land quickly becomes a valuable and symbolically powerful commodity, easily subjected to manipulation and abuse.

Dealing effectively and fairly with land claims by women and refugees, the use of land as part of a strategy to provide economic opportunities to demobilised soldiers, and the resolution of conflicts and overlapping claims that may arise, in a legitimate manner, will greatly increase the scope for post-conflict reconciliation.

3.3.2 Peacebuilding

The term 'peacebuilding' – which means establishing the foundation for peace, justice, reconciliation and sustainable development – has broadened its scope to encompass the overlapping agendas for peace and development in support of conflict prevention, conflict management and post-conflict reconstruction. It offers an integrated approach to understanding and dealing with the full range of issues that threaten peace and security. This requires an understanding of the direct and indirect impacts of conflict that are felt at the macro, meso (sectoral and regional) and micro (household and local community) levels, as well as the responses to these that incorporate political, economic and social factors:

> "At its core, peacebuilding aims at the prevention and resolution of violent conflicts, the consolidation of peace once violence has been reduced, and post-conflict reconstruction with a view to avoiding a relapse into violent conflict….it seeks to address the proximate and root causes of contemporary conflicts including structural, political, socio-cultural, economic and environmental factors" (Tschirgi, 2003: 2).

Promoting peace and unity entails respecting and integrating all groups constituting the society – and this calls for ensuring guarantees and safeguards to protect the interests of marginalised groups, otherwise discriminated groups would be justified to seek self-determination. Policies for social inclusion are more important and macroeconomic policy relatively less important in post-conflict situations than in normal situations (World Bank, 2003b).

The challenges of post-conflict normalisation are monumental – peace is often fragile, making it difficult to apply the term 'post-conflict' as in many cases there is a precarious balance between renewed conflict and sustained peace – see Box 3-3. As countries transit from war to peace it is important to move beyond saving lives to saving livelihoods, building resilience and addressing vulnerability, and at the same time helping transform a fragile process into a sustainable, durable peace in which the causes of conflict are diminished and incentives for peace are strengthened. Countries also have to deal with the many ways in which these impact on livelihoods, and to create an environment conducive to the rebuilding of livelihoods. An integral part of rebuilding trust is reducing levels of poverty and for peace and stability to prevail, the needs arising from underdevelopment and huge inequalities must be addressed during this (re)construction phase.

Box 3-3: The Concept of Positive Peace (directly sourced from Miller, 1994: 2)

"Positive peace is more than the absence of violence; it is the presence of social justice through equal opportunity, a fair distribution of power and resources, equal protection and impartial enforcement of law. Efforts to achieve positive peace emphasize:

- Establishing peace through world order by supporting international law, compliance with multilateral treaties, use of international courts, and non-violent resolution of disputes, participation in international organizations, trade, and communication;
- Establishing social equality and justice, economic equity, ecological balance; protecting citizens from attack, and meeting basic human needs;
- Establishing a civil peace which provides the constitutional and legal means necessary to settle differences non-violently;
- Eliminating indirect violence which shortens the life span of people, sustains unequal life chances, or reduces quality of life for any citizen; and
- Practicing conflict resolution as a foundation for building peaceful interpersonal and institutional relationships.

The concept of positive peace involves the elimination of the root causes of war, violence, and injustice and the conscious effort to build a society which reflects these commitments. Positive peace assumes an interconnectedness of all life."

While peace may hold, when inequity is embedded in social relations and the political and conflictual significance of distributional problems are not addressed, what may follow is the transformation of violence into still pervasive but different forms, including localised rural conflicts and widespread urban violence (Cramer, 2001). Inequality does produce conflict, and often violence, but this need not take the form of civil war (Cramer, 2001: 9). In other words, civil war must not be seen as a field of study different from other forms of social conflict and violence. As the renowned conflict analyst, Duffield, states "Similar processes operate in both peace and conflict; consequently war economies may be a different expression of what constitutes normality in peacetime economies, and war and peace represent different degrees of each other rather than absolute or contrasting stages" (Luckham *et al.*, 2001: 3). Both war and political violence affect the allocation of power and resources that in turn impact negatively on poverty and inequity:

> "…if post-conflict reconstruction merely consists of re-creating what existed prior to the state's collapse, this may ultimately lead to the very same result: another failure. Therefore, post-conflict state-building should aim, first and foremost, at building a new, different state….Otherwise, the unity of the state may be restored at the

expense of justice, and may not foster peace in the long run" (Rogier, 2004: 54).

3.3.3 Land and property rights in the peace process

Violent conflict poses enormous challenges for development; the ending of war brings the potential of huge economic benefits especially for rural populations since they bear the greatest economic and humanitarian costs. The need to re-establish food security is of the highest importance, and agriculture in general is critical for countries rebuilding from war, especially in making recovery work for the poor. Access to the productive assets upon which rural livelihoods depend (land, water, forests, and fisheries) are critical.

Although land is a significant element in peace-building and economic reconstruction, notwithstanding the amount of work done on land policy in the developmental context, its importance in post-conflict environments has received very little attention by researchers, governments or peace-building and development agencies, despite it playing a fundamental role both in recovering from and preventing a relapse into conflict. The importance of land issues, furthermore, is often not recognised early enough, and even if it is, it is not always politically or practically feasible to effectively address these in the immediate post-conflict period (USAID, 2005b). There is now a rising understanding that land – urban and rural – plays an extremely important role in development and reconstruction. Land policies are very important in peace-building: they play a fundamental role in how displaced people are dealt with; they must create institutions and laws to meet claims for property restitution, and land policy shapes future social and economic structures.

It has been appositely stated by Unruh *et al* (2003: 857) that outside of armed combat, "post-conflict scenarios are arguably some of the most dynamic and fluid of circumstances regarding the interaction between society and resources (in particular, the speed with which scales are restructured). This is especially the case due to the temporal proximity of conflict and recovery, and the often ambiguous distinction between the two for large numbers of civilians". With the ending of armed conflict, especially prolonged civil conflict, a significant proportion of the affected population will begin to claim, re-claim, or access properties, lands, and land-based resources. This creates a situation in which land and property rights issues take centre stage, often over much of the territory, over short period of time, and for considerable numbers of people. This heightens the potential for land and property issues to aggravate the potential for renewed conflict:

> "Managing land issues in an effective manner in a peace process is not only important to avoiding disenfranchisement of local populations from land rights, a primary factor contributing to instability, but also to the secure re-engagement of populations in familiar land uses and the resulting agricultural production, food security and trade opportunities important to recovery" (Unruh, 2004b, 1).

Furthermore, the immediate post-conflict poses many operational tensions – much reduced capacity of the state coupled with the necessity for quick and effective implementation of land tenure systems. Organizational, institutional and financial aspects of the reconstruction of formal tenures systems pose significant administrative challenges in the post-conflict period, there is also the matter of legitimacy and capacity of institutions (Unruh, 2004b) to effectively recognise and resolve tenure issues that arise during the return, resettlement and reintegration of communities, and of the long-term reconstruction of the economy.

During the course of conflict there is considerable fluidity regarding the access and use of resources (often in order to fund and sustain the conflict); forced dislocation and migration also have consequences for land use and tenure. There may be changes in land asset access because of opportunistic activities of individuals and groups, war leaving a legacy of land disputes in which some groups, particularly minorities lose their titles to agricultural land. This situation often continues to be as dynamic in the early years of post-conflict recovery (*Ibid*). Ensuring secure access to land and security of tenure is particularly complex in situations following violent conflicts as people scramble for access to assets needed for the re-establishment of livelihoods, taking advantage of fluid and open rules of legitimacy, authority, and social norms/rules of behaviour. This is evident in the hasty pursuit of land access for large-scale commercial interests by speculators and others who take full advantage of the fluid situation to acquire resources while they can (OECD, 2005). Those individuals and groups who are not in a position to gain from peace – refugees, internally displaced people, people without documentation, the poor and illiterate – find themselves excluded from such opportunities, and may also be taken advantage of. A rush for land may even start before hand as optimism that the war is going to end grows:

> "Land in a war zone is worth little in commercial terms, and military victory and survival take priority over land tenure. Once security issues are no longer paramount, however, a huge land grab often results" (AgJournal, April 2002).

Such was the case in Angola, the first land grabs beginning at least a year to eighteen months before, as government forces began to close in on the opposition – see Chapter Six. The surge in

interest in land very quickly outruns the ability of the (transitional) government to administer tenure systems, to manage conflicts, or to reform policies or legislation should these be required. The slow pace of re-establishing administrative and institutional structures or reforms may even be deliberate in the interests of the political elite engaging in land grabs (OECD, 2005; Unruh, 2004). There is a weakening of the state in regards to land tenure, evident in numerous areas. Some of the key issues that need to be addressed are (Unruh, 2004b):

- The re-establishment or development of a functional land tenure/administration system;
- Identifying what official and unofficial records of land rights exist, where and with whom they reside;
- Ascertaining the ability of the state to deal with conflicts that may arise as local communities, returnees and demobilised soldiers all located in the same area come together;
- Identifying what local expertise is available to manage the existing legal infrastructure, or advise in the (re-)establishment of the legal system;
- The need for awareness, information dissemination regarding evolving tenure arrangements;
- Provision of incentives for investment and sustainable resource management that rest on well-defined and secure land rights, and
- Documentation also plays an important role in attempts to assert rights, especially in urban peri-urban areas. In post-conflict situations confusion may arise from multiple and contradictory documentation, or lack of it, aggravated by the incapacity of formal institutions, and this may easily result in those who are in a more powerful position, financially and/or politically, taking advantage of disadvantaged elements of the community who have little or no documentary evidence as to their claims (Daudelin, 2003).

A factual review of land, livelihoods and conflict has provided the necessary research context before turning attention in Chapters Five, Six and Seven to Angola and Mozambique. This next section provides the rationale for using a political ecology framework in exploring land issues in the peace process by examining the central issue of the governance of land. It does not search for 'environmental triggers' of violent conflicts, but looks at the reciprocal relationship between nature and humans (Peluso and Watts, 2001) – at the way that specific resource environments are constituted by and in part constitute the political economy of access, at the balance between the different power holders, and how, in turn entitlements to resources are determined.

3.4 THE GOVERNANCE OF LAND

> "The fact that social and ecological systems are strongly connected poses a serious test for existing governance systems" (Galaz, 2007: 11).

Research into land has tended to be dominated by two broad methodological approaches (Jenkins, 2001): "*Neo-liberal* land market research, which aims to understand how the land market actually operates and to provide information as the basis for improvements of this in terms of efficiency and effectivity" (Dowall, 1994 cited in Jenkins, 2001); and the *political-economy* approach that stresses the social and political context and interaction with economic forces in the supply of land and its distribution. The political-ecology analysis adopted in this research widens the scope of study to include the social and political system and sub-systems that affect land activities. Unpacking these broader issues of governance calls for an analysis of:

- policy-making;
- market forces;
- legal, institutional and procedural patterns; and the
- role of actors and their discourses.

Such an analysis serves to highlight the power relations inherent in the governing structures and whether or not there can be achievement of greater efficiency and equity in access to resources. As one indicated in Chapter One, the need for better governance of land resources and the renewal of land institutions is one of the main principles informing the issue of land as an area of current research. Earlier in this chapter, it was, furthermore, noted that there is a growing concern about the poor management of land and natural resources.

3.4.1 Political and economic governance

Most African countries face a number of development difficulties – there are fault-lines in terms of social and political cohesion, capacity to govern effectively, and a lack of resources and/or a lack of equitable distribution channels or mechanisms – all of which are exacerbated by external penetration into these economies and the difficulties that emerge from globalisation. What is currently observed is that most states in sub-Saharan Africa have suffered from poor or weak governance over the past several decades and they are overburdened by growing poverty. Good

governance[43] is fundamental to peace, but for many of Africa's peoples, the State has long since ceased to be the provider of security, physical or social. In many countries we have nothing more than a choiceless democracy in which the role of patron-client relationships dominate and political disorder benefits an elite (Chabal and Daloz, 1999). In fact, weak governmental institutions appear to be a more important cause on the pathway to conflict. Palmer (2003: 6) believes that as state capacities and resources have been rolled back "in the wake of new economic orthodoxies…weakened governments searching desperately for foreign investment are offering up resources such as land, water, forests and minerals that were once considered the domain of the state". There are several areas which serve to frame the underlying approach to land – the policies around land, environmental policies, the development agendas set by governments and the broader global context. These are now examined.

Land policies

> "Policies affecting property rights and land holding will invariably be enmeshed with political currents and issues of power" (Fortin, 2005: 6).

Land policy formulation is a complex and dynamic process characterised by an intricate array of actors and relationships and in which knowledge is established in different ways: as a reflection of structured political interests, as a product of the actors involved, and as part of the knowledge that frames practices in particular ways. *Discourses and interests shape each other, and both are additionally influenced by the actions of actor-networks* (Forsyth, 2003). Policy cannot be challenged without an understanding of these dynamic processes, requiring action on all these fronts – and it requires strong advocacy that draws on a wide base of different actors.

It is in exploring who the stakeholders are – who will benefit, who will decide, who will be affected and what tradeoffs and hidden agendas there may be – that the real intent of the law on land is disclosed. Land policy affects power relations and the relative positions of different social groups, so it has significant implications for the management and mitigation of conflict and in a post-conflict environment dealing effectively with land issues is conducive to

[43] Governance is a complex and multi-dimensional concept – there is not consensus as to its core meaning and it is subject to confusion and misuse. The values implicit in the concept as used by the international community, are closely associated with democracy and economic development; the risk of this is the denial of the meaning or content of local political systems, of taking the politics out of governance.

reconstruction (Unruh, 2004b). Hanlon (cited in Palmer, 2003) argues that debates on land are actually a thinly disguised debate about rural development policy and who should be the drivers – foreign investors, the urban elite, advanced peasants or family farmers.

Stakeholder interests and hidden agendas reveal the extent to which land laws are a product of politics that have little or no bearing on those whose livelihoods depend on the land itself. The power relations that are embedded in these arrangements are critical to the social and political negotiation processes that determine access – restrictions and opportunities – to resources, because the problem is often not so much one of resource endowments or geography, but also a problem of institutions and governance. A closer exposition of land policies, therefore, is critical because of its implications for the management and mitigation of social and political conflict.

Because land is one of the most important natural resources for the African continent's economic development, one might assume that the policies affecting land would reflect the importance of well-thought-out economic and developmental considerations: the reduction of poverty, the promotion of farm productivity and general economic development. Land policies should also act as catalysts for social and economic change. But colonial-era laws and institutions, which continue to structure control of land today, were based on a one-dimensional understanding of land, and modern reforms to land laws and policies often fail to reflect these important considerations (AU/ECA/ADB, 2006; Ngaido, 2004).

Following independence, many governments took formal ownership of land on the assumption that customary land tenure is inherently insecure. Like the colonial authorities before them, control over land was vested in the executive arm of government. However, although in many countries much customary land is held by the government, for the public good, the government has rarely consulted local communities in the management of the land, and the state has failed to retain the independence from private pressures which is necessary to defend the public interest. There has been widespread failure to separate the three arms of government – the executive, the judiciary, and the legislature, with many conflicts of interest resulting in negative outcomes for local communities (AU/ECA/ADB, 2006). With varying degrees of success, the power of customary chiefs has been weakened as governments have tried to subsume their powers by setting up alternative systems of local government – decentralised bodies to administer and allocate land, but which have produced mixed responses (Cotula *et al.,* 2004). This has been the

case in several southern African countries, including Mozambique and Angola.

In Malawi, Cross (2002: 4) draws attention to the actions of the state during both the colonial and post-colonial period. They regarded customary land users as a residual group, "to be mobilised for labour purposes or more generally limited to the low-input low-output production of staple food crops." The resulting policies resulted in the shrinking and degrading of the material basis for production, the breaking down of social networks, and the reduction of social capital. Efforts at land reform have also not always reflected economic and development considerations or harmonized legislation. To correct historical inequalities, land reform must also combine with other policies and reforms, for to be successful as a whole the productivity of agriculture, of sustainable rural livelihoods, must not be endangered (USAID, 2005a). Based on a thorough understanding of livelihood strategies, it is critical to link land access and reform with programmes to deliver basic infrastructure, services, plus technical and marketing support. Such programmes need to have as its objective the empowerment of the previously dispossessed and the marginalised, paying attention to the factors that differentiate poor groups from one another.

Environmental policies

Historically, much of environmental policy has been prescriptive and top down, premised upon a conception of environmental change as a linear process, gradually departing from the ideal. More recently there has been a widening of the range of actors involved and increasingly policy has become a process of negotiation and bargaining. The question, however, has remained whether broader participation is successfully challenging remaining received wisdoms based in structural issues of politics and power, or is merely limited to renegotiations over technical knowledge. This calls for an understanding of how socio-political and historical forces, which give rise to systems of power, are inadvertently manifested in the ways society constructs and enforces reality and lead to the marginalisation of certain groups. By way of example, some theorists argue that scientific discourses of the environment may be no more true than any other discourse, except that as an organising discourse they are often more powerful. Scientists are often allowed to by-pass political procedures in the name of nature. Alternative approaches to policy are beginning to evolve that utilize decentralisation of responsibilities to empower the poor (Alden Wily, 2003). They are rooted in a more in-depth analysis of the relationship between power, knowledge and policy that informs how environmental discourses are created:

how and why particular types of knowledge become established in policy, why reality is framed and dealt with in certain ways, and the importance of political dynamics (Forsyth, 2003; Jenkins, 2001).

Environmental policies in developing countries are predicated on some highly questionable assumptions which raise questions of why reality is framed and dealt with in certain ways, why some of these discourses have been so persistent, and the centrality of political conflict over distribution of power and resources (Peet and Watts, 1996). The reason is that their promotion has served the interests of various institutions, political or economic groups. Keeping discourses focused on the technical issues, has kept the more political issues of land management and modernisation of traditional practices off the agenda. Contrary to what that scientific community wishes to present, science is not value free – received ideas about environmental change have served the interests of certain groups and thus marshalled to justify policies (Forsyth, 2003). By way of example, colonial authorities claimed that Africans were inadequate farmers or managers of natural resources, a 'fact' informed by modern science. This 'technical' information served a range of purposes – the moral justification for the seizure of fertile land, the control over rural populations, or the safeguarding of the food producing commercial sector. Participation of others has been viewed with circumspection, of dubious nature, and researchers have often 'failed' to see or acknowledge local farmers' investments in soil conservation or successful land management techniques.[44] Examples of policy being applied in the interests of controlling resources are, furthermore, reflected at a global level in the way resources are being developed by trans-national corporations for the use and profit of industrial nations.

A deterministic causality between the social and economic effects of environmental scarcity and degradation and conflicts cannot be assumed (Peluso and Watts, 2001). Aspects such as degrees of political participation, legitimacy and the effectiveness of institutions in resolving problems in a peaceful manner often prove to be more important determining factors in the outbreak of conflicts. Issues of 'good governance'[45] and the political processes and institutions through

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[44] For a detailed discussion see also J Keeley and I Scoones, 'Environmental policymaking in Zimbabwe: Discourses, Science and Politics', IDS Working Paper 116: Institute of Development Studies, 2000.

[45] Environmental governance can be defined as a body of values and norms that guide or regulate state-civil society relationships in the use, control and management of the natural environment. These norms

which actors cooperate to solve common environmental and economic problems are also important. It is, in fact, frequently the interactions between institutions which leads to conflicts over natural resources, or to competing bases for claims; likewise the effectiveness and legitimacy of institutions are relevant to determining whether tensions can be peacefully resolved (Young, 2000). Discriminatory policies and lack of control are often more important than resource scarcity itself, just as the way that people deal with limited resources may be the cause of confrontation, and not the scarcity per se.

Economic regimes and globalisation

Investigation into the physical and market forces that influence governance of land and natural resources is illuminating. Land is one of the central factors in development – for agricultural production in rural areas, for shelter or high-value commercial use in urban areas, and also for social, cultural and political reasons (Daley and Hobley, 2005). In post conflict settings the need to revive agriculture should be seen to be central to the peace-building process, but this requires a comprehensive understanding of the evolving social, economic and political contexts, local and global. An important element in this is the connection between land access and tenure to agriculture policies, and by default the prevailing economic and development agendas:

> "The relationship between land and poverty reduction cannot be seen in isolation from broader agricultural and economic policy. Equally these issues are intimately connected with rural development policies and environmental outcomes. The distribution of land rights and opportunities for access to land will have implications for the distribution of wealth, rates of economic growth and the incidence of poverty, and the shape and direction of agricultural development will affect the incomes and returns from different types of farming activity, the value of land and demands for access to land resources" (Cotula *et al.*, 2004 cited in Cotula *et al.*, 2006: 5).

Land rights are "strongly affected by the prevalent economic and social policy regimes, at both national and global levels" (Patnaik, 2003: 1), "commoditisation, liberalisation and globalisation all forming part of the shifting background against which people negotiate and renegotiate their relations both with each other and with land" (Daley and Hobley, 2005: 24). Discussions on access to land in the rural areas, for example, needs to be seen in the context of

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and values are expressed in a complex chain of rules, policies and institutions that constitute an organisational mechanism through which both the broad objectives and specific planning targets of environmental management must be articulated (Mugabe and Tumushabe, 2004: 10).

the debate on agricultural modernisation – one model promoting agribusiness as a way to attract private capital and increase agricultural productivity, the other model promoting family farming as the backbone of rural livelihoods and seen to be an important source of investment in agriculture. "Ultimately, the choice between large and smallholder farming systems is a question of politics as much as economics" (Cotula *et al.*, 2006b: 10).

Globalisation and structural adjustment programmes, a key aspect of neo-liberal policies which prescribed a trio of liberalisation, deregulation and privatisation, has dominated policy discourse in African agriculture, ignoring other social and political priorities (Cotula *et al.*, 2006). Discourse promoting the connection between 'secure' property rights and the generation of investments flows, have promoted models for private property rights and in turn "favoured the emergence of landowning elites and private agribusinesses at the expense of small producers" (Ngaido, 2004: 4). They have also seen the withdrawal of agricultural support programmes set against a general inability of governments to deliver input, credit and services to land-reform beneficiaries, leaving more of these tasks to civil society (Cotula, *et al.*, 2006b). The agricultural sector, which in most developing countries is bifurcated[46], has seen neo-liberal policies tending to benefit rich farmers relatively more than poorer ones. Agricultural policies, prescribed by the World Bank as conditionalities of loans, have both facilitated and driven the growing integration of countries into the world economy, but this integration is being played out on an increasingly unequal global playing field structured by global agricultural commodity chains and international trade. Fortin (2005: 1) argues that approaches taken by the World Bank for market based land distribution (which, more recently they have been less inclined to promote) have not addressed the structural reasons for the distortions of landholdings in the southern African region or helped to overcome the problem of dual economies, and moreover that inequality is being aggravated. Prices for inputs and food have risen and the majority or rural families have seen their options and living standards constrict, forcing them to diversify their income strategies. The increase in diversification of incomes – referred to as 'off-farm' (or 'non-farm') incomes for rural producers, which is one of the impacts of declining agriculture, is seen to be contributing to deepening social differentiation and class formation (Peters, 2004):

[46] A modernised sector with the majority of land and a minority of people on the one hand, and a small part of the land and the majority of the people on the other.

> "…economic globalisation marginalises large numbers of people by reducing public spending on social services, and delinks economic reform from social policy …Whereas globalisation offers unparalleled economic opportunities for some, it also reconfigures the incidence of poverty within and between countries" (Mittleman and Tambe, 2002: 75, 87-88).

The processes of commercialisation and commodification production that have occurred in the last few decades can be linked to conflicts over resource rich areas. Peters (2004: 292), who calls for these issues to be situated in the broader political economic and social changes taking place, reports that the "intensification of production and increased reliance on the market for inputs and for many basic necessities have led to competition over land and labour revealed in increased transfers of land through rentals and sales, divisions within families following stress lines of generations and gender, and increasing social stratification". Urban relocation is another consequence of these trends and such strategies usually only result in a deepening of poverty.

3.4.2 Legal, institutional and procedural patterns

Securing land rights requires a legal framework and an effective and efficient administrative and judicial infrastructure. It is when land lacks adequate legal or institutional protections that it "quickly becomes a valuable and symbolically powerful commodity easily subjected to manipulation and abuse" (USAID, 2005b: 3). This section examines the structures and processes of institutions (that interact at various scale levels to shape the resource claims and management practices of different actors), as well as judicial and administrative institutions, and the variety of institutions and organisations for natural resource management.

The search for tenure security – debates over titling and registration

The ways in which access to land is regulated, how land rights are defined and recorded, and how conflicts around access to land ownership and land utilisation are managed, play an important role in securing, or jeopardising, livelihoods, and in perpetuating power and property relationships:

> "…fundamental assumptions about the nature of property and hence property rights continuing to frame debates about land. These assumptions derive from two very different positions: the 'Western-legal' view, which sees land rights as the rules of holding physical things (de-emphasising attendant social and political relationships), and the 'anthropological view', which sees land rights as social contracts (focusing on the links between land rights, social processes and structures and political and economic organisation). There are proponents of both views who support (and encourage) the development of land market transactions (and broader land

> commoditisation) as a means to poverty reduction and economic development. However, the dominance of the 'western-legal' view in both donor and developing country policy and practice lies behind land administration systems that all too often favour the marketisation and individualisation of land rights in a way that pays insufficient attention to the wider social and political relationships around land" (Daley and Hobly, 2005, 3).

Across Africa land legislation is based on European legal concepts that find little relevant to land relations on the ground where land is usually held by clans or families and used through complex systems of multiple rights (Manji, 2006; Cotula *et al.,* 2006b). Despite titling and registration programmes being implemented over the past decades in many parts of Africa, customary land tenure systems are commonly applied even where inconsistent with legislation, as they are more accessible to rural people (Cotula *et al.,* 2006b). While there is general agreement about the need for tenure security, debate over what mechanism should be used to increase security, particularly for the poor rural majority, has been the topic of much debate. Until very recently, "Conventional wisdom about rural development in Africa has continued to argue in favour of replacing customary systems of land management with what are considered to be more secure forms of individual tenure, through the issue of land titles" (Quan, 2000: 4). More recent attempts to promote titling were driven by the belief that enhancing security of tenure would promote market-driven development as it would provide incentives to improve land:

> "Land laws….have been first and foremost the products of politics, not of 'objective' considerations of what is best for economic or social or sustainable development" (McAuslan, cited in Lindsay, 2002: 1).

Titling however, has often been detrimental to those socially embedded rights which may not have been recognised in the titling procedure (Fortin, 2005: 7). Meinzen-Dick (2006) also points to the fact that titling in Africa has often led to a weakening of land rights, especially for women and pastoralists, because so much of the land (more than 30%) is held in common. "More seriously, some governments have used titling programmes as an excuse to evict informal settlers from prime inner-city sites and grant them titles on plots outside the city and far from sources of livelihoods and services" (IDS, 2003). Customary rights are often adapted to the local ecology and social systems, and individual ownership is not responsive to the need for flexible boundaries which characterise customary law – for example, the imposition of exclusive ownership can result in loss of access to water resources for families and livestock and other common resources such as forests and pastures. As IFPRI has also found, formal land

titling does not guarantee more security than customary laws, "and may even be a source of insecurity for impoverished households" (Meinzen-Dick, 2006: i).

Titling (the tool of choice in the developed world) is a cumbersome and administratively demanding task, especially in the case of immensely complicated communal property rights systems. Certainly in the absence of an enabling environment that provides credit, infrastructure or technical assistance services, titling alone does not improve people's livelihoods (USAID, 2005a; Alden Wily, 2006). A major difficulty with titling is that cadastral surveys may be incomplete and record keeping inadequate, resulting in transfers going unregistered and data being unreliable. Educated and politically connected people are in a better position to benefit from formalised procedures, and so the introduction of individualised titles has been known to benefit powerful private interests, opening up opportunities for the concentration of land in the hands of political and other elites. With few safeguards for the non-formalised land rights of rural communities, a formal, market-based system shifts power relations so that the more powerful are able to take advantage of new forms of land registration (Alden Wily, 2006). Furthermore, if institutions and land-related interventions are perceived to be in favour of specific groups, serious conflicts may arise especially if this tool is used to "legitimise" previous land-grabbing, or acquisition by other illegal means. It is thus the case that while accountability within a title-holding system at a local level may be better, possession of individual title does not necessarily mean that there is security of tenure; if administration systems and institutions are inefficient, poorly coordinated, or corrupt, the benefits of tenure security will not be realised and may even result in an increase in the number of informal transactions, disproportionately disadvantaging the poor (Cotula *et al.,* 2006). In customary systems, legal recognition of existing rights and institutions may be more effective than poorly established formalised structures especially if they are subject to codification or establishment of internal rules and mechanisms for conflict resolution.

Over the past two decades debates as to the purpose and direction of tenure reform have evolved and there is now increasing awareness that such an emphasis does not benefit the poor. Assumptions have been reassessed regarding the links between ownership title and productivity, and contrary to "received wisdoms" that have prevailed for so many years, and there is the recognition that customary systems do not in themselves hinder intensification of use. Consensus is growing that private ownership of land cannot be imposed from the top down and the appropriateness of privatisation is now an issue for heated debate (Manji, 2006; Jenkins,

2001): instead a range of options "and some countries have begun to embrace tenure dualism in imaginative ways" (Adams and Turner, 2005: 7). The World Bank, for example, has changed its policy and no longer emphasises land titling as essential for agricultural development (Jenkins, 2001):

> "The objective is thus not to substitute modern systems for "traditional, ineffective" systems, but to avoid unregulated co-existence. Even if ownership is an eventual goal it needs to evolve from existing rights. The stress is thus now on appropriate social forms of land administration which are practical, legitimate and equitable (social goals) – rather than economic arguments for efficiency (economic goals)" (Jenkins, 2001: 31).

Moves towards recognition of locally perceived rights and some decentralisation of power to local levels are a reflection of these shifts in thinking. Nevertheless, political will to carry these through is not always there and achievements have been disappointing.

Decentralised land management and administration

Historically land tenure systems in Africa have been characterised by strong, centralised state control over land management and administration. In recent years many countries have adopted new land laws and policies providing for greater decentralisation and devolution of land management and administrative powers (Cotula *et al.,* 2004). This process is taking place within a broader context of political decentralisation, as a large number of African countries have established local governments (Alden Wily, 2003). It is a shift that "has been valuable as a means to get land administration closer to the field, and linking it to tenure practices with which communities are already familiar" (AU/ECA/ADB, 2006: 14).

Land management and administration responsibilities are typically devolved to a variety of different local institutions – land specific bodies, elected local government institutions, or customary authorities. In most of sub-Saharan Africa customary chiefs have *de facto* management responsibilities, even if not recognised by legislation, because of the lack of institutional, financial and human capacity in government agencies.

While decentralisation presents the opportunity for promoting democracy and encouraging sustainable development, to work certain conditions must be fulfilled: (Ouderaogo, 2005) i) there must be the capacity to assume responsibility; ii) there is a strong risk that transfer of authority and resources may lead to a transfer of corruption as well; iii) there cannot be institutional overlap and confusion, which is a common problem in rural Africa; and iv) conflict

of interests between local and national government must be managed. On the positive side, "decentralised approaches tend to go hand in hand with heightened protective measures of majority land interests that may make land access by investors not as straightforward as they may wish" (Alden Wily, 2003: i), but on the other hand decentralisation structures are vulnerable to capture by local elites and it may make local land rights more vulnerable to pressures from external investors or wealthier nationals seeking land (Quan, 2004).

Institutions

Young (2000) defines institutions as a "sets of rules, decision-making procedures, and programs that define social practices, assign roles to the participants in these practices, and guide interactions among the occupants of individual roles". He examines the roles institutions play in causing and confronting environmental problems from the perspective of three analytical themes: fit, interplay and scale. The "problem of fit deals with the congruence between ecosystems and the institutional arrangements created to managed human activities affecting these systems" (Berkes and Folke, 1997 cited in Young, 2000: 23). The closer the fit, the better the performance of institutions. The matter of interplay refers to the interaction between institutions with similar arrangements: horizontal interplay involves interaction occurring at the same level of social organizations. Vertical interplay is a result of cross-scale interactions or links involving institutions located at different levels of social organization. "The resultant interplay between or among organizations may take the form of functional interdependencies (a fact of life) or arise as a consequence of the politics of institutional design and management" (*Ibid:* 26). The concept of scale has to do with the levels at which phenomena occur in dimension of space and time, for example, the propositions derived from small-scale systems apply also to common pool resources. Problems centre on whether we can scale up and down.

In most environmental changes involving human action, institutions play more or less significant roles (Young, 2000). They may be part of the problem or a partner to working out solutions. Some emerge out of contextual macro-level processes and are themselves part of the processes by which the assets of different households are allocated; some are a reaction to the inequalities in society and are essential to the process of transformation and improvement; some institutions are involved in the generation of inequality and poverty. An enabling policy and institutional environment makes it easier for people to gain access to assets they need for their livelihoods. A disabling policy and institutional environment may discriminate against the poor,

making it difficult for them to gain access to land, livestock, capital and information. *Weak institutions of governance are often the more immediate triggers of environmental insecurity*. In a post-conflict environment rising political opportunism is more easily able to take root where there is institutional weakness. Although government land departments are aware of the need for efficient and equitable land administration, performance has been notoriously poor (DFID, 2004) – and is particularly weak in countries emerging from protracted conflict. Governments may lack experienced staff at all levels, with officials having fled or been killed. They may also lack the financial resources for re-establishing administrative capacity. For the development of sustainable land administration infrastructures, sound land administration institutions and good governance are essential components. In general, governments face various problems *(Ibid)*, including weak legal and institutional frameworks; over-centralised and inaccessible land registries (or which may not have been maintained); corruption and arbitrary land acquisition and evictions; and inadequate arrangements for land dispute resolution. In their report (2001: 1) the ITC/UN-Habitat notes that:

> "…in many regions, including Sub-Saharan Africa, governments face difficulties in establishing the institutional and legal framework necessary for 'effective land administration.' Even where innovative solutions are being promoted and tested, more efforts are required to ensure that the systems run smoothly. There are problems of scaling up, vested interests, a lack of political will and a lack of capacity. There is also a need to build closer collaboration across the multiple disciplines working on the same issues but from different entry-points and mindsets."

Property rights in land need to be administered and enforced by institutions that are accessible and accountable and have both legal backing of local land rights and social legitimacy – the recognition that land claims are legitimate (Deininger *et al.,* 2003: 4). In many countries in Africa the gap between legality and legitimacy has been a major source of friction, as evidenced by the fact that more than 90% of land remains outside the existing legal system *(Ibid).* Institutions need to be appropriately structured, have adequate resources and enjoy legal backing, as well as have social legitimacy, including accountability to and accessibility by the local population. It is critical that the gap between legality and legitimacy be overcome: this has been a major source of friction in many African countries because neither adequate resources nor legal backing for administration systems that enjoy social legitimacy has always been forthcoming. Equally, institutions that are legal but do not enjoy social recognition are ineffective. Restoring regime validity in post-conflict situations is particularly challenging as "conflict often breaks down the institutional infrastructure and destroys the human resources on

which the administration and enforcement of a legal-political order relies" (Daudelin, 2003: 14).

In a review of customary land tenure in rural Malawi, Cross (2002) points out that within southern Africa, where there has been considerable experimentation with various reforms of customary land tenure apparently favouring and protecting the interests of the small producer, reforms that have been proposed require an intensity of administration and skills that defy any likelihood of effective implementation. Even where such favourable policy introduced in legislation, the actual implementation usually falls far short of the promise: "This reflects both low levels of capacity and prioritisation, and the operation of powerful vested interests which can overturn promised security of tenure, deny access to services, and prevent the effective upholding of legal rights" (*Ibid*: 34).

In the case of conflicts over scarce resources, where institutions have the political will for peace, scarcity will not give rise to conflict, but if people want reasons for conflict, then resource scarcity easily provides ample justification. Environmental differences add to existing tensions, perpetuating a general sense of insecurity in a context of poor governance or political instability (OECD, 2002). Misinformation easily becomes a tool for antagonists and their supporters. In cases of political instability or conflict which increase the likelihood of a collapse of existing governance structures and failure to enforce the rule of law, the scope for acute situations to erupt into conflict is enhanced. Even minor conflicts can escalate over time into violent strife if the mechanisms for informal negotiation and impartial arbitration are lacking or institutional capacity to resolve conflicts is absent (*Ibid*).

An analysis of interventions that influence whether a process of change manifests as a stressor or an opportunity must include a particular focus on the mobilizing structures and role of civil society in securing the rights of all land users. Effective mobilization generally requires the strong commitment of a small group of leading actors, who may be motivated by ideological commitment, or by greed. A key factor in this is that of organisational efficiency for resources mobilization (Daudelin, 2005), which may be linked to control mechanisms, ideology, socialisation or access to resources. The NGO domain is especially important in post-conflict situations. Because local governance structures involving civil society are found to be weak due to past repression, rapid urbanisation, war and poverty, there is most often limited activity in this area by other actors, such as NGOs, in support of civil society (Jenkins, 2001). Nevertheless, the question of the role of civil society is being raised in many parts of Africa as

pressure for embracing the broadening of environmental issues into claims for livelihoods, entitlements and social justice gains momentum (*Ibid).*

3.4.3 The actors

Finally, this section explores the inter-connectedness of a range of actors and their networks, from local to global, and their discourses – the construction and negotiation of meanings around land rights, the socio-cultural meaning of land, and, *inter alia*, forms of patronage. As was highlighted earlier in this chapter, the increasing role of powerful elites, and often too of governments, in land grabbing is one of the (concerning) trends that is being witnessed in the politics of land. Likewise, the growing role of neo-liberal globalisation in terms of its effect on rural economies in particular, and on policies in general, was also pointed out to be one of the important trends in the new phase of the politics of land.

Reference is made here to actor-network theory (ANT), a framework originally created by French scholars Latour and Callon as an attempt to understand processes of technological innovation and scientific knowledge-creation. Actor-Network Theory emphasizes and considers all surrounding factors — no one acts alone (Wikipedia, 2007). Their analysis of a set of negotiations describes the progressive constitution of a network in which both human and non-human actors assume identities according to prevailing strategies of interaction. From about 1990 onwards ANT started to become popular as a tool for analysis in a range of fields beyond Science and Technology Studies (STS). However, it is distinguished from many other STS and sociological network theories for its distinct material-semiotic approach. It assumes that nothing lies outside the network of relations, and as noted above, suggests that there is no difference in the ability of technology, humans, animals, or other non-humans to act (and that there are only enacted alliances.) (*Ibid*). It further notes that as soon as an actor engages with an actor-network it too is caught up in the web of relations, and becomes part of the 'entelechy'. While this clearly is a very significant area of research, the theme that is teased out further in this work, is the concern with the processes by which scientific disputes become closed, ideas accepted, tools and methods adopted - that is, with how decisions are made about what is known. (Refer to section 3.4.1).

Social capital

Livelihoods are influenced by social and political networks (including social and political capital), given that different groups may have access to different networks and sources of alleviation. One of the common features of war-torn economies is that social capital and institutions are weakened or destroyed. Institutions, such as property rights, trust, and statistical services, tend to have been undermined. War reconfigures resources, relationships and ideologies, and people are not passive, but also act as active agents in responding to and shaping conflict. The "most extreme impacts of war are likely to occur in situations where internal conflict has an important economic function for the minority elite" (Keen, cited in Jasper and Shoham, 1998: 3). New forms of inequality associated with privatisation of violence, bribery and corruption by those controlling weapons, transport routes, food distribution, or access to aid emerge (Draman, 2003). Civilian incomes from illicit activities (such as alluvial diamond mining) compensate for the state's failure or incapacity to provide basic services, but not only make vulnerability assessments nigh impossible, but also create a greater vulnerability for communities to become caught up in conflicts. As noted in the World Bank report, *Breaking the Conflict Trap* (2003a: 21), "Civil war can have the effect of switching behaviour from an equilibrium in which there is an expectation of honesty to one in which there is an expectation of corruption".

Communities cannot be assumed to be uniform in their response to conflict – different social relationships give rise to different coping and adaptation mechanisms, and while conflict results in losses, it also brings changes that transform societies. New forms of inequality arise, and there is a shrinking of civil society and the resurgence of primordial, rather than more inclusive, conceptions of nationhood and citizenship (Draman, 2003). The implications for those providing support in post-conflict environments are that they must be mindful of vested interests and how (new) political actors play a role in determining access to resources. They must be careful to avoid rebuilding institutions that had roles in creating conflict in the first place, be aware that regulatory reform may reflect only commercial interests, conscious of alliances between customary authorities and conflict groups, and of the challenges of creating a more inclusive system of local governance for the post-conflict period (OECD, 2002). The impact of conflict on social institutions and processes can also be seen in the unravelling of 'traditional' kinship relationships and methods of cooperation, mistrust between groups, breakdown in the moral and social order and of 'traditional' methods of cooperation, and the

weakening of local governance structures.

States, elites, and transnationalism

Cooper (2001, cited in Peters, 2004: 286), sees African states as "providing little accountability, few services, and meagre security [to citizens] … while ruling elites use sovereignty [the claim of the state] to gain a degree of leverage among international and national networks, licit or otherwise". Kassimir (cited in Peters, 2004) likewise, notes that the state is "rarely irrelevant in the way that transboundary connections are formed and institutionalised". Peters *(Ibid)* sees this as more than just pathology, but as an alternative form of governing and state formation, one that is patronage based, and which has intricate links with extensive transnational networks. In looking at how concessions are granted, Hardin (2002, cited in Peters, 2004: 287) posits that these are "marked 'by forms of patronage that mediate, rival or even replace' the authority of state agencies, and that frequently combine with 'identity [or ethnic] politics that align rivalries at local or regional levels with those at national or international levels' so destabilising already volatile situations. Secondly, politically unstable states enable companies to enjoy 'unrivalled dominance' and patron-client connections with persons able to take advantage of the state's fragmentation". Peluso and Watts (2001: 212) pointing to the corruptive property of oil, note how "violence is profoundly wrapped up with the properties of that which is exploited". This is a point also made by Peters in reference to Angola, a country characterized by the spectacular paradox of being "a country with one of the best resource endowments in Africa, yet with massive deprivation among its population and a tiny political elite, divided politically, but market by ruthless private appropriation of national resources" and an almost complete absence of accountability to its populace. It is such dynamics that account for the marked degree to which inequity, which is a contributor to conflict, is so often politically sustainable. Inequitable land rights and land grabs may be endogenously conflictive, but because those who are the 'winners' secure their positions, often by camouflaging their actions behind the discourse of 'the interests of development and growth', that open conflict is suppressed.

One of the key land issues on the increase in Africa is that of appropriation of land and land grabbing. This was first noted by Swindell and Mamman in a 1990 report (cited in Peters, 2004: 296) that "the ability of politically well-connected people to obtain huge farms is contingent in African countries on usually volatile political connections. Myers (1994: 604-5) reporting on Mozambique in the immediate post-war period noted the number of large joint venture

enterprises established, with government complicity, that were taking land from small-holder farmers and the granting of concessions for agricultural production, hunting reserves or timber exploitation. Recent reports in Mozambique (AIM, February 2007) of the illegal export of valuable hardwoods by Chinese companies are but one of many such reports.

Land issues area often part of wider crisis of governance, as in Zimbabwe, because "changes to land tenure do not just involve a change in legislation. They require a much broader view of how law relates to public attitudes and behaviour, as well as to the institutions available to implement provisions of the new laws" (Toulmin and Quan, 2000: 8). (Emphasis added). The key to understanding the failings of the land reform process and the resulting conflict lies in analysing the changing relationships between the key actors, such as the government, white commercial farmers, war veterans, supporters of opposition parties, residents of poor communal areas, the judiciary, and the security forces. The utility of specific outcomes from the process (whether peaceful or violent) to specific actors also sheds light on the grey area between politics and policy, as suggested by Huggins and Ochieng (2005).

"The involvement of foreign capital in capital-poor countries may affect more profoundly the balance of bargaining power between local resource users and outside investors" (Cotula, *et al*., 2006). Land and natural resources are an important sector for foreign investment, in agribusiness, forestry, tourism and oil. Investors bring with them the capital and often also the 'know-how', for exploiting these resources. If appropriate conditions are not in place, natural resource-based investment projects have the potential to undermine the ability of communities to access the resources on which they depend. This can take the form of expropriation of community lands without adequate compensation, enclosure that cuts communities off from their rights of passage or access to water and other communal resources or negative environmental impacts (OECD, 2005). Very often local (national) elite are complicit in the actions of international investors – easing the pathway to investments through by-passing legislative, administrative or technical requirements – often "for a price". Enforcing local group rights is often the best protection – as has been done in Mozambique, but these too are open to abuse such as the case when customary chiefs ally themselves with foreign investors.

Local elites sometimes also act as an intermediary layer between poor people and national and international elites in facilitating access to forest or mineral resources (Peters 2004: 295). They seek to retain their positions using all such links with outsiders or officials, as well as through

exerting influence in such a way as to intimidate and control access to land. The wave of interest in decentralisation that has occurred across over the last two decades has also been associated with the increase in local elites using their newly devolved powers to gain control of resources. Local power structures are often captured by entrenched local elites who are resistant to pro-poor change and are often supported by central governments or parties seeking to create and sustain rural power bases (Crook, 2003).

Land rights, governance and civil society

There is widespread consensus that ecosystem management, governance and poverty reduction are each essential elements of poverty reduction and sustainable security:

> "Governance is defined as being the way in which society manages the general interests and the common good as well as the particular interests of each one of its members, good governance is that which ensures the best possible balance between the general interests/common good and particular interests in an equitable relationship''(AGTER, 2006: 21).

Participation of the poor – who depend directly on natural resources – is crucial at the sub-national and local level. However, the poor in developing countries are most often voiceless, especially when it comes to decisions regarding extractive industries or those involving big investments related to use of natural resources, such as logging or tourism (WRI, 2005). The poor in Africa suffer from widespread lack of assets and vulnerabilities (discussed in more depth in Chapters Four and Five), and they also lack the capacity (training and knowledge) to participate in decision-making affecting their livelihoods and suffer from an intergenerational sense of being powerless to change their condition (LAND, n.d.). Mehta *et al* (1999) in their paper on institutions and natural resource management in which they call for more inclusionary, participatory decision-making processes, note that contested knowledge and differential power bases, aggravated by legal pluralism, create dynamics that do little to create certainty around issues of ownership and control over resources. Furthermore, there are many challenges confronting environmental governance and this "combined with contradictory tendencies in environmental resource management (namely, simultaneous processes of centralisation to the global level in the form of international regulation, and processes of decentralisation and devolution to the local level), leads to overlapping and conflictual institutional arrangements, increasing locally felt uncertainties" (Mehta, *et al.*,: 5).

Recognition that good local governance is key to poverty reduction and that it requires effective

civil society organizations, is resulting in the development of better links between civil society and government institutions and a rise in the number and nature of civil society organisations (LAND, n.d.). The challenges and political sensitivities in land issues make the active participation of civil society organisations in setting and disseminating policies, providing information, convening, networking, mediation and negotiation a valued mechanism. It is also being recognised that when government-led initiatives are undertaken without the support of civil society, they rarely succeed. Civil society organisations have an important role in mobilising community involvement and providing independent checks and balances. Coalitions of civil society groupings are well positioned to advocate for more open policy dialogue on the part of governments and for their greater responsiveness to citizens concerns by taking into consideration land rights protection for rural and urban poor population – by way of example, procedural guidelines for meeting the widely neglected land needs of internally displaced people (AU/ECA/ADB, 2006). Networks are a basis for collective action, collective power and collective protection. Nevertheless, the effectiveness of civil society in assisting poor people to pursue their land claims and gain access to and make effective use of land "is mediated by the broader political environment" (Daley and Hobley, 2005: 38), and so while collective support is vital to the poor in their struggle to gain secure access to land, it cannot be overlooked that the struggle for more secure access to land and resources has been not only challenging but, in some places, also life threatening (LAND, n.d.):

> "Civil society action generally has a fundamental, sometimes decisive role to play, in achieving greater, more secure land and resource access by the poor, through policy debate, advocacy and campaigning, development of innovative practical innovations and in programme implementation in partnership with the state. Practical engagement by NGOs and CSOs in programme design and in monitoring developments on the ground is needed to help guard against inequitable and discriminatory practice" (Quan, 2006: 50).

Concluding thoughts

Land, once considered an inexhaustible asset is becoming more restricted as population densities rise, land concentration occurs, land degradation accelerates, and as the means of exploiting land becomes more sophisticated and more dependent on money. Land rights are increasingly becoming insecure and unclear and there are rising pressures and tensions stemming from competition for this valuable resource. An analysis of the socio-political and historical forces that have shaped the political economy of southern Africa and given rise to systems of power that marginalise certain groups, reveals the myriad of factors that determine the issues of access and have profiled the contours of resource exploitation. In countries emerging from protracted conflicts, land issues play a fundamental role in reconciliation and economic rehabilitation. Governance of the tenure regime, access to land, security of tenure

and distribution of land holdings provide the building blocks for sustainable security, but in post-conflict situations they are also more fluid and open than perhaps at any other time and the post-conflict period poses many operational tensions. There are many social, political and economic factors that influence these situations, analysis of which reveals more clearly the winners and the losers, the processes involved in securing entitlements to valuable resources, the threats these may pose to outbreaks of conflict and how they bring about a loss of livelihoods.

The following chapter provides an overview of the theoretical and methodological basis for the research that sites itself within both a political ecology framework and a livelihood system approach. In the remaining chapters, Chapters Five to Eight, the focus of the thesis turns to unfolding land issues in the two countries, Angola and Mozambique.

CHAPTER FOUR: RESEARCH DESIGN, RATIONALE AND METHODOLOGICAL APPROACH

INTRODUCTION

In Chapter Two theoretical perspectives on environmental security, especially land conflicts and the nexus of land and livelihoods, are shown to be highly complex requiring a nuanced understanding of land rights. The realities of land and conflicts are broadly explored in Chapter Three and a more in-depth look is taken at the social, political and economic factors that influence the performance of land policies and institutions, and the governance of land and natural resources. Taking these factors into consideration, Chapter Four provides an overview of the theoretical and methodological basis for the research that sites itself within both a political ecology analytical framework and a livelihood system approach. Land is increasingly seen as an element of a wider livelihoods approach with a focus on poverty alleviation and/or wealth creation. As indicated in the introduction, the focus of this study is on the poor and the centrality of access to land and natural resources for securing their livelihoods. Vulnerability is not the same as poverty, nevertheless, all the vulnerability variables are inherently connected with peoples' livelihoods and with poverty, and vulnerability underpins many of the issues of access in post-conflict situations. Cconsidering vulnerability and human security as two ends of a continuum provides a starting point for analyzing vulnerability to the multiple stressors that are faced in these situations. Currently there is no methodology that adequately captures the various dimensions and 'drivers' of change, particularly in poor world contexts (see websites[47]). Motivation is therefore given for the adaptation of the Sustainable Livelihoods framework into a more comprehensive approach (e.g. Southern African Vulnerability approach) as a tool for the analysis of livelihood opportunities and vulnerabilities. Finally, an argument is presented for the choice of research design and methods used in the research.

[47] IDS - www.livelihoods.org ; SARPN - www.sarpn.org.za ; ODI – www.odi.org.uk DFID – www.dfid.org.uk

CHAPTER 4 - Section I: Determining the models for analysis

Assessing the nature of linkages between the environment and security, as was shown earlier in Chapter Two, is challenging because of the complexity of multiple interactions and feedbacks (Khagram *et al.*, 2003) and requires a comprehensive and integrated approach. Understanding the many issues around land as a resource and its linkages to security is particularly complex and calls for a politically nuanced understanding. As Alden Wily (2006: 6) notes: "Tenure insecurity is a socio-political condition engineered intentionally or otherwise by policies – and is remediable by policies". In the previous two chapters various cross-cutting issues were examined that highlight the complexity of the broader social, economic and political contexts in which different interests compete. The point is made that there can be no single theory of land conflict, and it is shown that competing interests, moreover, often act to threaten the crucial capital base of poor communities that could otherwise help them escape poverty.

Evidence has also been presented that highlights the power relations inherent in the governing structures and the tensions faced in achieving greater efficiency and equity in access to resources, particularly land. The challenge is to locate the source of the grievances, the conditions that shape the emergence and the character of conflict, the levels of conflict, the stakeholders involved, the legal and organisational framework, and the local and historical differences that intervene. Assessing these linkages and the power relations inherent in the governing structures requires an analysis of how entitlements are possessed or gained, distributed, reproduced and fought over in the course of shaping, and being shaped by, patterns of accumulation; of the vectors that shape the environmental process; and the actors and linkages between them. Analysis also calls for an attempt to understand how social and political framings are woven into both the formulation of scientific explanations of environmental problems, what drives and sustains environmentally related conflicts, and the solutions proposed to reduce these.

Trends in land research

> "Interrogation of the causes of tenure insecurity is imperative not just for peace but for fighting poverty" (Alden Wily, 2006: 15).

Trends in land research have broadly followed the main development trends (Jenkins and Smith, 2003): in the 1970s and 1980s the focus was on land access for the poor (related to the Basic

Needs approach, but also the neo-Marxist political economy critique); in the late 1980s and 1990s it was on land markets (related to Neo-Liberalism and Structural Adjustment). Research into land markets has tended to be dominated by economic or political economy approaches; however, land is now increasingly being seen as an element of a wider livelihoods approach with a focus on poverty alleviation and/or wealth creation – that is, simultaneously dealing with both equity and efficiency issues.

The previous chapter demonstrated the close and complex interconnections between people, the environment (the natural environment and the policy and institutional context) and livelihood opportunities in terms of access to natural resources as well as vulnerabilities to environmental threats. A key element of this study is the focus on the poor, rural and urban. Poverty, as will be shown, is both a cause and a consequence of armed conflicts. In a post-conflict environment poverty alleviation and broad-based development are central to peace-building. The importance of accommodating the complexities and micro-politics of life, of the distinction between access and resources, and adopting an approach which takes note of a wide conception of the resources that people need to access in the process of building a livelihood is embraced. Integrated and interdisciplinary approaches are needed in order to grasp the variety of and continuous shifts in livelihood strategies, and to evaluate policy and practice in resource use affecting local livelihoods (Homewood, 2005). This calls for a conceptual approach that is comprehensive in scope, but sensitive to differing contexts, particularly where different combinations of stressors interact. It is critical in this research, moreover, that the model for analysis applied is one which reflects a broad and comprehensive understanding of the concept of poverty (Box 4-1) and is able to capture the dynamics of both threats and creeping vulnerabilities. While there is a lot of disagreement about the specific relationship between poverty and conflict, there are a number of theoretical and empirical studies that show “that poverty, inequality, scarcity of resource and external economic forces all combine to have a destabilising impact on political stability” (Draman, 2003: 8). And likewise, as was shown in the previous chapter, violent conflicts cause human suffering, and create a vicious circle or a “conflict-poverty” trap (IPA, 2005) accentuating inequality (Addison, 2005) not only in real income, but also in human development indicators as poverty deepens. Structural violence, such as inequitable land, has also been both a cause, and a product of continuing poverty. Inequitable access to land and insecure tenure are

Box 4-1: Concepts of Poverty

Understanding of poverty has come a long way in recent years with a number of studies contributing to a more comprehensive definition, shifting away from early definitions based on economic understanding of a poverty datum line based on income and consumption. The fact that there are different forms of poverty – structural, conjunctural and contextual[48] – and that poverty can occur at certain times for some households but be more or less permanent for others has led to a more inclusive range of definitions: the newly poor, borderline poor and chronic poor (Jenkins, 2005). These assume at least some access to wages and use of cash income as measure of purchasing power, but also include other variables in which poverty is conceptualised as a set of relationships and a process rather than a fixed state.

Poverty is a multi-dimensional concept involving not only material deprivation, but also deprivation in terms of capability, vulnerability, and influence over the institutions that affect one's life (empowerment) (Collier and Gunning, 1999). This acknowledges the complexity and dynamic nature of poverty, and that the poor are not passive but have options. More nuanced attitudes on ameliorating poverty, based on individual, household and community as well as public action have strengthened these more comprehensive understandings of poverty. They are all based fundamentally on identifying household assets, opportunities and resources; and strengthening organisational capacity for resource/asset management. These approaches are based on the fundamental position that economic, social, physical and psychological security is as important as wealth as the opposite of poverty.

experienced as insidious violence, as creeping vulnerabilities, different to, but no less significant than the threats of conflict that have concerned much of the methodological and empirical research on environmental security to date. *This research, accordingly, sites itself within a (nested) approach that draws on both a political economy methodology and an approach to understanding poverty and vulnerability that is rooted in the Sustainable Livelihoods and SAVI frameworks.*

Drawing on these points and those made in the previous chapters, the core insights that informed the methodological approaches adopted in this research can be summarised in the following five key points:

1. Acknowledgment of *the complexity of the nature of the linkages between violence, resources and the environment:* causes and effects of tensions and vulnerabilities are multidimensional, and the links between the various components may be direct or indirect (Khagram *et al.*, 2003);

[48] Structural poverty (a long-term one, caused by the social circumstances) and; conjunctural poverty (a temporary one to which generally self-sufficient individuals were thrown in by a natural, economic or military crisis).

2. That "How land may be dealt in, and by whom, is a question of social, political and economic importance" (Manji, 2006: 12);
3. The need to expand horizons of violence beyond classic definitions of brutal physical acts to include symbolic forms of violence. Non-violent conflict may be as important as violent strife in undermining livelihoods and social and economic sustainability, such as the insidious and creeping vulnerabilities that underpin environmental conflict as opposed to a clear case of large conflicts. This calls for a *focus on both threats and vulnerabilities* (Liotta, 2005). Because long-term vulnerabilities are contentious they often fall victim to the 'do nothing' response and receive the least attention from policy makers;
4. Simplistic assumptions about land, and the nexus of conflicts and land, cannot be made – rather we must pay attention to the multiple, shifting, recombining and constantly-negotiated practices of rural Africa and acknowledge that peace is not the default mode. As Duffield states, "war and peace represent different degrees of each other rather than absolute or contrasting stages" (cited in Luckham, *et al.*, 2001: 3). *Conflicts are at times an integral part of the transformation of land tenures systems and not necessarily bad. Concerns need to focus, rather, on the 'normalisation' of environmental violence and where inequity is politically sustainable;* and
5. The insight that land rights are important in solving poverty and strengthening human security implies that *land policies need to be well integrated into wider social, economic and environmental planning* in order to strengthen sustainability.

4.1 A POLITICAL ECOLOGY FRAMEWORK OF ENVIRONMENTAL VIOLENCE

In this thesis Peluso and Watt's analytical framework (see Figure 4-1) for exploring how violence is expressed and made expressive, is applied. The theoretical basis for applying this 'Political Ecology' framework was explored in Chapter Two and the relevance of it shown in Chapter Three for research on land issues. The ability of political ecology to address a wide range of complex phenomena that embody the environmental and social interactions is of particular value when applied to the problem of land in post-conflict environments. It combines the concerns of ecology and a broadly defined political economy that together encompasses the constantly shifting dialectic between society and land-based resources, and also within classes

and groups. It seeks to provide accounts of how specific resource environments (land, oil reserves), environmental processes (deforestation, conservation) and webs of social relations are central parts of the way violence is expressed and made expressive. The starting point in the framework adopted by Peluso and Watts is the reciprocal relationship between users and nature in which labour is active, transformative and social. Emphasis is given to how entitlements are distributed, reproduced and fought over, and the changing contexts of nature transformation, who performs the labour, who bears the burdens, and how benefits are claimed, distributed and contested. The labour process is seen as:

> "…the point of incubation of historical and cultural fields of power in which human agency…is expressed. In turn these fields of power constitute institutional and discursive fields of struggle. These too shape the environmental processes. From the confluence of these two expressions of political economy – the social relations of production and the social fields of power – emerge the forms of contention" (Peluso and Watts, 2001: 29).

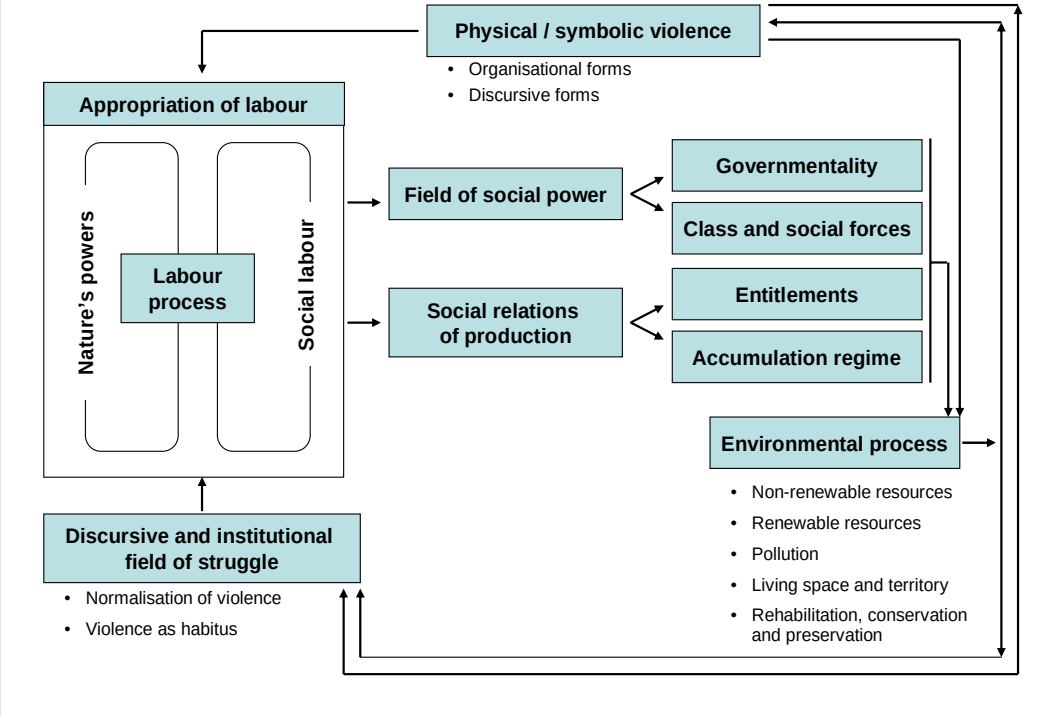


Figure 4-1: A Political Ecology framework (Peluso and Watts, 2001: 28).

They seek to understand the actors – the communities, state, transnational capital – and to locate them and their relations to each other in a historical context, seeing violence "as a site specific phenomenon rooted in local histories and social relations yet connected to larger processes of material transformation and power relations" (Peluso and Watts, 2001: 5). The framework calls for a focus on the specific institutions and processes of production, accumulation and resource access as well as on different forms of violence, and this allows for an exploration of ways that environmental violence reflects or masks other forms of social struggle, as well as the normalization of environmental violence. Examining, for example, how violence becomes a state sanctioned part of local strategies for maintaining control of resources, research illuminates the modes of governmentality, that is, the "forms of calculated practise (in and outside government) to direct categories of social agency in a particular manner for particular ends" (Dean, 1999, cited in Peluso and Watts, 2001: 36). Peluso and Watts do not look at scarcity or abundance as a starting point – for these are considered historically produced expressions of social and political relations – but seek to understand the environmental processes (abundance, conservation, resource wealth) whereby some factors become causes.

Suitable frameworks that enable an understanding of resource access include also those linked to livelihood and vulnerability analysis. The application of sustainable livelihood approaches to access to land and land administration in post-conflict situations is particularly valuable for a number of reasons. Focussing on livelihood outcomes, it can draw attention to the assets people have rather than what they do not have; to the cross sectoral nature of livelihood strategies; to the vulnerability context; and to the role of policies, processes and institutions (Unruh, 2004). It is compatible with a political ecology approach because peoples' livelihood opportunities and their patterns of assets and incomes are determined by wider social, economic and political systems and processes, and likewise vulnerability to disasters is also a function of this wider environment, reflecting the power relations of any given society.

4.2 THE SUSTAINABLE LIVELIHOODS (SL) FRAMEWORK AS A TOOL FOR ANALYSIS IN UNDERSTANDING AND ALLEVIATING POVERTY

The Sustainable Livelihoods (SL) framework (see Figure 4-2), which draws on the work of the Institute of Development Studies, is also adopted, but modified, for this thesis. It was first developed to improve understanding of the mechanisms of rural livelihoods and the impacts of policy measures upon them. The Chambers and Conway (1991) definition adopted in the early

1990s underpins many of the livelihood frameworks currently in use:

> "A livelihood comprises the capabilities, assets (stores, resources, claims and access) and activities required for a means of living: a livelihood is sustainable which can cope with and recover from shocks and stresses, maintain and enhance its capabilities and assets and provide sustainable livelihood opportunities for the next generation and which contributes net benefits to other livelihoods at the local and global levels in the long and short term" (Chambers and Conway, 1991: 6).

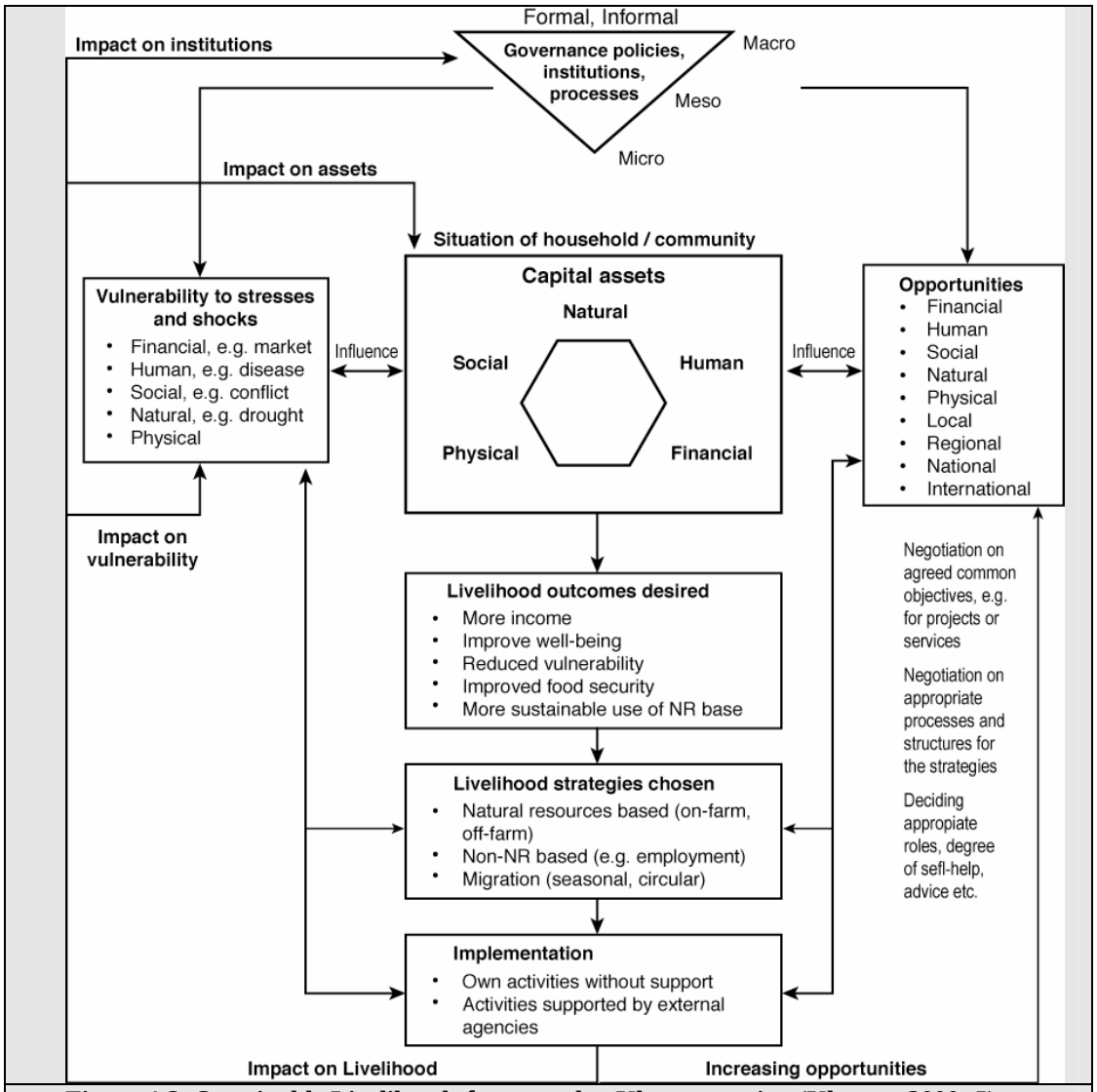


Figure 4-2: Sustainable Livelihoods framework – Khanya version (Khanya, 2000: 5)

Such a framework for analysis is particularly valuable for research into the nexus of land, livelihoods and conflicts in a post-conflict environment, which needs to take into account a broad range of stressors: environmental change, structural impoverishment, climate variability,

armed conflict, weakened social capital, poor governance (economic, political and administrative), and global/frame issues such as international trade. It is a way of thinking about the objectives, scope and priorities of development issues in which the livelihoods[49] of poor people are put at the forefront of analysis and action. Unruh notes (2004a: 5) that the "people centred priority of the SL approach, focussing on what people do have and are doing, is a particularly good fit with an examination of what people are actually doing on the ground with regard to change in land access in post-conflict situations". It is argued that this conceptual framework provides the basis for developing a more concrete understanding of social sustainability.

4.2.1 The components of a livelihood approach

Livelihood Assets

Livelihood assets refer to the resource base of the community and of different categories of households. The main assets (capital) in SL approaches include (Korf, 2003; De Satge, 2004):

Economic assets – income; material goods and savings; debt and credit;

Human assets – quantity (number who can work in a household); quality (health, education, and skills levels); and availability (number of hours, distance to work etc;

Physical assets – social and economic infrastructure (access to education and health facilities, water, electricity, sanitation and transport); land, housing (nature, size and location of housing as well as security and suitability); and access to the environment and resources;

Socio-cultural assets – this includes relations (life cycle issues and gender/age differentials); potential and actual resources associated with reciprocal and redistributive networks/structures (kinship, neighbours, social and religious bodies) than

[49] The term 'livelihood' refers to the capabilities, assets and activities used by people to survive and thrive. Livelihoods are not simply a matter of making a living or transacting money – they also imply "the management of relationships, meanings and identity…of seeing economic activities as embedded in social relationships" Beall, 2005: 99). "A livelihood is sustainable when it can cope with and recover from stresses and shocks and maintain its capabilities and assets both now and in the future, while not undermining the natural resource base" (FAO, 2005: 2).

can be mobilised, as well as the mutual trust, socio-cultural rights and norms on which these are based; and

Legal/political assets – legal assets are the effective right to justice and a life free of crime and violence as well as to influence the structures of power that affect life in various ways either through representation or participation. Political capital determines the access to and influence on larger institutions in society and looks at how individuals are able to capture resources and political advantage through patronage networks.

The vulnerability context

Approaches to poverty analysis based on the fundamental position that economic, social, physical and psychological security are as important as wealth as the opposite of poverty, recognise the importance of vulnerability as a key measurable:

> "Conceptual and practical frameworks should virtually always link security and development…The link to security is the notion of vulnerability, which is defined as the degree to which a system, subsystem, or system component is likely to experience harm due to exposure to hazard" (Khagram *et al.,* 2003).

A key component of the SL framework is the vulnerability dimension. Vulnerability (Box 4-2) is endemic among the poor and severely constrains their livelihood choices. Mitigating risks involves reducing vulnerability rather than accumulating assets, although a vulnerability, unlike a threat, "is not clearly perceived, often not well understood, and almost always a source of contention among conflicting views" (Liotta and Owen, 2006). There are extreme vulnerabilities, for example to natural hazards and to those caught in war or internal conflicts; there are also cases of long-term vulnerability, what Liotta terms *creeping vulnerabilities* (Liotta, 2005) in her call for a focus on *both threats and vulnerabilities.*

A major strength of the SL approach is that it does not perceive people as vulnerable and helpless, but as dynamic actors able to adapt to trends and cope with shocks imposed through external conditions – their vulnerability context. In this thesis, while acknowledging the value of the SL approach, the approach is modified to allow for a more comprehensive assessment of how multiple stressors intersect and interact to influence both outcomes and responses to change, drawing on a model of change developed by the Southern African Vulnerability Initiative (SAVI) – see Figure 4-3. It represents the efforts of an international group to develop a research and intervention framework for distinguishing the interactions and intersections of the

multiple stressors that have differential impacts, to extract the key factors that generate vulnerability, and to identify practical and effective interventions (Drimie, 2006).

Box 4-2: Understanding vulnerability (tenHave, 2007).

Adaptability refers to the process of structural change in response to external circumstances.

Robustness refers to the structural and other properties of a system that allow it to withstand the influence of disturbances without changing structure or dynamics.

Resilience refers to the capacity of a system to absorb and utilise or even benefit from perturbations and changes that attain it, and so to persist without a qualitative change in the system's structure.

Vulnerability refers to situations in which neither robustness nor resilience enables a system to survive without structural changes.

Vulnerability is determined by the interplay of a combination of several factors, including hazard awareness, the condition of human settlements and infrastructure, public policy and administration, the wealth of a given society, social capital,[50] organised abilities in all fields of disaster and risk management and the lack of social adaptive capacity. In the southern Africa region vulnerability is continually generated and reinforced by interacting processes of change, while opportunities are often difficult to grasp due to institutional failures, the role of the region in the international political economy, de-linkages between economic and social policies, and the weakening or removal of social safety nets (O'Brien, 2004). The SAVI model, expanding on the SL framework, is useful for it is an integrated framework for assessing and responding to multiple stressors that have differential impacts on individuals, groups, or regions; it accepts that change is the norm, not an anomaly; and it recognises the need to distinguish clearly the interactions and intersections of key stressors and thereby to identify the key factors that generate vulnerability. It also emphasises the role of external interventions, whether they are organised by the international community, regional or national governments, NGOs, or the private sector:

"A simple compilation of threats and assessment of their impacts does not adequately

[50] Social capital looks at the social entitlements of an individual – the potential and actual resources associated with networks and relations that an individual can mobilise for his or her benefit. It cannot be assumed to always be something positive per se. Political capital determines the access to and influence on larger institutions in society, of how individuals are able to capture resources and political advantages through patronage networks (Korf, 2002).

> capture the nature and dynamics of vulnerability and, in particular, does not provide a sound basis for the design and implementation of projects or interventions that reduce vulnerability and enhance human security. To understand how climate change, trade liberalization, HIV/AIDS, conflicts, and other stressors intersect and interact to influence the capacity of individuals, households, regions, or social groups to cope with shocks and respond to environmental, social, economic, cultural, and political changes, *there is a need to consider vulnerability from a comprehensive perspective"* (SAVI, 2004: 2).

"In sum, the framework shows how cumulative and interacting stresses can undermine the ability to respond to current and future change, thereby perpetuating vulnerability, and considers how interventions may affect vulnerability, either positively or negatively. Its applied aim is to identify within these dynamics, opportunities for interventions that reduce vulnerability and enhance human security" (Drimie, 2006: 4). By using the Southern African Vulnerability Initiative framework for understanding vulnerability in the context of multiple ongoing

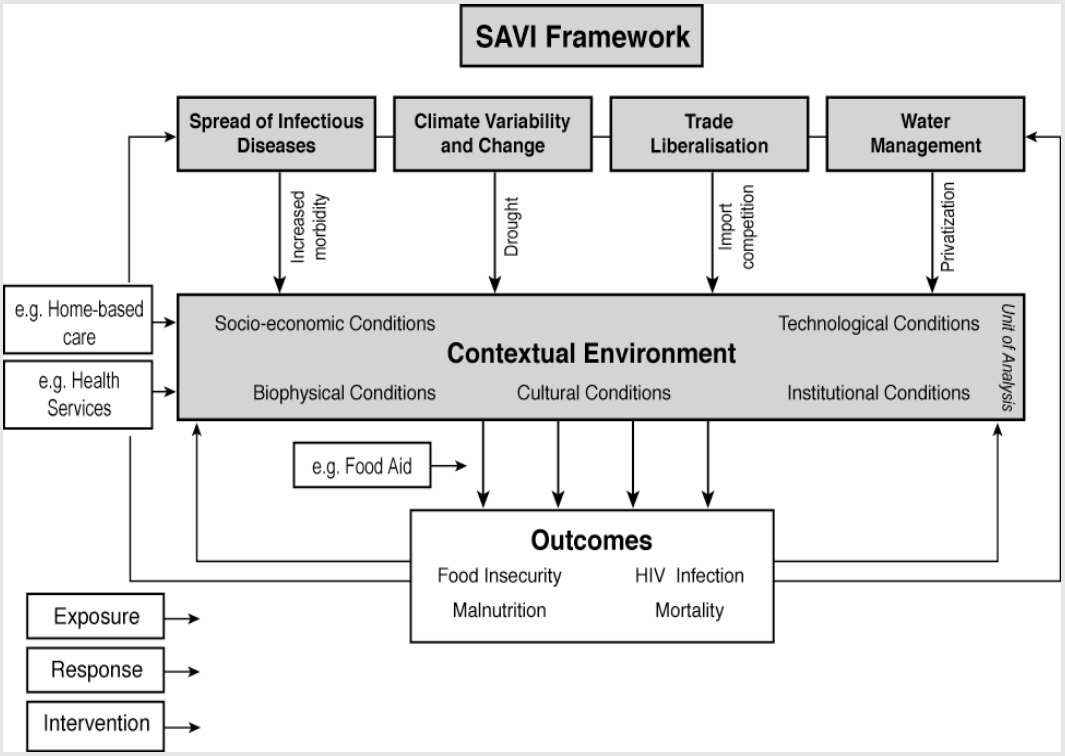


Figure 4-3: The Southern African Vulnerability (SAVI) Framework (O'Brien, cited in Drimie, 2006)

processes of change, the links between the SL framework approach and understanding vulnerability reduction is strengthened. While analysis of people's vulnerability can be rooted in a SL approach, vulnerability analysis rooted in the SAVI approach seeks to guide assessments of vulnerability by highlighting how and where opportunities can be grasped for building up preparedness, resistance and resilience through reductions in vulnerability. This shifts the emphasis of the SL approach away from that of the promotion of sustainable livelihood strategies and poverty reduction, to a strategy that includes vulnerability reduction in which the linkages and connections between stressors and opportunities under conditions of change are recognised and acted upon.It is analytically difficult to understand change without expanding the context and recognizing that the driving forces behind one process are often closely related to the driving forces, outcomes, and responses to another process, just as the outcome of one process may influence the driving forces, outcome and responses to another process. A comprehensive approach to vulnerability *that focuses on both the stressors and opportunities* that arise from multiple and interacting processes of change is needed. The SAVI framework is driven by the model of change described by Leichenko and O'Brien (2005: 7). According to this model:

> "Any change – whether manifest as a shock or structural transformation – can serve as either a stressor or an opportunity (or in some cases both). Stressors are stimuli that act as constraining factors or influences and that tend to alter an existent equilibrium. Stress is typically regarded as a negative force that may lead to outcomes associated with disempowerment and impoverishment. Opportunities, in contrast, represent a favorable juncture of circumstances or a good chance for advancement or progress. They are usually considered to provide positive outcomes that are associated with empowerment and security. Whether a process of change manifests as a stressor or opportunity depends on existing conditions and interactions with other concurrent processes of change".

Policies and institutions

Policies and institutions are an important set of human induced external factors that influence the range of livelihood options identified both in the SAVI and SL frameworks, and they also form a part of the political ecology framework under the area of 'governmentality'. They also influence access to assets and vulnerability shocks. An enabling policy and institutional environment, as indicated in Chapter Three, makes it easier for people to gain access to the assets they need for their livelihoods; a disabling environment discriminates against the poor and frustrates efforts to access land, capita, information. A livelihoods framework with its focus on institutions finds application in looking at violent environments. In his research on land

conflicts and their resolution Daudelin (2005) suggests "it is primarily the differential impacts on various groups within given societies that holds the potential for conflicts to emerge, but to "become manifest and for conflict per se to develop on any significant scale, there must be some weakness in tenure regime governance and exogenous factors need to intervene for a political mobilisation to occur" (*Ibid:* 5). Analysis of social capital and of institutions in the SL approach is very valuable for 'unpacking' these issues.

4.2.2 Benefits of the SL and SAVI approaches as tools for analysis

As discussed above, poverty is multi-faceted. The "livelihoods" approach argues that the poor have assets and choices and development is not merely about increasing income, but about broadening livelihood-related choices (Chrisoplos *et al.,* 2001). One of the major strengths of a livelihoods approach is that it does not perceive people as vulnerable and helpless victims, but as dynamic actors able to adapt to trends and cope with shocks imposed through external conditions, their vulnerability context:

> "Post-conflict situations are unique settings in their combination of a weakened and chaotic formal system, robust, vigorous, but fluid, informal tenure activity, along with the presence of a peace accord, political demands and concessions regarding land, and international actors that can have a large interest in the success of the peace process. While this combination carries risks, it also represents real opportunity" (Unruh, 2004b: 32).

Informed by a "sound analytical understanding of livelihoods (e.g. SL framework and SAVI) and the broader political economy context that attempts to predict the impacts of changing conflict and political dynamics and potential agency interventions" (Longley and Maxwell, 2003: 7) a SL approach emphasises that vulnerability is based not only on poverty, but also on powerlessness. The crucial concepts of social and political capital, and of differentiation, applied in a livelihood framework, provide a nuanced understanding of the differences in power and voice, and the disparities in access and entitlement to resources that exist between households and individuals. It doing so it "sheds light both on the complexities in society and livelihood strategies, and on the dynamic interactions of conflict and cooperation, bargaining and negotiation, relative power and powerlessness that define social relations" (de Satgé, 2004: 24).

Livelihoods are determined to a large degree by contextual factors (vulnerabilities/conditions/trends) operating at different levels, from local to global, that are

either enabling or create vulnerabilities depending on the dynamic interplay between these various factors: economic, institutional, political, social, natural and the built environment. There are many factors taken into consideration that include both 'root' causes and more recent processes. Acknowledging this allows for attention to those issues of rights and responsibilities that act at all levels. A rights based approach for sustainable livelihoods looks at institutional mechanisms for gaining access to resources, rather than only on establishing legalistic rights frameworks (SLSA team, 2003). Of importance to Africa with its history of colonialism, adverse incorporation into the global economy, armed conflicts and weak states, and harmful interventions by international agencies, is that it introduces the element of agency into an understanding of the diverse ways in which people make a living under conditions where structural constraints play a key role (Beall, 2005).

The value of SL and SAVI approaches does come into question when there is a tendency to rigidly codify series of 'capital' or assets that people have or aspire towards. Frameworks can be useful mechanisms for organising perplexing and often detailed social analysis, but they can also become straitjackets that awkwardly accommodate the complexities and micro-politics of everyday life (Beall, 2005). By way of example, in an urban environment where proximity to resources does not translate automatically into access, it is important to break down the distinction between access and resource, acknowledging that "the politics of urban livelihoods is as important as understanding their economic, physical and social base" (*Ibid*: 98). Equally, understanding vulnerability is far more than just noting a simple compilation of threats, of understanding only the hazards themselves. Such an approach leaves little appreciation that social vulnerability to disasters is a function of human action and behaviour, for the specific dimensions of social, economic and political vulnerability are also related to inequalities, often related to gender relations, economic patterns and ethnic or racial divisions.

CHAPTER 4 - Section II: Application of the methodology and research methods adopted

In the section that follows the various research methodological approaches that were used are outlined. The research methods adopted are informed primarily by the political ecology analytical approach and the modified SL/SAVI system approach. Emphasis has been placed, *inter alia,* on factors such as power relations, both socio-economic and political; the nature of

livelihood strategies; on how patterns of livelihood assets and incomes are determined by wider social, economic and political systems and processes; the vulnerability context; and to the role of policies and institutions. The methods adopted are also influenced by the specific research objectives and by the availability/constraints of available resources.

Documentary Desktop Research

Desktop research has been undertaken on the two countries – Angola and Mozambique. This provides a country context in each case: political, macroeconomic and structural, poverty, social and related issues, environmental and development agenda's. A comprehensive review of factors that affect vulnerabilities is explored. A history of the conflicts that have affected these countries, and the challenges of the post-conflict environment are dealt with in detail. Legislation, past and present, pertaining to land and the range of institutions involved is documented and the history of land-related conflicts and tensions are discussed. Maps, photographs, government documentation and any other supporting evidence are submitted. Recent activities of civil society and NGO's are also researched with relevance to activities in the development of legislation, information and training, support and facilitation in land related issues.

4.3 THE FIELD RESEARCH

The methods used in the field research are primarily qualitative: data gathering from interviews and observation. Prior to registration for a PhD in November 2005, field research was conducted in Angola in July 2002, three months after the war ended, on the humanitarian situation, and again in September-October 2003 to gather data and information on land conflicts. These were undertaken as part of my job at the time with the Institute for Security Studies. (These findings were published in 2002, 2004 and 2005. The Angolan research element has since been deepened and broadened through ongoing desk research and regular personal communications). Field research in Mozambique was conducted in November-December 2006, using similar methods used in the Angolan case study, where information was collected and interviews held with government officials, members of the Land Unit at Eduardo Mondlane University (UEM) and representatives of NGOs working on land questions.

Ethics procedure

A formal, standard submission was made to the Human Research Ethics Committee in November 2005 (Annexure 1). Questions were raised at their meeting that called for a formal response in person to the Ethics Committee owing to the sensitivity of the research topic. This was made in March 2006. The concerns were addressed in full to the satisfaction of the ethics committee. A comprehensive list of supporting documentation, showing personal investigation into the issue of ethical research, was also included in the submission to the committee.

Nature of the fieldwork

Fieldwork in the communities consisted of individual interviews directed towards people who have been directly affected by land conflicts or experienced tenure security and the negative implications of these for securing livelihoods. Both interviews and direct observation in the communities were used as a method to understand land use and people's livelihood strategies. Field work also necessitated mapping the local organisations and social institutions linked to land and other natural resource issues (local land committees, agricultural organizations etc) and understanding how they function to support or frustrate people's livelihoods and the role they play in dispute resolution. Semi-structured interviews of community members, including the leadership, were held to gain an understanding of institutional and legal issues.

4.3.1 Selection of research sites

Notwithstanding the amount of work done on land policy in the developmental context, its importance in post-conflict environments has received very little attention by researchers, governments or peace-building and development agencies, despite it playing a fundamental role both in recovering from and preventing a relapse into conflict.

This thesis focuses on the two Lusophone countries, Angola and Mozambique, both southern African ex-Portuguese colonies that have experienced more than two decades of internal conflict and are now in a post-conflict period peace-building. These two countries are used as a lens through which to examine the nexus of land, conflicts and livelihoods, and the implications of this for post-conflict peacebuilding. Both countries are confronting the problems of post-war reconstruction, of poverty and deep structural inequalities, but have yet to make serious headway in addressing potentially hazardous socio-economic imbalances. The dynamics are somewhat different in Angola, a country rich in oil and diamond resources – both corrupting

and corruptible forces are at play.

As Portuguese colonies, Mozambique and Angola have experienced certain historical similarities – Portugal emphasised assimilation, but integrated the 'assimilated' into the land administration machinery using chiefs and *régulos* to mobilise labour and collect taxes (Graefen 2002 cited in Roth, 2002). While there are more factors that distinguish the uniqueness of these Lusophone countries that have experienced more than two decades of war, there are some points of comparison. In 1992 the 16-year civil war in Mozambique ended; five years later the government introduced a new Land Policy and Land Law, which was widely hailed. However, there are now growing concerns around the role of class and political power in the growing number of land conflicts, social disruptions and threats to livelihoods, urban and rural. Angola has only known peace 2002, after some 27 years of fighting. The government introduced a new Land Law in December 2004, so the time period for assessing the implementation of the Land Law is as yet very brief. Land conflicts simmered throughout the 1990s, increased in intensity and frequency from around 2000, and have since been most evident in Luanda. These are a source of grave concern and have met with accusations of patronage, corruption, and a flagrant denial of human rights.

Using the case studies of Mozambique and Angola, primary and secondary sources of data were utilised to gather information for the study. The specific sites were chosen because of recent disputes that have occurred and because of new developments (in agriculture or tourism) which have a potentially disruptive impact – socially, economically, environmentally or politically – on the activities and security of settled communities. This selection was informed by media reports and reports from local NGOs. Field research was then undertaken in Matutuine district and in the areas around Marracuene – see Annexures 2 & 3.

Angolan case study

A research visit of a general nature (as an employee of the Institute for Security Studies) was made in July 2002 to gather information on the humanitarian situation in the immediate post-war period. A field trip was made again in September 2003 to Lubango, Huíla province where there was a history of land conflicts, and to Luanda to learn more about the land issues in the country. Meetings have subsequently been held with the Director of the primary NGO dealing with urban land issues, Allan Cain, and further information has been gathered from regular electronic and telephonic communication with people in Angola. Angola is an extremely

expensive country to visit. The general public and officials are exceptionally closed and cautious when asked on matters which are 'contentious' – "Lots of people think that talking about conflicts, specifically conflicts that involve the Government, estate owners or other people with power, is talking about "politics" (DW; 2002: 52). In general it can be said that because little English is spoken, not being a fluent Portuguese speaker was a hindrance. All these factors combined to limit further visits to Angola in a private capacity. There is a dearth of knowledge, moreover, on the livelihoods of the poor, and there is a general attitude of suspicion and fear of discussing anything that could be faulted by the authorities.

The sites selected for study were a) two areas in Southern Huíla Province: the pastoral area of the Gambos where there first land conflicts in the late 1990s, and the granite mining areas which have only recently experienced social tensions as mining has resumed; b) the urban and peri-urban Luanda which has experienced a high incidence of forced evictions and conflicts over land since 2001. Having already pre-trialed research in Angola, research methods were then refined and deepened and applied in Mozambique.

Mozambican case study

A two week research visit was conducted in 2006. During this time field visits were made to urban and peri-urban areas of Maputo and Marracuene, a small town very near to Maputo. The other research site was 300km south to Matututine district in southern Maputo, an area rich in resources and attractive to large commercial cattle farmers and for eco-tourist ventures because of its rich biodiversity.

The reasons for the selection of these sites are:

- The peri-urban community around the major cities is the largest and fastest growing sector of the population in both countries (in part a result of years of violent conflict), and many people in these areas are in an ambiguous legal situation as regards their land tenure;
- Peri-urban Maputo and Luanda have been locus of land related conflicts in recent years; tensions are ongoing and people's livelihoods are being threatened;
- During war land is worth little in commercial terms, but a more stable environment makes the appropriation and regularisation of natural resources in strategic areas a fundamental concern: this has been the case in key rural areas where opportunities for major investments present and land grabs have occurred since the onset of peace;
- A comparison of peri-urban and rural land issues can be made.

The specific recruitment of participants was informed by i) those individuals/groups that are

actively involved in land registration and demarcation, in tenure disputes or rural development initiatives that are affected by land tenure; and ii) by local NGOs that are actively supporting any of these activities or general development initiatives. There was no possibility at all of coercion – local agencies lose credibility and the trust of communities they are supporting and working with if they adopt such approaches – it is not in anyone's interest to be coercive.

4.3.2 Implementation

Open-ended Interviews

Interviewing is the most prevalent method for data collection in the social sciences. When interviewing academics and other researchers, the primary method was an interviewing practice called 'the analytical interview' (Kreiner and Mouritsen, 2005). It emphasizes collaborative analysis and construction of knowledge between an interviewer and a respondent. This is an approach that is especially relevant for areas of study where there are no simple "yes/no, good/bad" answers and a range of different problems are presented. The aim is not to provide final answers but to give input to the analysis. It is therefore most apposite for dealing with the complexity of connections in the field of environmental security.

The interviews with communities adopted a semi-structured interview practice. These are guided conversations where broad questions are asked, which do not constrain the conversation, and new questions are allowed to arise as a result of the discussion. This is different from questionnaires and surveys where there are very structured questions that are not deviated from. A semi-structured interview is therefore a relatively informal, relaxed discussion based around a predetermined topic (MSP resource portal, n.d.). The process of a semi-structured interview involves the interviewer presenting the context of the study and its objectives to the interviewee or interview group (such as a family or household). The set of questions are prepared but open, allowing the interviewees to express opinions through discussion. Questions are generally simple, with a logical sequence to help the discussion flow. The format was not guided by a rigid questionnaire, specifically so that various aspects of security can be explored as topics arise. Questions were informed by what needs, rules and priorities and values influence people's decisions about security under various conditions:

- select individuals from academia
- heads of households / owners of land
- investors.

There is logic for using semi-structured interviews. It is based on the belief that the role of 'subject' communities in the research process as active participants in the creation of knowledge is a central focus in research among rural communities. Subject communities are not passive providers of information to researchers, but they themselves have a role also in the creation of knowledge. Their knowledge and experience is valuable and can be enhanced through participation.

Data collection

The researcher took notes during the course of the interviews, and the accuracy of these was confirmed by the translator after the interview/meeting to ensure there were no errors. Photographs were taken to confirm observations.

Interview format – see Annexure 4.

Concluding thoughts

The theoretical and methodological approach to the investigation of the nexus of land, conflicts and livelihoods must be sited in an approach that fits with recognition of the social and political context and interaction with economic factors that determine land issues – access, distribution, security of tenure, management. The political ecology framework used draws on the discourse of land. A livelihoods approach, including the Sustainable Livelihoods framework and the SAVI approach, is also able to connect with the social value of land and the larger networks of power relations, so is compatible with the political ecology framework. A livelihoods framework, as adapted for this study by incorporating the framework developed by SAVI, is, moreover, most apposite for identifying the creeping vulnerabilities – long-term violence – as well as the opportunities that may be present. Both frameworks give attention to the role of actors and institutions, and this allows for closer examination of the role of civil society in land issues.

In the first four chapters of this thesis, a background and motivation for the thesis was given, the relevant literature on human security, environmental security and land issues examined, and finally motivation provided for the methodology adopted. The second half of this thesis is devoted to the research results on Angola and Mozambique.

CHAPTER 5: CONTEXTUAL ANALYSIS


ANGOLA &

MOZAMBIQUE

INTRODUCTION

This chapter is divided into two sections: the country overview provides an examination of the countries in which the research was conducted – the historical, political, social, economic and environmental factors relevant for understanding the context in which land issues are being played out and the multiple stressors that are being faced. Livelihoods are determined to a large degree by contextual factors (vulnerabilities/conditions/trends) operating at different levels, from local to global, that are either enabling or create vulnerabilities depending on the dynamic interplay between these various factors: economic, institutional, political, social, natural and the built environment. Many factors must be taken into consideration, which include both 'root' causes and more recent processes. This chapter examines some of the dimensions and indicators of poverty and vulnerability as outlined in a SL framework – the *external* dimensions driving vulnerability are identified, such as climate change, as well as the *internal* dimensions, such as institutional issues.

In the second section the history of land ownership and legislation is detailed for both countries, and the developments leading up to the recently adopted land policy (in the case of Mozambique only) and Land Laws in both these countries is examined in depth.

CHAPTER 5: Section 1 - Country Overview

5.1 HISTORY: COLONIALISM TO INDEPENDENCE

Portugal first established a presence in Angola in the last decade of the 15th century, but being a 'coast-hugging' nation it was nearly 400 years before Portuguese settlers in Angola showed any inclination to move into the interior (Pearce, 2005). As of the end of the 19th century there were fewer than 10,000 Portuguese in the territory (most of whom were *degredados* – convicted

criminals sent from Portugal to Angola) and concentrated around Benguela and Luanda. Settlement only grew in response to the requirement of the Berlin conference[51] that the territory allotted to a colonial power be adequately administered (Kaplan, 1979). Despite Portuguese expansion, Africans controlled trade in the plateaus of the interior. Well until the nineteenth century the slave trade – the most decisive factor in forming the history of Angola, earning it the dubious title of the 'Black Mother' of the New World – was the chief focus of Portuguese interest. In close on three centuries, some three million slaves were shipped from Angola, leaving deep resentment that later fed into the spirit of rebellion and resistance (Van der Waals, 1993).

Mozambique has also had a complex colonial past. The major influence until the 16th century came from Arab Swahili culture with their trade in gold, ivory and slaves, until this was eclipsed by the arrival of the Portuguese. Along with French, Arab and British interests, the Portuguese contributed to the widespread slave trade in the nineteenth century, a period that saw Portugal strengthening its claims, most particularly around the Delagoa Bay (Maputo), which culminated in a treaty with the British in 1891 confirming its territorial claims. In fulfilment of requirements for colonization, Portugal needed to gain administrative and military control over the whole territory it wanted to claim, but this met with serious resistance from many indigenous groups, and so the whole of Mozambique was not placed under Portuguese control until 1920. "As Portugal was weak and underdeveloped, it could initially only build up the colony by entrusting large areas to foreign companies, which carried out taxation and established tea, cotton and sugar plantation, including through various forms of forced labour" (UNHCR, 1997: 3). Concessions were granted to companies and the territory was effectively carved up between independent fiefdoms that controlled large areas of land, notorious for their labour abuses. This made for a very harsh and sometimes violent colonial rule that intensified as control was extended. From the 1950s until the 1970s Portuguese involvement in Mozambique intensified at the expense of local petty bourgeoisie; at the same time all local aspirations of access to bureaucratic and administrative powers were denied.

[51] At the Berlin Conference of 1885 under the guidance of the Belgian King Leopold II, Africa was "divided" among the national states of Europe, with Britain and France the main beneficiaries. The conference ruled that colonial sovereignty would be bestowed only upon those countries that occupied the territory they had staked out (Pearce, 2005).

5.1.1 Social structure of the Portuguese colonies

The social structure prevalent in the colonies[52] comprised the categories of *indígena*,[53] *assimilado*[54], *mestiço*s[55] and, at the top of the hierarchy, white Portuguese. An African in the Portuguese colonies could, in theory, become an *assimilado* the goal of assimilation being to cease to be African in all but colour. Pearce (2005: ix) notes:

> "Far from creating a society of equal opportunity, the possibility of cultural assimilation – when offered to some and not to others – both ran parallel to and deepened the divisions caused by the slave trade. Today, the strata of Angolan society – reduced to the simplest terms – include *mestiços,* Old Creole families (the descendants of the black elite which flourished following the first colonial contact), Portuguese-speaking blacks on the coast, Portuguese-speaking blacks in the interior towns, and the *camponese* (peasants) who speak indigenous languages."

5.1.2 The fight for independence in Angola

Angola was considered an integral province of Portugal from the 1880s, and certainly after the 1930s when Caetano became Prime Minister in Portugal, fell under very centralised and bureaucratic control. Resistance to Portuguese rule, (by African, *mestiço* and white Angolans) dating back to the previous century became more organised in the mid-1940s. Dissent intensified following the "dramatic improvements in the spheres of agriculture, mining and

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[52] The principles of Portuguese occupation were based on administrative differentiation of groups. This racially based discrimination was consecrated in the Statute of Indigenous Peoples of the Portuguese Provinces of Angola, Mozambique and Guinea. Almost everything was regulated in a specific way for whoever did not have Portuguese citizenship (Pacheco, 2002).

[53] *Indigena(*s) – An African or *mestiço* without *assimilado* status – that is, uncivilized. Before the abolition of the status (and the distinction between it and that of *assimilado*) roughly 99% of all Africans were *indígenas (Ibid).*

[54] *Assimilado*(s) refers to those Africans and *mestiço*s considered by the colonial authorities to have met certain formal standards indicating that they had successfully absorbed (assimilated) the Portuguese language and culture. Individuals legally assigned the status of *assimilado* assumed (in principle) the privileges and obligations of Portuguese citizens and escaped the burdens, e.g., that of forced labour imposed on most Africans (indígenas). The status of *assimilado* and its legal implications were formally abolished in 1961 (US Library of Congress n.d.)

[55] *Mestiço*(s) was the term used alone in a social context for those of mixed race, otherwise known as a mulatto – of mixed white and African ancestry. Several varieties, depending on the nature and degree of mixture, were recognised by the Portuguese and *mestiço*. Most *mestiço*s were urban dwellers and had learned to speak Portuguese either as a household language or in school *(Ibid).*

infrastructure, strengthened by the discovery of oil" (Van der Waals, 1993: 39). Angola's conflict history began in 1961 when the first anti-colonial revolts took place, marking the start of militant action by nationalist movements.



Plate 5-1: Luanda: mural celebrating independence in November 1975 (Clover, 2002)

During the war for independence that followed, all but a few of the 335,000 Portuguese who had settled in the territory left, taking with them the skills needed to run the economy. It was only with the military coup in Portugal in 1974, when the anachronistic Salazar regime was overthrown, that Portugal abruptly decided to relinquish its colonies. A transitional government comprising the *Movimento Popular de Libertação de Angola* (MPLA) and *União Nacional para a independência Total de Angola* (Unita) was established (Van der Waals, 1993), but even before independence was achieved on 11 November 1975 (see Plate 5-1) the government collapsed and civil war erupted. The MPLA took control of Luanda with Cuban support and a Soviet-style one-party system was established under the MPLA (Van der Waals, 1993). The MPLA represents the largely Mbundi and mixed blood (*mestiço*) coastal and urban people, Unita represents the Ovimbundu people of the central highlands where the primary economic activity is agriculture (Kyle, 2003).

5.1.3 Angola: the war years

Some 16 years of fighting ensued until a peace deal, the Bicesse accord in 1991, led to elections in 1992. These were, however, rejected by Unita and the war resumed. Constitutional reform in 1991 established Angola as a democratic state. Although another peace deal was signed in 1994,

the Lusaka Protocol, and a Government of Unity and National Reconciliation formed in 1997, Unita refused to disarm and skirmishes continued. In 1998 fighting worsened and in 1999 UN peace-keepers withdrew. It was only with the death of the Unita leader, Jonas Savimbi in February 2002 that the 27-year conflict finally ended with the signing of the Luena Accords. Unita has officially ceased to be a rebel movement and has transformed itself into a legal political party. All party elections, the first since 1992, are now due in 2008, and presidential elections are due in 2009. Angola is administratively organised on three levels: 18 provinces; more than 150 municipalities and communes. The legal system is based on Portuguese and customary law but is weak and fragmented. Courts operate in only a fraction of the 164 municipalities (CBI, 2005).

5.1.4 The fight for independence in Mozambique

In Mozambique the early 1960s saw the birth of the *Frente de Libertação de Moçambique* (Frelimo) – a coalition of three banned political groups – that called for independence. The leadership of Frelimo was largely drawn from the former colonial category of *assimilados* – Africans who were thought to have assimilated a level of Portuguese culture which allowed them privileges that were normally denied to Africans. Following the military coup in Portugal in 1974, the Portuguese agreed to leave Mozambique. Mozambican nationalists moved swiftly to claim independence, suppressing an attempted right-wing rebellion that led to the departure of nearly all the 250,000 while colonists, leaving the country in economic crisis. Power was transferred directly to Frelimo, led by Samora Machel, and a socialist government was installed.

5.1.5 Mozambique: the war years

Two years after achieving independence Mozambique became embroiled in civil war that was to last 16 years. Two main political parties were involved: Frelimo, and a counter-revolutionary force – the *Resistência Nacional Moçambicana,* (Renamo) that was created by Rhodesia to counter black nationalist guerrillas fighting for Rhodesian independence. While the causes are not officially known and there is no consensus as to what these were, a common semi-official explanation is a combination of internal and external causes. External causes relate to the emphasis in Mozambique of a society based on equality and social justice, which served to

antagonise the racial and minority regimes in South Africa and Rhodesia (now Zimbabwe). Other analysts[56] (Kulipossa, 2006) point more to internal issues such as power struggles over access to and distribution of resources, monopolisation of political power, marginalisation of representatives of the traditional African structures of governance, the collectivisation of agricultural development and the militarisation of the society. Chissano became president in 1986 after the death of founding President Samora Machel. He oversaw a move away from Marxism and the introduction of a multi-party constitution.

In 1990 Mozambique adopted a new constitution replacing the authoritarian one-party state enshrined in the country's first post-independence constitution. The new constitution separated the functions of the executive, the legislature and the independent judiciary. It established a commitment to multiparty democracy and provided for an electoral system based on a variant of proportional representation, with a majority voting system for the presidential election, and a proportional system for the legislative election allocating parliamentary seats on the basis of the percentage of national votes that a party receives (EIU, 2006).

The civil war ended formally in October 1992 with the signing of the Peace Accords, a process enhanced by the peaceful democratic elections of 1994. Mozambique has since made remarkable progress in restoring peace, stability and security, although there are still massive socio-economic problems (a legacy of the war, structural adjustment, drought and floods) and relations between Renamo and Frelimo are tense at times. President Guebuza from the ruling Frelimo party, a wealthy businessman, succeeded Mozambique's long-time leader Joaquim Chissano in February 2005.

5.2 POPULATION AND DEVELOPMENT INDICES

In Chapter Four the different forms of poverty were discussed, acknowledging that poverty is a multi-dimensional concept (See Box 4-1) involving not only material deprivation, but also deprivation in terms of capability, vulnerability, and influence over the institutions that affect one's life (empowerment) (Collier and Gunning, 1999). As indicated in detail in previous

[56] See, for example Cahen, M. "Check on Socialism in Mozambique? What Check? What Socialism? " In Review of African Political Economy, No. 57, 1993, p. 46-59.

chapters, poverty is one but not the only cause of conflict. The concept of vulnerability, which is not one and the same as poverty, (Cannon *et al.*, 2005) was also presented and a refined concept of vulnerability adopted. Watts and Bohle (1993, cited in Vogel, 1997: 2) argue that the local and historical configurations of poverty, hunger and famine define for them what is called a space of vulnerability:

> "...vulnerability is a multi-layered and multi-dimensional social space defined by determinate political, economic and institutional capabilities of people in specific places at specific times."

This is demonstrated by Amis (2002: 10), who notes several dimensions of poverty:

- Income/Assets dimension, which relates "most clearly to livelihoods and the labour market. There are two elements: those who are *unable to* participate in the labour market (elderly, handicapped, children, those with ill-health problems and unemployed) and those who are *able* to participate in the labour market but whose remuneration may be such that they are below a nominal poverty line over two time periods".
- "Low levels of Human Capital are likely to interact with abilities to participate in the labour market as above. Improved levels of education and health are likely to make escape from poverty easier. Health related shocks are major events which are likely to deplete assets and keep households from benefiting from other possible sources of improvements and may lead indirectly to chronic poverty. Illness and episodes which result in chronic poverty can effectively make households unable to participate in labour market".
- "Low levels of Social Capital are likely to increase chronic poverty via a shortage of networks to protect households from shocks; weak networks/patronage into the labour market; some areas/group will suffer from labelling and exclusion. Ethnicity may reinforce this".
- "Households who do not own a productive asset (land, shelter) are more likely to experience chronic poverty as they are unable to use their housing as an asset and buffer against negative shocks".

An examination of the human development indices and some of the dimensions of poverty and the stresses that affect levels of vulnerability in Angola and Mozambique are illuminating in understanding the socio-economic context in which struggles over land are contested in each country. In Box 5-1 the key Human Development Indices for 2005 are summarised. A more detailed profile of some of the dimensions of poverty and vulnerability follows.

5.2.1 Angola

Angola's more than 30 years of internal conflict had devastating effects and has left the country in a difficult and complex social and economic situation. Given the lack of an accurate census since 1970 and the logistical obstacles that must be overcome in carrying this out, there are only

estimates of Angola's population, which are put at 16.5 million (GOA and UNDP 2005). Children under the age of 15 years comprise over half of the population, and 20% are under the age of five.

Box 5-1: Human Development Indices, 2005 (UNDP, 2005).

	Angola	**Mozambique**
Human development index (HDI) value, 2003 …….	160	168
Life expectancy at birth (years) (HDI), 2003 ……	40.7	41.9
Infant mortality (per 1000 live births) ……..……	154	109
Child mortality ……..	260	158
Adult literacy rate (% ages 15 and above) (HDI), 2003 ……	66.8	47.8
Combined gross enrolment ratio for primary, secondary & tertiary	29. 8	43.0
Pop living below the national poverty line (%), 1990 – 2002……	....	69.4

The Umbundu-speaking Ovimbundu, concentrated in the fertile central and northern highlands, are the largest ethnic group, making up some 38% of the population; the Mbundu (25% of the population), who live largely in the north and in Luanda, have come under the greatest influence of the Portuguese (EIU Angola, 2005). The rest of the population comprises the Bakongo (some 15%), and those of mixed race referred to as *mestiço*s who are concentrated in the urban areas and along the coast.

5.2.1.1 Poverty indicators

In this next section the levels of material deprivation – that are structural, conjunctural and contextual in form – are discussed. Poverty and inequity are evidenced in levels of income, housing and services (health and education) and these are address separately below.

Angola has one of the highest poverty rates in Africa, with more than 68% living below the poverty line and most of these live in rural areas where poverty is pervasive; more than 50% of the adult population is unemployed or underemployed and of those employed, some 55% work in the informal sector (Cain et al., 2004: 6). Some 85% of rural populations live off subsistence agriculture, in the absence of safety nets. The high incidence and intensity of poverty reflect the failure of the formal economy to generate livelihoods for the majority of people, households diversifying their incomes with a mix of formal and informal employment or relying entirely on informal work or commerce. Not only are the Angolan people far from realising their right to

development, but for many, it is the right to survival that is immediately at stake. Human security is more than just survival – it is also about people's right to dignity and there is little evidence of attention to this in Angola. Women, in particular, face enormous difficulties in making a living, even though Angola possesses an unusually high proportion of woman-headed households. So, while the emergency resulting from chronic conflict and political instability has passed (although pockets of extreme and urgent need still exist), Angola now faces a persistent structural emergency.

5.2.1.2 Inequity

Angola is characterised by huge inequalities in income, access to resources and to services such as health and education, and in suffering. These are best understood in terms of the historical patterns of social relations (see 'Social structure of the Portuguese colonies' in Chapter Five) and variations in policy. Inequalities in (poorly measured) wealth, furthermore, have increased because of the war and because of the country's recently developed oil wealth. Years of war have increased inequality in income and assets as Angolans have become notably richer in recent years as a result of expanding oil production and record high oil prices. According to the 1999 Human Development Report (UNDP, 1999), income inequality increased sharply between 1995 and 1998: the margin between the richest and poorest sections of the population grew from 1:10 to 1:37 in this period. The richest 10% of the population also experienced a 44% increase in wealth, whereas the poorest 10% saw their earning power shrink by 59%. The high inflation rate of around 270%, the erosion of wages, a collapse in employment in rural areas and the urban informal sector, and corruption were blamed (EIU, June 2000). GDP per head has increased from just US$505 in 1999 to US$1,350 in 2005, one of the highest rates in Sub-Saharan Africa (EIU, September 2006: 21) and per capital income one of the highest among the Low Human Development countries and double the average of this group (UNFAO/WFP, 2006). Angola's Gini Coefficient of 0.62 in Luanda is, in fact, close to South Africa and Brazil's which are 0.62 and 0.60 respectively.[57] This measure fails to capture Angola's

[57] The Gini coefficient was developed to measure the degree of concentration (inequality) of a variable in a distribution of its elements. It compares the Lorenz curve of a ranked empirical distribution with the line of perfect equality. This line assumes that each element has the same contribution to the total summation of the values of a variable. The Gini coefficient ranges between 0: where there is no concentration

appalling social indicators, which are among the worst in the world. Angola's most glaring wealth disparity, however, is between the rural and urban sectors (Stites and Leaning, 2002). The war destroyed most of the urban-rural links, including transportation and communications. The ruling MPLA's economic interests are more urban-industrial, with control of ports and coastlines and other trading routes to the outside playing a critical role. *These conflict with the agricultural interests of the groups in the interior* (Kyle, 2003) (Emphasis added). The social relations and political and economic interests that arise from these factors have significant implications for how access to land and landed resources are expressed in very calculated practices by the ruling elite.

5.2.1.3 The education and health sectors

A crucial dimension of poverty in Angola has been insufficient public spending on pro-poor social and economic infrastructure and services, and the consequent breakdown of public services, as evidenced by the low allocation of the annual budget to health, education and welfare services (Hodges, 2001). Overall, inadequate government funding for the education, health, and social security, welfare and housing sectors, which continues to be geographically uneven, is a critical factor in the pervasiveness of widespread vulnerability in the rural areas. For a while this seemed to be changing: in the 2004 budget, the social sector was allocated 33%, the largest share and an increase of 9% compared with the previous year; the defence and public order sector followed with 32%, a reduction of 5% (World Food Programme, 2004: 5). However, the shares of the government budget allocated to health (4.4% in 2006) and education (3.8%) are lower than average in the SADC area and have declined steadily since 2004. In general, there has been a bias against spending on initiatives to improve broad-based primary education and primary health care. The government has in effect delegated its responsibilities for providing these services to humanitarian agencies.

Education plays a very important role in empowering people with the knowledge and skills to be able to read legislation, to access services and to formally protect their land rights. Low levels of education and literacy in Angola play a significant role in disempowering the poor in

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(perfect equality), and 1 where there is total concentration (perfect inequality). See http://people.hofstra.edu

this regard. Ongoing instability has resulted in declining standards: primary school enrolment continued to fall after 1975 owing to war and government neglect, and by early 1995 an estimated 80 – 90% of rural schools had closed. Today some 52% of people over 15 are literate and school enrolment as a percentage of the total school age population stands is at most 50% (EIU, 2005). Some teaching at under-staffed and under-equipped schools takes place in the provinces, though most of these schools are in an advanced state of disrepair. There is a general scarcity of teachers. It is only in Luanda that children stand a chance of getting an adequate education, but here too there are severe constraints – less than half the teachers are adequately trained, there is a serious lack of classroom space, and teacher/pupil ratios can be as high as 1: 80 (EIU, 2005). Failure rates are high, and few children enter high school. Only 5-10% of children are registered at birth, lack of documentation limiting access to education, health facilities and employment. Because of poverty few parents can afford schooling. In a World Bank report (2006: 13), noting that the inequality of opportunities causes certain groups to face greater barriers to access basic services than others, they point out that access to primary education is only 35% for the poorest quintile, while for the richest quintile it is more than double that, at 77%. Literacy rates compare at 62% for the poorest quintile and 95% for the richest quintile. Government data from 2002 show that overall completion rates for primary education for girls are estimated at 41% compared with 57% of boys *(Ibid).* Child mortality in Angola is one of the highest in world as one out of every four children is expected to die before the age of 5. This estimate does not vary much between rural and urban areas (World Bank, 2006). Nutrition indicators are equally poor: 30% of children are moderately underweight, an 8% severely underweight; 45% suffer from moderated stunting and 22% form severe stunting. In the lowest quintile these numbers are double the ratio for the highest quintile (UNDP, 2006). By comparison, Mozambique in 2003 recorded a slightly lower level of moderate stunting, but a much lower percentage of severe stunting.

Public health services are so severely debilitated as to be effectively non-existent, with most healthcare provision of only the most basic services outside of the main centres having been left to NGOs and church groups. Outside of Luanda there are few functioning healthcare facilities with the exception of those provided by foreign aid organizations. Water supply and sanitation are very poor, with little investment in the huge shanty towns around the main cities. There are six key epidemic diseases – malaria, measles, tuberculosis, meningitis, cholera, antenatal tetanus, and yellow fever. The erosion of preventative health care and the aggravating factors of

conflict and poverty have enabled diseases that were eliminated from most parts of the world to make inroads in Angola. Diarrhoea and malaria are persistent problems and in recent years have been a constraint to agricultural labour (UNFAO/WFP, 2006). In February 2006 Angola experienced one of the worst cholera outbreaks in its history which affected close on 60,000 people (IFRC, 2007). By early 2007 the problem had eased, but was expected to worsen during the rainy season – the cholera endemic time. Cholera is most widespread in 16 of the 18 provinces among the most impoverished communities with limited or not access to water, sanitation and health services. Cholera, along with HIV-AIDS, and growing urbanisation are among the main long-term vulnerabilities that characterise Angola. The major killer diseases in Angola, malaria and diarrhoeal diseases – both related to poor sanitation and environmental conditions – are prevalent in Luanda.

Officially the adult rate of HIV-AIDS infection rate is low at 3.9% in 2003 according to UN data, but given the isolation caused by the war and the unreliability of gathering statistics; these figures are unlikely to be accurate. However, freedom of movement in the post-conflict period, combined with other socio-economic and demographic factors--including higher infection rates where Angolan military forces are stationed – sets the stage for a spike in the national HIV/AIDS rate (USAID, 2006). Sexual abuse by soldiers and the return of hundreds of thousands of refugees from neighbouring countries that have high infection rates will undoubtedly also cause infection rates to rise.

5.2.2 Mozambique

The indicators for Mozambique, like those that were presented for Angola, are similarly concerning. The country is divided into 11 provinces that are divided further into 130 districts, themselves divided into 300 administrative posts and localities. It has an estimated population of 19.4 million and annual growth rate of 2.4% (WHO, 2006). The administrative divisions show great variations in terms of spatial distribution and pressure on the various types of natural resources – some 40% of the population is concentrated in the northern coastal provinces of Cabo Delgado and Nampula, as well as Zambézia in the central part of Mozambique. There is a high concentration of people along the coastal strips, as well as in the main rivers valleys which are the most suitable area for farming. Some 78% of the population lives in rural areas and 80% of them work in agriculture (ROSA, 2006). The population is made up of various ethnic groups with distinct languages and traditions, and also includes small European and Asian minorities.

Poverty indicators

Mozambique's human development index indicators (HDI) have improved steadily since the 1990s (ADB/ADF, 2006), but are still the lowest in the SADC region, and it is one of the poorest countries in the world with 54% of the population living under poverty *(Ibid).* Poverty is higher in rural areas, but the gap between rural and urban areas is shrinking – in 2003, 51.5% of the urban population lived below the poverty threshold (down from 62% in 1997), and the figure for the rural populations was 55.3% (down from 71.3% in 1997) (UNDP, 2005). Poverty is greatest in the northern and central provinces: Zambézia is the poorest, followed by Cabo Delgado; Maputo City is the richest province[58] (AIM, September 2006b). Although access to services (health, water, sanitation and education) has improved dramatically, the poorest quintile of the population continued to have very limited level of education and access to health care services. The government of Mozambique lists the key factors determining poverty as: i) the low levels of education within households (adult illiteracy is 47%); ii) high dependency rates; iii) low returns from agriculture and manufacturing activities; and iv) limited access to infrastructure *(Ibid).* On income distribution Mozambique performs better than its neighbours.

The education and health sectors

The rapidly escalating HIV-AIDS pandemic is weakening national capacities and considerably slowing the rate of development. Although the precise level of infection is hard to gauge, the Ministry of Health estimates that the prevalence rates in 2004 were 16.2% (EIU, September 2006). Highest rates coincide with migration patterns, particularly in terms of migrant labour to South African mines, and those areas where there is most competition for land: the major international transport corridors and the peri-urban areas (Norfolk, 2004). Prevalence rates vary, with 18% infected in the south, 20% in central Mozambique and only 9% in the north, the hardest hit regions being those with cross-border traffic or where there have been large numbers of returning refugees (EIU, September 2006).

The impact in terms of productivity, on finances and human resources over the coming years is likely to enhance vulnerability, and especially of woman as the greatest burden of care falls on

[58] Maputo city was not a province until declared so by the Guebuza government. Now it is both a Municipality with an elected president, and a province with a Party appointed Governor.

female members. The land rights of women also become increasingly insecure under patriarchal customary tenure systems as widows may lose their land. Family savings are consumed and assets sold to help pay for medical expenses and agricultural land usage often declines amongst afflicted families. There has been an increase in the number of reported malaria cases since 1999 (EIU, September 2006), with 3,4 million reported in 2005.

5.3 ECONOMIC PROFILE

The economic profiles of both countries is further probed, showing structural weaknesses, as well as the challenges specific to the rural economy and those experienced in an urban environment, emanating from factors such as the protracted war and rapid urbanisation.

5.3.1 Angola's Economy

Following independence in 1975 the ruling MPLA tried to establish a Marxist-Leninst, central planned economy. Property was nationalised and state control extended over virtually all economic sectors. In the early 1990s this was abandoned and a number of economic reform programmes were introduced, sometimes falteringly. Since the late 1990s the government has increasingly adopted programmes that are in keeping with IMF policies. In 2003 the government announced that the transition from a centralised economy to a market economy was complete, "although the policy instruments… were not effectively implemented" (APA, May 2003). According to the Economic Intelligence Unit, the MPLA "espouses an ill-defined democratic socialism, but its policies are weighted heavily toward the interests of a ruling elite that is rather distant from most Angolans" (EIU Angola, 2005: 8). Many of the policy changes have been adopted in order to attract donor assistance, foreign investment and increase access to international capital markets.

The country not only has enormous reserves of oil, gas and diamonds, considerable hydroelectric potential, varied agricultural land and adequate rainfall. It is also one of the world's poorest countries: oil represents 55% of GDP and 90% of exports; 66% of the population lives below the poverty line and 26% lives in extreme poverty (GOA and UNDP, 2005):

> "Economically, Angola is a country with one of the greatest unrealised potentials in all of Africa. Blessed with good ports and good agro-climatic conditions for agriculture, Angola could if properly managed develop into a high income nation" (Kyle, 2003: 5).

An enclave economy, Angola is one of Africa's major oil producers. The International Energy Agency (IEA) estimates that Angola has 8 billion barrels in total proven oil reserves, but unofficial estimates put them as high as 12.5 billion barrels (EIU, Angola Country Profile, 2007). It is the fourth largest producer of rough diamonds in the world (IMF, 2005); reserves are estimated by the World Bank at 40m carats in alluvial (river-borne) deposits, and 50m carats in kimberlite diamond-source rocks (EIU, Angola Country Report, 2007). The economy is dominated by the capital-intensive oil sector (48% of GDP – EIU, September 2006). Oil production is expected to continue its rise from its current 1,4million barrels per day (bpd) to around 2 million bpd by 2007 (EIU, March 2007). The country also has substantial reserves of gold, iron ore, copper, manganese and other minerals (McMillan, 2005). Surveys have shown that there an estimated 150 million tonnes of phosphate reserves in the northern provinces of Cabinda and Zaire that are currently not being exploited, and that there are large reserves of marble, granite and quartz in the south-western provinces of Namibe and Huíla (Republic of Angola, 2006: 2).

Prior to independence in 1975 Angola had a diversified and prosperous economy: coffee, sisal and cotton were the main agricultural exports; diamonds and iron were mined; oil production reached 170,000 bpd and import-substituting light manufacturing was fairly successful (World Bank, 2006). It was self-sufficient in all crops except wheat, but has subsequently had to rely heavily on imports and food aid as much of the economy has been destroyed. Agricultural production as a whole fell from 29% of GDP in 1991 to just under 6% in 2000 (ICG, 2003a). Commercial agriculture has collapsed in most areas, manufacturing (most of which is concentrated in Luanda, Lobito and Huambo) that was once large and diversified, now contributes around 3.8% of GDP (EIU, September 2006). Much of the transport infrastructure has been destroyed, war and neglect resulting in the closure of most road and rail links.

Emerging from war, Angola is now experiencing a post-war reconstruction boom: by 2006 Angola's economy was one of the fastest growing in the world having rocketed by 18% in 2005 and inflation had dropped to 18.5%, the lowest in the country's history and in contrast with the past long periods of hyperinflation (average of 977% over the 1990s decade). This has been achieved essentially through a heavy intervention in the foreign exchange market to support the kwanza, the national currency, which has appreciated some 40% over the past two years. However, the strong kwanza has made imports cheaper and this in turn, combined with high transportation costs due to the poor status of the road network, is severely damaging the

development of domestic non-oil sectors, such as manufacturing and agriculture. The recovery of the Angolan economy is now becoming more firmly established. Nevertheless, commercial activity outside the oil industry, diamond mining and construction, remains extremely limited.

Agriculture and land use

"Angola inherited from its colonial period a 'dualistic' structure regarding the possession of land, based on two distinct agrarian systems with differing cultural, sociological and economic patterns, geared to differing objectives. They are characterised as 'family' and commercial' agricultures, although in reality the distinctions are far more complex. Family agriculture is not synonymous with subsistence agriculture, and sometimes requires informal hiring of labour; nor does commercial agriculture relate only to very large properties" (Pacheco, 2004: 1).

Although agriculture accounts for only about 8.2% of GDP, subsistence agriculture provides the main livelihood for 85% of the population (UNFAO/WFP, 2006). In most rural areas, except for the south where livestock predominates, crop production is the main source of livelihood. It is predominantly a family labour activity for smallholder subsistence peasants who plant an average of 1.4 ha per family on two or more plots. The area planted has been increasing slightly since the end of the war and depends primarily on the availability of family labour for land preparation. Most farmers use hand tools for land preparation and weeding; the use of oxen is again becoming more common on the Central Planalto as their numbers increase. In the south, home to about 95% of the country's livestock, transhumance (seasonal migration of herders and livestock for grazing) is practiced.

Angola has shifted from being a net exporter to a country heavily dependent on international food aid. In the early 1970s Angola exported more than 100,000 tones of maize each year, yet by the 1990s the country was producing only about half of its cereal needs. Coffee exports in 1993–97 were on average about one% of their level in the early 1970s (Hodges, 2001: 95). Cultivation of most other cash crops, including sisal, sugar cane, cotton and tobacco has almost ceased. With a mere three% of eight million hectares of arable land estimated to be under cultivation, the country can only produce a small amount of its total food needs. For several years the WFP has been delivering food to an average of one million people each month.

While the MPLA did little to promote peasant agriculture after 1975, it is the war that has truly ravaged the agriculture sector, agro-processing and domestic trade. Empirical evidence suggests

that with virtually continuous warfare since before 1970 that agricultural ouput at the end of the 1990s was well below half of what it would have been in the absence of war (Pearce, 2005). There has been a critical loss of assets and capacity – key agricultural, health, education and transportation infrastructure have collapsed or been destroyed. Much agricultural land has been untended and left fallow for years or rendered useless by landmines. Seeds and tools (including animal traction) are scarce, and inputs almost entirely sourced from relief agencies. Labour is also scarce in some areas as more than half of the households are headed by women. Many women-headed households have high dependency ratios with elderly and young to care for.

Angola's urban poor

Displacement of people across the country as a result of years of war has resulted in rapid urban growth rates, most of since the 1980s (see Plate 5-2). The safest cities – Luanda,



Plate 5-2: Luanda 2005: maximising space (Leao, 2005)

Benguela, Lobito and Lubango are estimated to have grown 40 to 50 fold between 1940 and 2000 (Cain *et al.*, 2002: 7). A 1996 study commission by UN Habitat (UNHCS, 1996) estimated that over 50% of Angola's population lived in urban or peri-urban areas by 1995.

Founded in the sixteenth century, Luanda was until the end of the nineteenth century a trading station often dealing in slaves. From the 1950s onwards, when Portugal's occupation of Angola

increased, the town grew very rapidly and resulted in the displacement of poorer people from the low-lying areas (*Baixa*) – see Plate 5-3 – to the slopes above the bay known as the *musseques*[59]. With no clear and planned division between these two, periods of rapid growth have resulted in the *Baixa* extending into the *musseques*, and the displacement of indigenous communities further out, while also being blocked from outward expansion by small farms occupied by Portuguese settlers. After independence the abandonment by the Portuguese opened up these areas for expansion, and by 2000 they extended 13 kilometres



Plate 5-3: Baixa in Luanda (Leao, 2005)

beyond the city centre (Cain *et al.*, 2002). These areas have continued to grow densities often reaching more than 800 people per sq km. In the absence of any policy on urban development, the *musseques* have developed informally as increasing numbers of people built houses on available spaces with whatever affordable materials they could find. The expansion of the urban core has increased dramatically since the late 1990s in concert with the development of oil exploration as condominiums for the staff of oil companies and other national and multi-national corporations have grown. The 2002 peace agreement has encouraged an acceleration of

[59] This is the name commonly applied to the suburban zones occupied by the economically disadvantaged population of the capital. It originates from the geological term for the sandy land that surrounds the city of Luanda, but is still used for improvised, precarious and permanently expanding urbanization. Some date back to the late 19th century (DW and CEHS, 2005: 90).

this process (Amnesty International, 2003).

5.3.2 Mozambique's economy

In 1984, faced with severe shortages of food supplies and the need to restore the socio-economic life in rural areas, the government agreed to join the World Bank and the International Monetary Fund. Two years later, in return for food aid, the government agreed to pursue a structural adjustment programme (SAP) (Kulipossa, 2006). Since the early 1990s, Mozambique has engaged in an extensive socioeconomic transformation at an accelerated pace, based on a transition from a socialist centrally planned economy to a liberalized economy, including a decentralisation process that is just beginning. It has since then been one of the world's fastest growing economies, but this has been off a very low base for even before the war it was among the world's poorest and least developed countries. Government policies and reforms, together with substantial donor supports, have contributed to macroeconomic stability, rapid growth, socio-economic transformation and poverty reduction. While growth reached 7.7% in 2005 (UNIrin, October 2006), observers point to the need for a real transition out of poverty as expansion has been driven mainly by foreign financed 'mega-projects' such as the US$2 billion Mozal aluminium smelter and large aid inflows. There is also the need to promote growth in a more widespread manner. To achieve its objectives of reducing poverty, Mozambique has put in place a pipeline of mega projects with projected investments of about US$10billion, or almost 2.5 times current GDP (Nasir *et al.*, 2003 cited in ECA, 2005: 103) with a view to increasing manufacturing outputs and exports. A review of these projects, however, shows that they will create at most 20,000 jobs, only 5,000 of them directly within the companies involved and the remaining 15,000 among suppliers and service providers *(Ibid).* With an estimated 3,7 million new job seekers expected in Mozambique's labour market by 2010, such projects will absorb less than 1 per cent of these new job seekers. Continuing to channel investments into those areas with the highest returns will be the main route to growth over the long term (Kyle, 2003: 10), and to this end Mozambique has reverted to a high degree of integration with the South African dominated regional economy.

Poverty reduction is the central goal of the Government's medium-term economic program, the poverty reduction strategy that aims to reduce poverty headcount to 45% by 2009. This commitment is expressed in many policy documents, including the *Programa do Governo para* 2000-2004, the Government Document to the Consultative Group, the Interim Policy Reduction

Strategy paper (I-PRSP), and the *Plano de Acçaõ para Redução da Pobreza Absoluta* 2000-2004 (PARPA). The government believes that it can only reduce poverty if per capita income grows by at least 5% per year over the next ten years. A major challenge for the Government is to ensure a more even distribution of the economic gains that have been made over the past 16 years. The new wealth and progress seems primarily to be concentrated in and around the capital Maputo. Much of the growth is linked to the development of highly intensive 'mega' projects (such as Mozal) that have limited absorption of unskilled workers (de Vletter, 2006). Without agricultural development, national advances in economic development may well not be sustainable and will remain fragile (Kyle, 2003).

The fiscal resources of the government are still very weak due to the relatively limited economic activity and costs generated by the enormous proportion of the population living in severe poverty. Since the end of the war, Mozambique has been heavily dependent on foreign aid. A group of some 18 donors known as Programme Aid Partners, provide direct budget support – US$583 million for 2007, while total aid to the country amounts to US$1,2billion – almost half the state budget and more than in almost any other country (UNIrin, 2 October 2006). Dependence on external aid means that government has tended to be driven by donor agendas and is reliant on donor funding to develop new programmes.

Agriculture and land use in Mozambique

Following the end of civil war and severe drought between 1992-3, the agriculture sector grew rapidly, data from the Famine Early Warning System records growth of about 26% from 1996-2002 (ECA, 2006). Agriculture, including livestock and forestry, accounts for a quarter of GDP (ADB/ADF, 2006) and the family sector of some 3,3 million farming units accounts for over 90% of the nation's agricultural production (ROSA, 2006). The main food crops are maize, sorghum, millet, rice, cassava, cowpeas and beans. The main cash crops are cotton, sugarcane, cashew nuts, coconut, tobacco, tea and sunflowers.

There has been growth in agriculture, but this is largely in the commercial sector. The area under cultivation has expanded at a rate of 2.4% per year due to: i) macroeconomic stability; ii) sector liberalisation; and iii) return of 3,2 million displaced to rural areas. "For subsistence farmers, increased yields are almost entirely the result of cultivating more land following the end of the war and higher productivity following the demise of collectivisation" (Vaux *et al.,* 2006: 15). Of the total 36 million ha of land suitable for agriculture, only 20% is exploited by

about 2,5 million peasants (ROSA, 2006). Around 75% of the cultivated area is taken up with food crops and the remaining 25% used for export crops such as cotton, cashew, copra, sugar cane and tobacco. Women account for 55% of the labour force in agriculture (ADB/ADF, 2006).

A sector wide support programme for agricultural and rural development, PROAGRI (*Programa de Investimento Publico Agrário*) (Phase 1 1999-2004; Phase 11 2005-2009), and the Poverty Reduction Strategy and Plan (adopted in 2002) "have both established principles and priorities in respect to natural resource usage that are intended to ensure a reduction in the vulnerability and an improvement in the livelihoods of the rural poor" (Norfolk, 2004: 1). The aim of PROAGRI is to stimulate the agricultural production and commercialisation processes through 1) small scale farming; 2) commercial farming and 3) sustainable management of natural resources. Nevertheless, to date policies have not provided the necessary support to the small-scale farming sector and conflicts between the fostering of cash crops and food crops persist (AIM, 2003; ROSA, 2006). The National Strategy for Food Security is a programme aimed at promoting socio-economic development and meeting the fundamental needs of the population, with particular focus on the most vulnerable groups. In a recent report on 'Attaining food and nutritional security in Mozambique', ROSA (2006: 8) notes the following: "The reduced size of small-scale farmer's plots and the increasingly low soil productivity results in a low volume of production, problems that are aggravated by the lack of use of agricultural techniques that could improve capacity and lack of access to and control over god quality seeds. Poor access to inputs, very limited coverage of agricultural extension services and little agricultural research further limit agricultural development". It concludes, that in general "the State's policies and strategies are so ineffective that they are not able to ensure sustainability of the agricultural system in all its components…This situation is aggravated by the occurrence of cyclical natural hazards" (*Ibid*).

Mozambique's burgeoning tourism industry

The country is well endowed with natural resources and impressive physical attraction. The extensive coastline has many unspoiled beaches and potential holiday resorts and the country possesses one of the most diverse collections of wildlife species. The North and South of the country are recognised centres of biodiversity with extensive vegetation and unique wetlands that typically support plan and animal species found in only a few other countries in the world

(ADB/ADF, 2006). The sector has not played a significant role in the economy, due to the impact of the war. There is potential for the development of tourism in the south, which is seeing improvements to its transport infrastructure. However, there is a dearth of high-class hotels and few tourist facilities. The development of the Lumombo project, which envisages the creation of a tourist zone spanning parts of eastern South Africa, Swaziland and southern Mozambique, promises to boost tourist numbers.

In December 2006 during the debate on the government's plan and budget for 2007, Tourism Minister Fernando Sumbana, said that tourism had become one of Mozambique's "main weapons to combat poverty, through creating jobs and contributing to the balance of payments" (AIM, December 2006). Revenue from tourism in 2005 totalled US$108 million and is forecast to reach US$144 million dollars in 2006, an increase of 44 per cent. Currently the tourism sector employs about 35,000 people, at least 50 per cent of whom are women. It has also become one of the major sources of private investment in Mozambique. Investment in tourism this year was 50 per cent higher than in 2005 *(Ibid).*

Urbanisation in Mozambique

At the time of independence Mozambique had a population of 12 million and an urban population of between 1 to 1,4 million. The areas with the highest population density lay along the coast (CEIKAb). During the periods of war and drought, the rural-urban migration led to the rapid urbanisation of the country. In many cities, that situation resulted in an unprecedented demand for specific resource and services, and substantial pressure on existing urban infrastructure. The urban population roughly tripled in ten years and local governments were unable to meet the increasing demand for sanitation, water, supplies, and garbage collection *(Ibid).* The end of the war in 1994 did not reduce the country's informal settlements, statistics showing that many of them became more consolidated, giving way to informal settlements with more consolidated housing. According to the UN-Habitat (2004) figures, urbanisation levels in 2001 were 33% of the population of which 94% were slums. The same source reported that 86% of the population had access to drinking water and only 14% to adequate sanitation.

Unplanned growth of the precarious and peri-urban areas, aggravated by the absence of land use planning instruments and their execution and control has resulted in most of the urban population living in areas without adequate access to basic infrastructure and social amenities (CEDH and UEM, 2006). Uncontrolled urbanisation is considered the most recent

environmental degradation in Mozambique. Urban poverty, increased occurrence of diseases, inadequate sanitation and services, poor living conditions, pollution, and lack of administrative capacity to cope with the basic needs of the ever growing population are the most visible aspects. Maputo, Beira, Chimoio, and other provincial capitals are the cities in which urban environmental degradation has now transcended the urban limits to affect rural land, coastal ecosystems, and water resources. The above conditions have resulted in widespread water-borne diseases in Mozambique such as cholera, typhoid, diarrhoea, and malaria as the major causes of mortality in the country (CEIKAb, n.d.).

5.4 BIO-PHYSICAL ENVIRONMENT; NATIONAL ENVIRONMENTAL MANAGEMENT

Environmental issues are examined because of the significant role they play in the building of sustainable livelihoods. For the poor especially, environmental concerns are ever present as they face risks arising from climate issues such as droughts, cyclones and floods, or from poor environmental management that may degrade natural resources, or, for example, from displacement arising from wildlife conservation established in the interests of the national economy. These are issues of concern not only for securing the environment but also a matter of environmental justice that ensures the rights of people to a safe environment and to securing sustainable livelihoods:

> "Environmental legislation and programmes play a significant role in how social relations around land and landed resources are changing" (Schroeder, cited in Peter, 2004: 275).

5.4.1 Angola

Angola has a total area of 1,25 million square km. The narrow low-lying coastal plain, rises abruptly to a vast interior highland plateau that is mountainous in places. Arable land is estimated at about 8 million ha, forestland 54 million ha, permanent pasture land 33 million ha, mountain and shrubland 28 million ha, and others 4.9 million ha (UNFAO, n.d.). Angola has a diverse climate that provides for easier agricultural diversification. The country is divided into three main agricultural zones that correspond to the main climatic zones and geographical features of the country: the humid north; the semi-arid south; and the central highlands (Central Planalto) with a sub-humid climate. Maize and beans dominate in the Central Planalto; in the south, agro-pastoral systems assume increasing importance. There are 5m to 8m ha of arable land and extensive pasture in the south free from tsetse fly (EIU Angola, 2005). Nevertheless,

perceptions that good land is widely available are false; in many areas it is of poor quality and unworkably remote or fragmented. It is only in the central highlands that soil fertility is high, and even here there are places where fertilisers are needed to compensate for the marked degradation of soils; elsewhere, larger areas of (less fertile) land are needed in order to guarantee subsistence (UNFAO/WFP, 2006).

National environmental vision

The government recognises the fundamental importance of sustainable use of the environment. Environmental strategies, policy frameworks and management approaches are detailed in two major documents: the *Programa Nacional de Gestão Ambiental* (PNGA) and the *Estratégia National do Ambiente* (ENA). Responsibility for formulating and implementing environmental policies and programmes lies with the Ministry for Urban Planning and Environment. Regulation and protection of the environment in Angola comes under the jurisdiction of the Office of the Secretary of the State for the Environment, the Ministry of Agriculture and Rural Development, the Ministry of Fisheries and the Office of the Secretary of State for Energy and Water.

5.4.2 Mozambique

Mozambique is a coastal country with a total land area is about 800,000 km². It has a 2,700 km coastline of vast environmental value and rich in fisheries resources. About 42% of the country lies within the coastal area. The country is bordered by South Africa and Swaziland in the south, Zimbabwe, Malawi and Zambia in the west, Tanzania in the north and the Indian Ocean in the east. The climate of the country is determined in the south by the activity of the sub-tropical anticyclones located in the Atlantic and Indian Oceans (St. Helen and Mascarenhas) which causes thermal depression in the inner parts of the country and inter-tropical convergence zone (ITCZ) which affect primarily the northern region. Rainfall and altitude divide the country into two regions, the humid tropics in the north and east, and the semi-arid tropics in the highlands and south.

The land and water resources of Mozambique are abundant relative to its population: interior waters including lakes and dammed waters constitute an area of about 30,000 km² with good fishing conditions. There are a large number of rivers and flood plains which also have excellent fishing conditions. Physically 70% of the territory is composed of savannah and secondary

forest, and 45% of the emerged land has a potential for agriculture.

Environmental policy and management

It was recognised in the early 1990s that many of the country's policies and laws relating to environmental protection and natural resources management warranted updating. In the 1990 Constitution the importance of natural resource ownership and use is detailed in several Articles (35, 36, 37, and 48). It entrenches the concept that the state is the paramount owner and also recognises the obligation of the State to develop these and to determine the conditions under which citizens and others may access them. It stipulates, further, that the use and enjoyment of land and natural resources may be granted, to an individual or to collective persons, taking into account its social purpose (Norfolk, 2004). Symbolic weight is given to the value and ownership of these resources by the description of two of the colours in the national flag – green to represent the riches of the soil and gold the riches of the subsoil.

Following the adoption of the Constitution in 1990 and the peace accord in 1992 there was a rapid change in the legal framework governing ownership and rights of use to a range of natural resources. These took place against a background of concern for reducing absolute poverty (Norfolk, 2004). The National Environmental Commission (NEC) was created, leading to the creation of the Ministry for the Coordination of Environmental Affairs (*Ministério para a Coordenação Ambiental* – MICOA). It has subsequently developed a legal framework for environmental management. The 1995 National Environmental Policy is based on two sets of instruments and general development principles:

- The National Environmental Management Programme (NEMP) finalized in early 1996 and supported by a Framework Environmental Law, Act No. 97 of 1997; and
- National Conservation Strategy within which an institutional and legal framework has been built concerning most relevant sectors and sub-sectors of the national development.

In addition to the adoption of sound policies, other important laws and regulations have been adopted relating to land, forestry, wildlife and coastal resources, providing a solid basis for improving environmental planning and natural resource management.

5.4.3 Environmental problems faced in Angola and Mozambique

Vulnerability and environmental hazards

Environmental change is caused by human activities (driving forces) which combine with

natural processes. Several factors may configure to produce environmental stress, including climate change, flooding, drought and deforestation. National driving forces which contribute to the environmental situation include the need to meet the food and energy requirements of the population, and the need for economic growth and job creation. These are, in turn, informed by macro-economic and sectoral policies. Environmental problems can aggravate resource pressure, particularly land access and availability, and land management.

New studies confirm "that Africa is one of the most vulnerable continents to climate variability and change because of multiple stresses and low adaptive capacity" (IPCC, 2007: 10). In southern Africa, predictions of climate change indicate inter- and intra-annual variability of rainfall, key climatic elements that determine the success of agriculture and that will result in more extreme and frequent floods and droughts (Vogel, 2004). Temperatures are projected to increase, speeding up plant growth in some areas and reducing the length of the growing season (Leichenko and O'Brien, 2002). Since 2000 the region has experienced an increase in a variety of disasters, ranging from cyclones to floods. A two-year drought in 2002-3 saw more than 14 million people in the region needing food aid and the cumulative impact of these disasters on vulnerable communities is growing each year, as many had not fully recovered from the effects of one disaster when hit by another. As Vogel (1997: 2) notes:

> "Risk is closely tied to vulnerability and can be seen as a function of vulnerability. Communities who are most vulnerable will also probably be those most at risk to shock or disturbance to normal daily life. Although communities may face the same risk they will not, however, be equally vulnerable. There is thus a complex interaction between the exogenous (external threat/event) and the internal capacity of a community or household to withstand or respond to the event."

Angola's environmental concerns

The main environmental limitations associated with the impact of the war are the widespread presence of landmines, the excessive human pressure on natural resources in areas where large numbers of internally displaced people have settled (Russo *et al.*, 2005) and decimated fauna due to excessive use for food and marketable products, such as the slaughter of tens of thousands of elephants for their ivory. During the colonial era 13 protected areas were created. The main environmental problems are linked to enormous pressures from the human population which is heavily concentrated in the coastal strip (largely a result of armed conflict). These are summarised as (IFC, n.d.; UNDP n.d.; Russo *et al.*, 2003; WESA, 2000):

- Deforestation, with a contraction rate of up to 450 sq kilometres per year and few expanses of natural forest remaining. This has been due to international demand for rare tropical wood species and domestic use of fuel wood. Deforestation contributes to the loss of biodiversity, soil erosion, water pollution, silting of rivers and inadequate supply of drinking water;
- Natural hazards such as droughts and flooding, mainly in the central part of the country (see Box 5-2);
- Water resource scarcity and drought, mainly in the south-west;
- Desertification, especially in Tômbwa;
- Soil degradation – vulnerability to erosion, unsustainable agriculture, deforestation and physical and chemical degradation are reducing agricultural productivity, especially in the central-east of the country (Russo *et al.*, 2005: 4); and
- Adverse climatic conditions – salinisation and uncontrolled fires which have led to soil erosion and loss of soil fertility, particularly in Benguela, Bengo, Huambo, Huíla and Luanda.

Mozambique's environmental concerns

Most of Mozambique's natural resources are in a 'healthy condition', partly as a result of low population densities and low levels of economic development, most of which are concentrated in the few urban centres (Russo *et al.*, 2003). Environmental problems are therefore relatively localised but some have become more serious in recent years and have the potential to generate lasting adverse impacts on livelihoods. While the country's natural resources are threatened by population growth, poverty, poor management and utilization and lack of financial resources, the principal problems, nevertheless, are located at the policy, institutional and legal levels. These have significant implications for the management of land and landed resources, as will be examined in Chapter Seven. At the institutional level there are concerns regarding weak technical capacity and absence of inter-sectoral coordination, and excessive centralisation; at the legal level, sectoral legislation is outdated and/or with gaps. These problems are aggravated because little information is available and little investigation has taken place (Hatton *et al.*, 2003).

The main environmental problems (most of which are interconnected) are listed (CEIKA, 1999; Hatton, *et al.*, 2003):

- Land degradation and soil erosion caused by unsustainable farming practices, poor planning and *ad hoc* development of human settlements, mining, infrastructure and development.
- Water and soil pollution, most of it attributed to certain industries and agro-industries (textile and paper; petroleum refining; cement).

- Uncontrolled and rapid urbanisation, especially during the war years and in response to drought, has resulted in urban poverty, increased occurrence of (mainly water-borne) diseases, inadequate sanitation and services, poor living conditions, pollution, and lack of administrative capacity to cope the basic needs of the growing population are the most visible aspects. Exposure to natural hazards such as flooding in low-lying areas and landslides are issues. Industrial sewage disposal.
- Deforestation and use of forest products. This arises from clearing of land for subsistence and commercial agriculture and the use of bush fires for land clearing and hunting. While forest covers nearly a quarter of the country, Mozambique has little tropical forest coverage. Nevertheless, deforestation rates are quite low – only 3.7% of the country's forest cover was lost between 1990 and 2005 – and have not increased significantly in the past five years. Many of the mangrove forest areas along the coast are under threat because of excessive harvesting for fuel and charcoal.
- Natural hazards such as floods and cyclones (see Plate 5-4) and drought. More than half of the ten provinces are affected.
- Threatened ecosystems: loss of wildlife and biodiversity. War activities and post war commercial and subsistence hunting are also responsible, and there are concerns about invasive alien species.

Mozambique has a history of natural hazards (see Box 5-3) including seasonal floods, cyclones and prolonged droughts, disrupting livelihoods and services, and exhausting limited coping mechanisms and exacerbating population vulnerabilities -- especially for women and children.

The dynamics of rural vulnerability to climate change are extremely important in a country such as Mozambique where agriculture plays a predominant role in the lives of 80% of the population and could have a significant bearing on incomes as agricultural incomes, and especially crop incomes, is a large share of total incomes for a large segment of the population (DNPO *et al.*,. 2004). Developing adequate responses to climatic variability is constrained by lack of access to information and technology as well as lack of money to invest in agriculture, while improved seed varieties or irrigation techniques are far beyond the reach of the large majority of farmers (Eriksen *et al.*, 2003).



←Cyclone Favio, February 2007:
40,000 people affected by cyclone Favio while 140,000 people displaced by floods in Zambezia valley, following heavy rains.
Flooding of Zambezia river valley continues to drive people from their homes increasing risk of water borne disease.
Urgent humanitarian needs: shelter, food, water, sanitation facilities, health facilities for primary care, psychological counselling.



Plate 5-4: Mozambique: floods and cyclones: 2007. Source: Relief Web, UN-OCHA, 28 February 2007. Right: Matutuine: The after effects of the floods in 2002 (Clover, 2006).

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Previous chapters have examined the importance of land, which is at the heart of social, political and economic life of people in Africa. Land has an increasingly complex relationship with livelihoods and poverty, and in a post-conflict setting land issues play a fundament role in reconciliation and economic rehabilitation. Countries quickly need to develop land legislation that deals simultaneously with both equity and efficiency issues. Land issues per se are not endogenously conflictive, but in a post-conflict settings, the scramble for access to the assets necessary to (re-)establish livelihoods for large numbers of people, as well as the pursuit of land access by large-scale commercial interests who capitalise on a fluid land tenure situation to acquire resources, may occur. In this second section of Chapter Five, the specifics of each country's land policy and legislative environment are examined in depth. Both countries have introduced new legislation subsequent to the ending of protracted violence: Angola in 2004, two years after the war ended, and Mozambique in 1997, five years after the ending of war. The securing of land rights requires a legal framework and an effective and efficient administrative

and judicial infrastructure. This section is important for illuminating the legal, institutional and procedural patterns. The ways in which access to land is regulated, how land rights are defined and recorded, and how conflicts around access to land ownership and land utilisation are managed, play an important role in securing, or jeopardising, livelihoods, and in perpetuating power and property relationships.

CHAPTER 5: Section II – Land Legislation

Angola's Land Legislation

INTRODUCTION

After emerging from 27 years of vicious and protracted civil war, Angola's government introduced a draft Land Act and draft Territory Law in July 2002 (Pacheco, 2002), three months after the negotiated peace settlement was signed with Unita. The impetus for this was in part a reflection of the growing number of land conflicts that had occurred over the previous ten years, and which had resulted in increasing awareness on the part of the government that the existing 1992 land law was deficient in many ways, and not generally well known by either the public in general or by farmers. A closer examination of Angola's history of land tenure and its new Land Law highlights that land in post-war Angola could continue to be a source of conflict, and furthermore could be an issue contributing to considerable livelihood insecurity.

In common with many other countries in Southern Africa, the division of land in pre-colonial Angola corresponded to a system of communal possession of land in which any member of the community had the right to cultivate one or more parcels of land occupied by the community (Pacheco, 2002). This right would not be lost by the members of the community or group even if the land was temporarily abandoned. Where there was greater demographic pressure, families established closer, more permanent ties to their land that equated to specific rights – much like a bond or socially accepted legal norm that assumes the value of a title.

5.5 ANGOLA'S LAND REGIME UNDER THE PORTUGUESE

The first categorical establishment of state primacy comes from 1856 when a distinction was created between land belonging to the state (in other words the Portuguese crown) and 'fallow' land (Groppo, 2002). After the Portuguese abolished the slave trade in Angola in 1858[60] the colonial government began using concessional agreements, granting exclusive rights to a private company to exploit land, people and other resources. At the end of the nineteenth century, a more systematic development of legislation was pursued, with the introduction of a new concept of 'vacant' land, in addition to finding ways to deal with land that had entered the private system. 'Vacant' lands were in effect lands that were 'owned' by indigenous collectives and could not be sold to private citizens without the authorisation of the state. In practice this meant giving limited rights in a political and legal sense to indigenous communities (Norfolk *et al.*, 2004).

Increasingly, political and administrative measures were directed at the submission of Angolans to Portuguese sovereignty and their integration into the monetary economy and the colonial market. In his review of Portuguese legislation between 1880 and 1920, Pacheco states:

> "The most conspicuous of these measures concerned the payment of taxes, compulsory cultures and different modalities of forced labour. Conflicts between indigenous communities and Portuguese administration appear from that period on, due to abusive occupation of lands by merchants or colonial enterprises, principally in the area between Malange and Luanda" (2002: 9).

There were ambiguities and contradictions resulting from the concept of 'vacant' lands. The principle of the existence of specific areas of land for the exclusive use of indigenous populations (whilst making the remainder available for European settler concessions) that appears for the first time in the 1920s does not, however, mean that land was recognised as the property of the indigenous people. The authorisation requirement by the state was a reflection of the social structure prevalent in the colony, which comprised the categories of *indígena*, *assimilado, mestiços* and, at the top of the hierarchy, white Portuguese (Pacheco, 2002). The legislation was unclear and open to interpretation in that it recognised the existence of land for

[60] The Portuguese used Angola principally a source for the thriving slave trade across the Atlantic and by the 1700s Luanda had become the greatest slaving port in Africa.

exclusive use by indigenous people without attributing to them property rights, whether collective or individual. In practice, state control over the sale of land meant limiting (both in a political and in a legal sense) the rights of indigenous communities. Colonial authorities justified the duality of the law as defending colonial rights and interests and at the same time respecting the uses and customs of the indigenous people, but this justification also contradicted the proclaimed intention of conceding Portuguese citizenship to all Angolans without distinction – provided they became "assimilated", of course (Collelo, 1991; Groppo, 2002).

The legal abolition of forced labour in 1878 was largely ignored and forced labour on a significant scale continued (Kaplan, 1979). The morality of this was justified by the belief that "blacks had a duty to work for whites and that only doing so could they better their social conditions" (*Ibid:* 37). By the end of the nineteenth century massive forced labour was providing the basis for development of a plantation economy, having replaced slavery (CBI, 2005).

5.5.1 Modifications to the land law: the 1930s

The late nineteenth century law met with strong opposition, and by the 1920s the indigenous communities were contesting the expropriation of their land for cotton. In the mid-1930s it was therefore modified with a new legal definition of so-called 'vacant' lands: they must have been unexploited, '*não explorado'*, or abandoned for at least ten years. This meant that 'vacant' lands "owned" by local communities fell outside the newly defined categories of the modified 1930s law. It did not mean, however, that lands for the exclusive use by indigenous populations were recognised as the property of the indigenous. The change in the law opened up for discussion two important issues that remain relevant today. First, what kind of recognition is given to those (individuals and collectives or communities) who have rights to land through customary law? Second, what kind of relationship can exist between different types and forms of law? (Norfolk *et al.*, 2004).

The diverse land-use systems that developed in the 20th century prior to independence varied according to different ecological regions, *but they were also transformed or modified as a direct result of systems imposed by the colonial government in keeping with its own political and economic objectives* (Pacheco, 2002). Prior to 1940 only 35,000 Portuguese emigrants settled in Angola, and most worked in the cities (Kaplan, 1979). Portuguese settlers found it difficult to make a living n the rural areas owing to fluctuating prices and the difficulties in obtaining cheap

labour for their cultivated lands. As a result, they often suspended their operations until the market prices rose, and instead marketed the produce of Angolan farmers. The communal land systems in the eastern half of the country were a reflection of this area's semi-subsistence agricultural economies. Portuguese farmers were rare in this area; it was home to only 10% of the Portuguese population. In the pastoral and agro-pastoral regions of southern Angola where low demographic pressure permitted permanent communal use of land by indigenous groups, communal property was more widespread. Where there was well-defined agricultural production, individual or family parcels were the norm: in the commercial agricultural areas of the north-west (Uíge, Kwanza Norte, Bengo, and parts of Kwanza Sul) greater demographic pressure resulted in a very different and diversified system, characterised by the more permanent possession of land by community members (Kaplan, 1979; Pacheco, 2002).

In the wake of World War II and the rapid growth of industrialisation, Portugal developed closer ties with its colony and by 1940 it absorbed 63% of Angolan exports and accounted for 47% of Angola's imports (Hodges, 2001). When the price of Angola's principal crops – coffee and sisal – jumped after the war, the Portuguese government began to reinvest some profits inside the country. Portuguese citizens were encouraged to emigrate to Angola, where planned settlements *(colonatos*) were established for them in the rural areas. Unsurprisingly, the late 1940s saw a rise in disputes followed the expansion of coffee plantations (stimulated by price increases).

Land policies were not the only issue, however, and in fact labour policies had as great, or even greater, impact on the erosion of African land holdings and agriculture than land settlements (Norfolk *et al.*, 2004). Immigration of Portuguese increased in the 1950s, as did the expropriation of lands, which served the drive to establish farms and plantations to grow cash crops for export. This was matched by an ever-growing contempt towards the rights and interests of the indigenous populations (Alberto, 1998; Pacheco, 2002). "As a plantation economy developed, these *fazendas* began to encompass entire villages, pushing subsistence agriculture to the margins, and forcing local populations into paid agricultural labour, particularly in the central highlands, where there was much demand for land" (*Ibid:* 8-9). By 1960 the Angolan economy had been completely transformed, boasting a successful commercial agricultural sector (as well as a promising mineral and petroleum production enterprise and an incipient manufacturing industry) that continued to grow in strength. Coffee, which was the main export until it was overtaken by oil in 1973, was the major export crop, growing in the

higher altitudes in the north, where the plateau slopes down towards the Congo basin and the climate is warmer. It was grown by some 2,500 large commercial farmers and around 250,000 peasant families during the early 1970s. With around 600 000 ha under coffee, Angola was the fourth largest producer in the world, its output totalling some 200 000 tons a year. In the early 1970s Angola was also the third largest producer of sisal. Cotton was grown in the provinces of Malange, Kwanza Sul and Bengo. Other crops cultivated were sugar cane on large plantations in the coastal areas, tobacco, oil palms and citrus fruits. At the height of the colonial period there were 300 000 colonial families who occupied 4.5 million ha of land, and used only 11% of this, while 4,3mn traditional families occupied 4.5 million ha of land and utilised 60% of this (Kaplan, 1979).

5.5.2 The scramble of the 1960s

The start of the 1960s marked a watershed period prompted by UN criticism of forced labour that was coupled with racial discrimination, as enshrined in the indigenous statutes. Uprisings in Luanda in February 1961 marked the beginning of the liberation war. Northern Angola became the scene of a major insurrection by large numbers of BaKongo farmers, joined by local plantation contract workers. They attacked both whites and assimilated populations, whether black or *mestiço*, "evidently regarding these as mere agents of the Portuguese" (Personal communication in Lubango, 2003).

The Portuguese quickly initiated legislative reform based upon the elimination of discriminatory laws in the indigenous statute. In September 1961 the indigenous statutes were abolished, effectively making all Angolan people equal citizens before the law, at least on paper if not in practice. The Regulation of the Occupation and Concession of Lands in the Overseas Provinces (*Regulamento da Ocupação de Terra nas Províncias Ultramarinas)* was also approved – although it resulted more "from an internal and external political pressure than from a sociological evolution or an evolution in the thinking of the Portuguese colonial system" (Pacheco, 2002: 10). The land law was introduced at the same time in Mozambique – See 5.8.1. However, it perpetuated the dualistic treatment of land tenure regime for it established that Europeans would be given title to land they had occupied if the properties were developed for a continuous period of 20 years, (Williams, 1996, cited in Norfolk, *et al.,* 2004) "whilst land areas occupied by the local population were recognised and protected as 'reserve' areas, where concessions could not be granted" (Norfolk, *et al.,* 2004:10). The following year, colonial

labour regulations were revised and regulations were introduced to prevent the alienation of native land and end compulsory cultivation (Gomes Porto, 2001). For the first time there was open concern that tensions could erupt between settlers, plantation owners and indigenous people, the resolution of which lay in the colonial government legitimising the occupation of land by the plantation owners. Legal solutions lay in the application of indefinite concepts such as fallow lands, uncultivated lands, vacant lands – all these types of land not owned by anyone became available. Europeans were given title to the land they occupied if the properties had been developed for a continuous period of 20 years, while land areas occupied by the local population (residential or agricultural) were recognised and protected as 'reserve' areas (Norfolk *et al.*, 2004).

The latter areas were classified by the legislators as 'second class lands' and were susceptible to demarcation in a ratio of five times the area that was effectively being occupied, but only on a communal basis. 'First class lands' referred to the areas of actual villages or settlements and 'third class lands' were those that fell outside of either of the first two categories. It was these 'third class lands' that were available for concession, and, at least legally speaking, this was permissible by both Europeans and Africans (MacQueen, 1997). Legislative and administrative weaknesses, coupled with the fact that few Africans were in a position to meet the formal registration requirements for the granting of concession titles, meant that the majority of Africans could not take advantage of titles in the third class areas (Pacheco, 2002). In effect, Europeans on the whole maintained their *fazendas* as *de facto* freehold, rather that as *de jure* freehold. In 1973 a new Land Law declared that all lands that were not privately owned or in the public dominion, were available for concession, except for those areas under customary tenure.

5.5.3 The period leading up to independence

The last twelve years of colonialism were a period of accelerated colonial occupation in which about 1 million rural families saw the average land area they occupied reduced from a little more than 9 hectares per family in the mid-1960s to about 4 hectares in 1973, whilst 6,000 commercial farmers had an average of 700 hectares of which only 10% was actually cultivated (Pacheco, 2004: 2). In the Central Plateau, the most densely populated agricultural region, a scramble for land which began in 1965, resulted in a decrease in the size of family units of peasant farmers from an average of 8.9 ha to 5.6 ha by 1972. Dependent on abundant labour, many estates integrated entire villages into their lands, thereby harming subsistence cultures. In

such areas of higher demographic concentration, family agriculture degenerated and poverty levels rose, contributing to internal migration of a growing number of men (*Ibid:* 2).

These developments had disastrous consequences: it was the injustice of such actions that inflamed many Angolans with nationalist ideas, and injected sympathy for the armed struggle, and land conflicts were a significant factor in triggering the fight for independence (CTC Consulting, 2003; Groppo, 2002). The cattle-farming and sisal-producing areas of the south and south-west were severely affected by foreign agriculture (Alberto, 1998), resulting in indigenous pastoralists being pushed increasingly onto marginal lands. Appropriation of land became one of the main drivers of discontent, resistance to the Portuguese growing with increasing calls for independence. Portugal responded with counter-insurgency measures, among the most damaging of which was the implementation in 1967 of a resettlement programme that involved the grouping of dispersed Africans in eastern and north-western Angola into large villages (All Africa, December 2003; Niddrie, 1974). By 1974 more than 1 million peasants has been moved into resettlement villages, causing widespread disruption in rural Angola and a breakdown in the agricultural sector (Collelo, 1991).

5.6 THE POST-INDEPENDENCE PERIOD

The period of transition to independence from November 1975 was particularly chaotic for the commercial agricultural sector as almost all the country's skilled manpower fled Angola, abandoning thousands of *fazendas* and small businesses, including the entire rural trading system. In terms of the Constitutional Law introduced by the post-independence People's Movement for the Liberation of Angola (MPLA) government (Article 11), all natural resources became the property of the state; that is, the state became the owner of lands that were not definitively privately owned, and the state as owner could now transmit to others the right of land use (Pacheco, 2002). Procedures for abandoned private land to be appropriated by the state, 'because of the unjustified absence of the proprietor for more than 45 days', were applied; article 13 stated that "All the juridical effects of acts of nationalisation and confiscation performed under the auspices of a competent law are considered valid and irreversible without prejudice to what is provided for in specific legislation on re-privatisation" (Rosenn, 1997: 24).

"The Portuguese abandonment of land allowed peasants to recover most of the land in a process independent from legislative nationalisation or confiscation measures" (Pacheco, 2000: 3), and so there appeared to be no obvious need for land reform. However, part of the reason that no

specific land laws were drafted may lie in the perception that tenure was not an issue because so much land was seen to be available: "Communities effectively ceased to lack lands, and land problems apparently ceased to exist" (Pacheco, 2002: 16). Under the imposition of a single-party political and socialist economic model, the farms that had belonged to white commercial farmers could be nationalised (and in some instances consolidated) into large state farms and trading companies. Some farms were given to communities organised in terms of a co-operative system, in which case members would split their time between their own land and the co-operative farm. The people were by and large without adequate production means to implement government policy, capital investment in agriculture became a critical issue and "many of the state companies set up after the settler exodus and nationalisations in 1975–77 failed to maintain operations, and the rudimentary attempts at centralised planning led to serious resource misallocations and inefficiency" (Hodges, 2001). By the mid-1980s most of them had collapsed and been abandoned.

5.6.1 Law 21-C/92: The law of concession or so-called "Land Law" (*Lei de Licenciamento da Titularidade do Uso e Aproveitamento da Terra para Fins Agrícolas*)[61]

On 28 August 1992, 17 years after independence, Angola adopted its first Land Law. Part of a raft of legislation passed in the few months before elections, it was approved in the absence of any public debate and by a legislature that still had no popular mandate. This lack of consultation reflected the authoritarianism inherent in a history of both colonialism and the centralisation of political and economic power of the one-party era.

It must further be noted that the government had scant experience in this field, there being few similar points of reference within the region from which to draw, so the limitations and potential of the "Land Law" must be viewed within their historical context. A fundamental issue of contention with the Land Law is that it accepted the 'colonial' *cadastro* (property register) and provided a legal framework to re-operationalise it; this essentially can be seen as reflecting the need by political actors to maintain control of access to land and natural resources (especially

[61] See primary sources: Diário da República, Órgão Oficial da República Popular de Angola (1992) *Comissão Permanente Da Assembleia do Povo: Lei no. 21–C/92: de 28 de Agosto,* I Série – No. 34, Sexta–feira, 28 de Agosto de 1992.

non-renewables) in order to finance their development agendas (Addison, 2001). Conflicts that had emerged in the Lunda region, "land of the diamonds", between Unita and government soldiers, are a likely reason for the apparent lack of transparency; both the government and Unita channelled the proceeds of mineral exports into arms purchases, and a clear case of conflict diamonds being both a consequence and a (not the) cause of conflict (Pearce, 2005). (The war was not primarily fought for profit but for power, although the countries vast natural resources of oil and diamonds funded the military efforts of both sides.)

The 1992 law did contain a number of positive aspects. In the preamble (*Preâmbulo: Lei no. 21–C/92*) it stated clearly that local community land rights would be protected, and it recognised different forms of land access, including ownership rights acquired through colonial law for non-nationalised land, state authorised concessions between 1975 and the proposed new law, and use and usufruct could be transmitted between persons, or through inheritance. However, as Fernando Pacheco (2002: 16) highlights, the law was not rooted in any formal, written policies that might have explained the priorities to be promoted through land use, tenure or transactions. Instead, it was based on old concepts and reflected the old ideals of state central-planning principles. Furthermore, it was not so much a land law as a set of regulations for access and titles that failed to include community traditions or customary law rights of small farmers, or recognise squatter rights in the urban areas. Urban land issues were almost completely ignored, despite the fact that since the 1950s migration to the cities had been a common phenomenon:[62]

> "…privatised state-owned property but did not touch on fundamental issues of customary rights. This led to a period of chaos, during which a few wealthy individuals gained control over vast natural resources" (AgJournal, 2002: 1).

It did not address the central issue of the dual character of the formal land tenure regime, and it essentially *set the seal on the elite 'land grab' that had preceded it* (Norfolk *et al.,* 2004). "Associations or co-operatives occupying former estates, or populations that recuperated lands that belonged to them before Portuguese occupation are unable to regularise their rights, and the legal status of communities remains unclear in terms of ownership of communal land. The

[62] During the colonial period, migration was driven by economic imperatives; after independence, the collapse of the economy, most especially felt in the rural areas, was a strong push factor.

tenure rights of different actors especially regarding the use of natural resources were not defined" (Ramirez, 2002). The rights of both the colonial-era land holders of tenure rights whose property rights has not been nationalised, and the post-independence concessions that had been awarded by the state since 1975 were, however, recognised. Relations among all concerned sectors, including state administration and local powers, were not defined or regulated, and guarantees for agriculture loans were not described (Pacheco, 2002: 14). The necessary mechanisms through which 'protected tenure rights' could be registered or upgraded were not introduced. That these issues were not taken up was due in large part to the outbreak of civil war and the ensuing 10 years of instability. The regulations to operationalise the law were approved several years later, but never published.

5.6.2 Divisive approaches

The 1990s marked a period in which the cleavage between legality and legitimacy (the social acceptance of the laws), began to grow. (See Chapter Six: The privatisation era). Land laws cannot be drafted in a vacuum; they must draw upon the values and aspirations held by society if they are to address the gap between legality and legitimacy that has been a source of friction in many African countries, a consequence of more than 90% of land remaining outside the existing legal system (Groppo, 2002).

Sensitive to these cleavages, coupled with a rising number of displaced people across the country and the tensions these brought, the National Directorate of Territorial Planning (DNOR), which was the department responsible for issuing titles, appointed the United Nations Food and Agricultural Organisation (FAO) in 1999 to work in partnership with MINADER to recommend revisions to Law 21-C/92 (CTC Consulting, 2003). Their mandate was to interpret the "spirit of the law", with the specific intention of recognising the customary rights of communities, defined more broadly than just "cultivated lands". On-the-job training was provided in methodology, the results widely publicised, and a public meeting held in September 2000. (It remains questionable nevertheless, whether those most affected – the rural and poorest sections of the population – knew about these processes.) This initiative resulted in the first titles being granted, in March 2001, to communities in a way that recognised land defined in social terms, not narrowly in topographical terms. However, immediately after the first title was granted, President José Eduardo Dos Santos appointed his own advisor to prepare a new draft land law, parallel to the MINADER process of redrafting the land law. This was a highly

secretive process (Palmer, 2003). The result of this was a draft that was not entirely approved by the government, but pushed through party channels by Dos Santos for approval. In many ways this draft was considered to be inferior to the very law that it was supposed to improve on, and it failed to take account of the FAO/MINADER process.

5.7 THE LAND LAW (*LEI DE TERRAS 09/04*) OF 2004[63]

5.7.1 The process adopted

In December 2001 an ad hoc Inter-Ministerial Land Commission (*Comissão Inter-Minsterial para a Revisão da Lei de Terras*) was formed to combine the two drafts. Following approval in July 2002 by the Provincial Governors and top MPLA structures, the draft Land Act and draft Territorial Planning Law were presented for a six month consultation period. At central government level the discussion on the land law was led by the Minister of Agriculture and there was no clear institution at central government level that could take responsibility for urban land issues (Jenkins and Smith, 2003). This draft emerged amid strong rumours and suspicion that in the immediate post-war phase there was a sense of urgency on the part of government that stemmed from the need of elites (on both sides) to secure by law its past illegal land grabbings (Palmer, 2003).

Commenting on the draft, Palmer (2006) noted three key elements:

- The need for relevant civil society and donor actors to seek out allies in different levels of government who share some of their concerns;
- The need for rural communities to assert their 'customary' land rights as communities and to have those rights affirmed by government; and
- The need for concerned actors to support communities to assert these rights and for those actors to build alliances at different levels.

The period for public consultation by the government on the content and effect of the draft was, in fact, extended as it became increasingly politicised. Despite civil society weakness, mobilisation around the land issue began to grow and a range of civil society groups were becoming more vocal (DFID, 2005). The campaign 'Towards a fairer Land Law' (*Por uma*

[63] See Primary sources: Preâmbulo: Lei no. 21–C/92.

Justa Lei de Terras) of the nationally based Land Network (*Rede Terra*), (established in August 2002) and the Huíla Provincial Land Forum (*Forum Terra*) appealed for continued discussion, and succeeded in pressurising the government into allowing an indefinite period of public consultation. It was pointed out that land may appear not to be as great a priority for the elite, members of parliament or the judiciary, as it is for the poor. It is, in fact, more accurate to say that land is a priority for both groups, but that their priorities are different.

Subsequently, and in spite of these promises, President Dos Santos reiterated in his New Year message in January 2003 that the draft would go to parliament for approval as soon as possible. In his address he stated the urgency of the land law as it would serve to "define the forms of ownership of lands, as a factor or production of extraordinary importance to the poor rural population and will also permit the reconstruction of the farming sector and re-define the selective credit policies, with stress to the micro-credit that is a very effective way of combating against poverty in the rural areas" (APA, December 2002; All Africa, December 2002). Land activists called on the government to resume public consultations after President dos Santos ordered a halt to the consultation process, and accused the government of wishing to "approve a law based on a draft which clearly gives greater priority to the economic rather than the social value of the land" (All Africa, December 2003: 1). The government maintained that the urgency of the law was such that its adoption would probably precede acceptance of Angola's new constitution, which is currently under review. Additional impetus for public campaigns and consultations came from the recent formation of another consortium, in southern Huíla, of twelve NGOs dealing in land matters (the Huíla Provincial Land Forum). Their purpose was to promote debates on the issue, gather contributions to the bill on territory's management and develop actions of advocacy in defence of community rights. This was the first occasion on which any law had been open to public debate in Angola.

5.7.2 Approval of the Land Law (*Lei de Terras* 04/09)

In the meantime, approval of the Land Law was postponed, while public debate continued, largely because of pressure from *Rede Terra.* In December 2003 the Cabinet Council approved revisions to the draft Land Act (All Africa, December 2003) that contained several improvements, as called for by *Rede Terra* and other supporters, notably recognition of and partial protection of the traditional collective rights of rural communities.

In June 2004, MINADER announced its intention to enforce the land use legislation (of 1992)

that requires that land conceded by the government be put to effective use, and to subject production on such land to national development requirements (Melville, 2004a). Articles 7.4 and 64 of the 2004 Land Law also expressly provide for property rights to be extinguished if the land is not used in conformance with land use dictates (Bledsoe, 2004). In cases where it is deemed that agricultural farms are not being used or 'exploited', owners risk losing their land to 'those who need it'. These provisions had not been enforced for more than a decade as a consequence both of the war and of the inability of ministerial administrators to investigate land usage. Because all land belongs to the state, these provisions give the state wide discretionary powers to determine whether a concession should be granted and for how long licenses may be issued (All Africa, June 2004). Time frames are generally up to 45 years. Approval is granted by the relevant ministry, which considers each request on a case-by-case basis, though in the case of petroleum (hydrocarbon) mining, the approval of the cabinet is required.

The process of actually passing the Land Law (*Lei de Terras*) through the Assembly took the normal highly secretive route, designed to keep everyone guessing (Palmer, 2006). On 10 August 2004 the Land Law was approved by the National Assembly, during an extraordinary session, (APA, August 2004; CTC Consulting, 2003) but not signed into law. During the discussion by the specialised commission, MPs pointed out the lack of guarantees for the rural population as well as the need to clarify issues of original ownership of land, to define ownership of natural resources existing on land owned privately and to review the lands confiscation and nationalisation acts of the national citizens (APA, August 2004b). On 18 December 2004 the Land Law was finally passed into law and promulgated in the State Gazette (APA, December 2004a). The Land Law became effective in February 2005.

The key points of the Land Law are (Norfolk *et al.*, 2004):

- Confirms that land belongs to the State, but people have occupation surface rights;
- Grants the right to private property in urban, but not rural areas, where right is limited to '*superficio'*;
- Recognises and protects collectively controlled *community land rights*, regulated through traditional power structures, but…
- Requires registration processes to be completed for the formal recognition of tenure rights;
- Allows for use and usufruct to be transferred between persons or through inheritance;
- Allows for expropriation in cases of existence of natural resources or due to inefficient use of the allocated land;

- Recognises ownership rights acquired through colonial law for non-nationalised land;
- Imposes requirements on the efficient use of land and conditions on capacity to cultivate;
- Stipulates that everybody must regularise their land ownership/titles within 3 years
- It would seem that it will be possible for rural communities to be permitted to demarcate the area over which they have usufruct rights on a communal basis and be issued with a legal title, but until the regulations are published this will not be known for sure.

While there were some positive changes, several key gaps and problems have also persisted. In summary, concerns around the new Land Law are that it carries the following risks (Bledsoe, 2004; Independent Land Newsletter, 2004; Norfolk *et al.*, 2004):

- Expropriating rural communities' land becomes a legal possibility because of 'private utility' motives – rather than just for public interest, as before.
- Formal recognition, and therefore protection of rural community tenure rights is only effective on registration.
- All citizens, families and communities will have to complete the official process of legalising their land tenure situation (securing 'title hold') within three years, but the weak administrative capacity will render this deadline unachievable for many other than those with privileged access to the levers of power.
- There is a difference in status between people living in rural communities and all other citizens in their informal occupation of land.
- That all the investments of the urban poor (such as through building houses) are at risk of being lost, and the majority of them would become illegal.
- New – stronger and more discretionary – powers are given to the state and to a lesser degree to traditional authorities.
- It does not define or regulate relations among all concerned sectors, included state administration and local powers. This is to be defined by the Regulations.
- The Land Law is vague about the 'traditional authorities' that will be recognised in respect to land issues. This is a concern given that it is envisaged that they will play a central role in consultation processes.

In essence, the effect has been to weaken, not strengthen, property rights for the poor, and in many instances threatens to result in deeper impoverishment. Weaker and less secure tenure also limits political empowerment. Simultaneously, the position of the authorities, and to a lesser extent that of the traditional authorities, has been strengthened.

5.7.3 Technical commissions to review regulatory regime

In early 2005 President dos Santos announced the formation of two presidential commissions to review Angola's economic and urban planning legal and regulatory regimes (LiquidAfrica, 2005). One technical commission was established to review all existing economic legislation

and draft all necessary enabling regulations to implement them effectively. The objective of the second commission was to review existing urban planning practices in order to alleviate urban crowding and the over-subscribed municipal services, characterised by Luanda and many other provincial capitals. This commission was responsible for reviewing urban planning, management and development policies as well as all regulations affecting housing credits with the goal of defining new population settlement and construction criteria for new suburbs and cities. In August 2006 the legal Regulations of Land Use – known as *regulamentos* (by-laws) – which lay down the principles of the juridical regime defined in the Land Law were approved by the Council of Ministers. By March 2007 they had not yet been gazetted and it is not considered likely that the issue will be resolved very soon, partly because of the elections, now due in 2008.

Mozambique's Land Legislation

INTRODUCTION

Mozambique has had a long history of competition over land that precedes the Portuguese consolidation of their colonial administration. Indigenous empires and their allies vied for control of the fertile flood plains of Limpopo and Zambezi Rivers (Tanner, 2002b). It was these same areas, and the fertile west and north, that were later targeted by the colonial investors.

5.8 THE COLONIAL ERA: MOZAMBIQUE'S LAND REGIME UNDER THE PORTUGUESE

Mozambique experienced a long, though somewhat fragmented, history of European colonization that began shortly after 1498 following Vasco da Gama's voyage to India. Given the importance the Portuguese kingdom gave to south-eastern Africa in its strategy of controlling trade in the Indian Ocean, Mozambique came to play an important role as a base for the colonial power.

Different models of control and landholding were implemented, the most significant being the

prazo system[64] that dates back to the mid-17th century (Ikdahl *et al.*, 2005). The Crown granted control over large tracts of land (primarily in areas near the Zambezi River) to individuals/families for 'three life tenures', (Newitt, in Ikdahl *et al.*, 2005: 47), that were documented by contracts. In the late 19th and early 20th century *prazos* in Zambézia were leased by plantation companies, established with international capital to grow and export sugar and copra. From this time onwards the land policies of the Portuguese colonial administration were guided by two policies – colonial settlers and companies were permitted access to the most productive land while the indigenous population was ensured access to enough land for food security (Waterhouse, 2001; Negrão cited in Ikdahl, 2005). As in Angola, the colonial settlement schemes known as *colonatos* were established in the early 1950s, the principal objective of which was to consolidate Portuguese occupation. By the 1960s Mozambique was a mixture of large foreign estates, smaller Portuguese commercial enterprises and many thousands of small farms that adhered to customary practices of land management and use, all enmeshed into a single agrarian economy "that was tied to the colonial and international economy" (Tanner, 2002a: 5). Significantly, these thousands of small producers accounted for a very high proportion of national food needs, in addition to contributing to export production. These schemes, which occupied thousands of hectares, necessitated the removal to new areas of local people, who were offered token compensation (Hemele, 1988, cited in Tanner; 2002a). Local communities were often forced off their land and relocated to marginal lands that were nevertheless, sufficiently close to allow them to work on the new plantations, thereby tying them into a complex pattern of wage labour. In cases where communities stayed on their land, they acted like outgrowers to the large firms that had commercial monopolies (*concessões*). It is important to highlight that the costs to livelihood security resulting from displacement in establishment of the *colonatos* are still felt today: Tanner (2002a, 8) notes that "the loss of key river valley resources resulted in dramatic shifts in indigenous production systems…(t)his shift increased the vulnerability of communities to natural hazards, with results that are evident to

[64] "The Portuguese crown granted land in Mozambique to Portuguese settlers (merchants, Catholic clergymen, soldiers, and landless). This so-called *prazo*-system (started in 1629) guaranteed the owners almost total control over the indigenous labour force and built up private armies, also described as slave armies, and virtually independent fiefdoms. The *prazos* developed into Africanized autonomous kingdoms, ruled by Afro-Goan-Portuguese descendents and sustained by slave armies" (IIASA, 2001: 1).

this day every time there is a major flood or drought".

5.8.1 Pre-Independence Colonial Land Laws

The Portuguese colonial state was dependent on the capital of British and South African investors for exploiting the resources under its control, and this is reflected in the legislation, the 1961 The Regulation of the Occupation and Concession of Lands in the Overseas Provinces (*Regulamento de Ocupação de Terrenos nas Províncias Ultramarinas*). (This was the same law that was introduced in Angola – See 5.5.2). Land was classified into three classes: urban land, land around villages where local people maintained their systems of production, and land considered by the colonial state as 'free' and available for handing out to new investors – i.e. the rest of the country.

While colonial legislation gave protection to local people within a relatively circumscribed area by recognizing rights over their farms and village land, the law also left open the possibility of the State declaring 'empty' or unoccupied land to be within its patrimony and thus free for concession or sale to settlers and investors. Land often did in fact appear to be unoccupied or underutilized, and was vulnerable to annexation by the colonial state to whom investor interests took priority. On the contrary, these so-called vacant lands were in many cases being exploited by local communities for a range of resources and lands were also valued for long established cultural and historical reasons.

The loss of land during the colonial era roused considerable opposition, and this is evidenced in the thousands of rural people who joined the Armed Struggle in the 1960s and 1970s, motivated more by a desire to oust the Portuguese and get back their land than out of ideological commitment.

5.9 THE POST-INDEPENDENCE PERIOD

In 1975 Mozambique became an independent state and adopted socialism under a new Constitution. The government introduced the abolition of private ownership of land, which along with other natural resources, was nationalised. Because parts of the inherited legislation were contradictory to the new Constitution, a new Land Law (*Lei No. 6/79*) was made in which the state formally (but in theory only) nationalised all land in the country. Article 8 of the Constitution stated: "The land and the natural resources located in the soil and subsoil, in territorial waters and on Mozambique's continental shelf, are owned by the state. The state shall

decide the conditions for their exploitation and use" (Myers *et al.,* 1994: 11). The intent was to nationalize land from foreign interests – a laudable and necessary action, but in effect the already confusing legal landscape inherited from the colonial regime was complicated further by this somewhat vague law and the hopes of original owners of seeing their land returned failed to materialize. Instead, large colonial plantations and commercial concessions were converted into even larger State Enterprises; other land was subject to 'villigisation' and cooperatives programmes. The intent was to ensure that "large" landowners gave their land back to the Mozambican people, but the State Farm policy required the removal of local people who had re-occupied the *colonatas* and this acted to fuel antagonism as many of these same people became workers for the *empresas* (companies). Further, while this Law nationalised all land, abolished private land rights, and reduced freehold rights to leasehold rights, it also stated "that any property not intervened, nationalised, or abandoned would remain the property of the original legally recognised owner" (Myers, *et al.,* 1994: xiii) : thus most colonial farms that had been abandoned, remained as demarcated on old cadastral maps. The result is that "while most of the settlers left, core elements of the colonial land structure, albeit nationalised or taken over by the State, remained in place" (Tanner, 2005: 2). These moves failed to address the historical duality in Mozambique's development.

5.9.1 The civil war 1977 -1992

Two years after independence Mozambique became embroiled in 16 years of civil war between Renamo and Frelimo. Throughout the war years land occupation across the country was transformed, although land remained the property of the state; the sale of land was still not legally recognised and land areas cultivated by the family sector were protected only in principle. In conjunction with the Land Law of 1979, the regulations authorized the state to seize or confiscate land for a variety of reasons. The law also stated that land held prior to independence, and which was not nationalised, confiscated, declared vacant, or "intervened" by the state, could be "validated" – in other words, rights to these holdings could be reactivated. The concerns were that not only was land access for indigenous Mozambicans complicated, but it also offered little security for investors, and in fact all producers. This was aggravated by the policy of putting all public resources for agriculture into state farms, while peasant farmers (cooperatives and small producers) were denied adequate technical, input and marketing support.

Another consequence of nationalisation was that many middle-class nationals lost legally acquired resources in the process, and this resulted in capital flight and contributed to a macro-economic crisis. As the war continued, across much of the country huge areas of land were vacated, abandoned farms and natural resources lying empty and unused.

The transition from a socialist to a market-based economy

The imperative of addressing the economic crisis became ever more pressing and this is seen in the first shifts in land policy that can be traced back to the Fourth Frelimo Party Congress in 1983 which gave recognition to the 'private sector' and approved a limited privatisation of agriculture (Tanner, 2002a). The State took this further and with the intent of invigorating the rural economy, favoured certain private sector interests, even allocating land to a select group – 'modern' farmers – with few ties to local communities. This did not mean, at first, returning state-farms or colonial properties to their original occupants, but with the collapse of the state farms in the mid-1980's private investors began responding to the opening up of a role for private agriculture in the economy. In the late 1980s a number of political factors, coupled with external pressure and interventions, resulted in significant changes in Mozambique, signaling the shift from socialism to political pluralism. The adoption of a Structural Adjustment Programme in 1987 marked the beginning of this shift.

5.9.2 Land Law Regulations of 1987 (Decree 16/87)

In line with the economic and political changes that had been occurring in recent years, the first amendments in the approach to land management and recognition of individual land use rights came in 1987 with the approval of the existing land law regulations. One of the main changes was that of decentralising authority over conceded land to the provincial level. But there were contradictions, and in other ways there was a centralizing of control over land and natural resources. Under the Land Law Regulations (Decree 16/87) concessions for private land use rights awarded by the state were permitted, but in many other respects the fundamental bases of land policy remained in place. A three-year period during which any title that had not been extinguished by the state could be reactivated – this led to a rush of national and former foreign landowners reclaiming land, much of which had been occupied by others in the intervening period (Myers *et al.,* 1994). Many people began returning at this time to Mozambique to reactivate titles on the basis that they were never abandoned. Furthermore, while all land was nationalised, there were still provisions for leaseholds for commercial development, as well as

for customary rights at village level: the law stated that all people, men and women 'singular or collective, with legal capacity may have land titles' (Ikdahl *et al.*, 2005: 48).

The transition resulted in further assaults on the rights of smallholders who had experienced dispossession and impoverishment (Lahiff, 2003) as yet again local communities felt as though they'd lost out – first to the colonial state, then due to the actions of the post-independence state that did not give them back their rights over the big estates and irrigation schemes, and now again to private investors favoured by the governing party. Mozambique's agrarian economy began to resemble the pre-Independence situation – thousands of small family farms, large enterprises based on old colonial estates and State farms, and a growing private sector of large, commercially oriented farmed operated by a newly emerging national middle class (Tanner, 2002b). Security of land tenure for private sector farmers was guaranteed by registration of title – which was granted in the form of leases, the maximum period being for 50 years. Security for family sector farmers was guaranteed by occupation, but a certificate was not required. Categorisation of "family sector" and "private sector" was not always clear, and this affected the process for acquisition of land, be it for commercial or smallholder farmers. Commercial interests were better able to exploit the formal legal system.

In 1990 the adoption of a new Constitution confirmed the transition from a socialist to a market-based economy, although the principles with regard to land adopted in 1975 were repeated in the 1990 Constitution. Two years later an extreme and unrelenting drought (that led to even more flight from the land), alongside several other factors, heralded the end of some 25 years of armed struggle and civil war in Mozambique.

5.10 PEACE RETURNS: TENURE REFORM – A RADICAL APPROACH

Criticism began to mount at this time against the land policy that was seen as offering no challenge to the fundamental, underlying structure of land ownership. To a large extent this was informed by the conflicts that were occurring (See Chapter Seven): So long as there remained discrepancies between the formal land-tenure system, actual land-tenure practice and rules (i.e. customary systems) and administrative and judicial capacity, it was believed that these conflicts were likely to continue. The post-independence land laws had in effect been much like the colonial laws in their objective of securing areas for large enterprises (State farms) while securing the subsistence base of the rural population. Discourse around land now centred around two issues: the need to encourage (private) investment into rural areas, and thus more

productive use of land and natural resources; and how to protect the rights of customary occupiers on communal land (Lahiff, 2003). Three critical problems exist:

- First, the statutory land law empowers the state to strip people of their land rights and to redistribute those privileges. This often occurs at the expense of smallholder producers, but it also stymies commercial investment: it pits smallholders against one another as well as smallholders against large commercial interests; it frustrates the possible collaborative and competitive economic relationships that might emerge between smallholders and commercial farmers; and it denies smallholders the opportunity to compete with large producers.
- Second, individuals within government aid the process that denies smallholders land rights through their manipulation of the law, for they believe that they are doing what is rights for both smallholders and the agricultural sectors as a whole. These persons argue that smallholders are incapable of exploiting the better lands in the country, are unproductive, and must be protected by the state.
- Third, the state is unwilling or unable to effectively administer the land laws. It lacks the manpower and other resources to impartially implement these laws, particularly outside of urban areas. This situation is compounded by a weak or non-functioning judiciary.

5.10.1 National Land Policy, 1995: (*Política de Terra*)

The legacy of various concerns, coupled with these emerging ideological tensions and the growing value of land in a post-conflict environment, prompted a new process of land policy and legislative reform that began in January 1995, with FAO technical support, following the first multi-party elections in October 1994.

In the early 1990s officially sanctioned research on the land question began by an 'Ad Hoc' Commission consisting of the Ministry of Agriculture and new Institute for Rural Development. In 1993/4 together with a team of national consultants, they began to look at different aspects of the land question, out of which a set of guidelines for future action were produced. In mid-1995 the Inter-Ministerial Land Commission involving 9 separate Ministries, coordinated by a Technical Secretariat (TS) that was supported by FAO, was created to replace the Ad-Hoc body (Tanner, 2002a). Three key concerns were identified:

- Ineffective implementation of the existing laws and very weak capacity of the Cadastral services;
- Overlapping of responsibilities and actions between a range of public entities and lack of harmonisation;
- The effectiveness of very active 'traditional' or customary land management systems in dealing with the majority of land access and use issues, including the resolution of conflicts at local level.

Simultaneously the NGO sector was actively working on land issues, having recognised that despite formal protection to local people this was not always the case. Over time, all parties came to realise that the existing law was inadequate in its protection and that a new land policy would also have to include recognition of the rights acquired through customary land management systems. Furthermore, the potential value of new sources of capital and ideas that private 'economic operators' and foreigners brought were appreciated. Rejecting the concept of a dualistic agrarian economy so prevalent across the region, it was proposed that an integrated model be adopted in which all land users could develop partnerships and collaborate over the use and management of land and other resources (Tanner 2002a). Under the guidance of the Technical Secretariat (TS) a widely inclusive and consultative process that brought in government, civil society, several important institutions and donors, consensus was achieved on the adoption of the new National Land Policy approved in September 1995. *The process has been widely described as one of the most participatory and democratic in recent Mozambican history, held up as a model of consultation and consensus-seeking amongst diverse groups.*

The resulting policy is summed up as one that can:

> "Safeguard the diverse rights of the Mozambican people over the land and other natural resources, while promoting new investment and the sustainable and equitable use of these resources" (1995 National Land Policy, in CFJJ, 2004, cited in Tanner, 2005: 5).

5.10.2 The process of developing and approving the Land Law

Having established the basic principles, a small 'Legal Group' of national lawyers spent the next 18 months developing a draft law in close collaboration with the TS. Using the National Land Policy as its reference point, historical background, farm and land use systems, and the social and political organization of local communities were all taken into account in their development of legally acceptable concepts and proposals, which reflected the underlying reality of real production systems investigated in three different areas of Mozambique. Leaving ownership of the land itself with the State, the focus was on surface rights such that land rights could be freely exchanged between third parties.

A long process of unparalleled dialogue and collaboration that involved a wide range of sectors, technical specialists, provincial government, civil society and non-governmental groups in the development of the Land Law was conducted. These processes served to legitimize the evolving draft and give a strong feeling of overall inclusivity. Before going to the Assembly, the draft

law was presented at a National Land Conference in 1996 where it was discussed and dissected in detail. A revised version which incorporated the agreed changes – though fairly minor – was then prepared for presentation to the Assembly. The main sticking point to emerge was the concept of local community. As Tanner points out, "recognition of the validity of customary land management systems within each community, clearly raised many fears about the role of the State and, ultimately, over who had the final say over the use of land and other natural resources" (2002a, 33). The concept was maintained with minor changes before it was presented to the Assembly that approved the new Land Law in July 1997.

5.11 THE LAND LAW REGULATIONS (*LEI DE TERRAS 19/1997*)

The Land Law is a comprehensive national law, integrating customary and 'formal' law, and which is based upon a thorough analysis of the social and economic norms and practices that dominate land access and management. The basic principles of the new policy and Land Law are (Tanner 2002a, 22-23; Tanner 2005: 3; Cotula *et al.*, 2004):

- While confirming state ownership of the land, it recognises and protects land use acquired through occupation in accordance with customary law or through good faith occupation for more than ten years.
- Customary and formal land administrations are integrated within a single policy and legal framework, protecting and guaranteeing access to land for the population while providing for secure land access by investors. It does not divide Mozambique into distinct community and commercial or private sectors; rather both kinds of land use exist side by side, often within overlapping areas. The promotion of private investment – national and foreign – is thus without prejudice to the resident population and ensures that both they and the public treasury benefit.
- It promotes social and economic justice in the countryside by recognising the customary rights of access and management or rural people over their land. In accordance with the importance given to allowing communities to define their land occupation and border – each in accordance with their specific historical, cultural and land use story, a Technical Annex to the Land Law Regulations (approved in December 1999) that came into effect in March 2000, details a process of participatory rural diagnosis as the procedure through which rights are a) proven and b) delimited. Mozambique is seen as having gone further than any other country in the region to extend legal protection to the rights of communal land users.
- The law is also an instrument for rural development, guided by principles of equity and sustainability, through a controlled process of structural transformation in the rural economy. It allows private access to customarily acquired land, and individuals with customary rights can take their land out of customary jurisdiction. It provides for 'good faith' occupation, mainly to safeguard the rights of IDPs who chose to remain where there were after the war, but also to protect those who occupy land without formal documentation. The law empowers local people to participate in land and natural resource management, including the allocation of rights to investors and conflict resolution. It closes the book on

outstanding 'validation' processes where former colonial occupants had a right to reclaim lost land rights, and required all unsettled claim to be resubmitted, including the key provision for community consultation.

- The definition and regulation of basis guidelines for the transfer of use rights over land, between citizens or national enterprises, as long as investments have been carried out on the land in question.
- It guarantees rights of access to and use of land by women. The law further states that proof of the right of use and benefit may be made through either written or oral statements, putting written (titles) and oral (testimonies) by men and women on an equal footing. Inheritance rights are independence of sex.

Land rights can be acquired by any of three means – customary occupation, 'good faith' occupation, and by request to the state. All three categories are entitled to a similar right of use and benefit of land (*Direito de Uso e Aproveitamento de Terra*, or DUAT), although the rights of customary and good faith occupiers are effectively in perpetuity whereas those obtained through application to the state are for a period of fifty years.

> If properly implemented, the law should result in a *de facto* redrawing of both pre- and post-Independence land maps, as local populations secure and register their customarily acquired rights, and new deals are made between investors and locals over specific parcels of land (Tanner, 2005: 4).

A core development objective of the new policy and Land Law is to stimulate collaboration between local people and new investors. The titling process requires a consultation procedure through which the State or a new investor seeks community approval of their bid to secure a Land Use Right. Where investors want land for a new project, local people need to protect their rights or use them to their advantage to secure a real economic or other return in exchange for giving them up. Adopting the 'open border' model means that investors are allowed in, but the requirement is for consultation between land applicants and local communities, which also have a natural resource and land management role that is legally attributed to them, for the awarding of private use rights. In exchange for the use of community land rights, the new investor is then expected to give something back in return such as employment opportunities, building a school or road.

5.11.1 Technical Annex to the Land Law Regulations, 1999

The *Land Law Regulations* give more practical details for implementing the law, such as specific provisions for procedures to be followed in the case of new requests for land. The regulations also bring in new ideas, such as rights of way and common resource use –

protecting, for example, access to water points and long distance grazing routes that might otherwise be cut off by new private sector land occupation.

The Technical Annex to the Land Law Regulations is one of the most important and innovative legal documents in practical terms as it deals with the key issue of the procedures for identifying the 'local communities' as defined in the Land Law, as well as procedures through which "existing rights" are "assured" and the delimitation and demarcation of land – where necessary – in rural areas. Instead of a single definition, the law "prescribes a single methodology that, if properly applied, will result in a specific 'local community' reflecting the ethnic, cultural and agro-ecological circumstances of the location in question" (Tanner, 2002b, 8).

The Annex details the steps and content of the "participatory rural diagnosis", PRD, in which local communities in effect define themselves. Both men and women are expected to participate in the process, although it does not indicate what male/female proportion is required. The methodology of the Annex considers the community itself as the major player in the identification of its rights and the delimitation (also called collective rights registration) of its corresponding territory, endorsing the concept of "open borders' for communities. This process is facilitated so that rights can be registered in the National Cadastre. It relies heavily on the findings of the participatory rural appraisal, including participatory mapping; validation achieved through consensus seeking. One of the outcomes of this methodology is that is provides a basis for negotiating agreements in cases of territorial conflicts, and preventing or resolving (potential) conflicts between private investors and communities.

5.11.2 The Land Campaign (*Campanha Terra*)

Following enactment, a unique campaign was launched to inform the public and to discuss the new law, disseminating the spirit and key aspects of the Land Law simply in local languages and by using imaginative media such as comics, audio cassettes, theatre, music and posters to raise awareness of rights. This was particularly important as levels of illiteracy are high and because the law acknowledges occupation based on historical rights rather than formal written records. The Land Studies Unit at the Eduardo Mondlane University in Maputo was contracted to co-ordinate the campaign. Negrão (2002) reported that within two years some 200 NGOs, grassroots community organisations, churches, research institutes and other institutions had joined the Land Campaign. Between 1997 and 1999 around 15,000 people (volunteers) were involved in informing others – households, community leaders, local authorities, and

administrators – about the new law (Ikdahl *et al.,* 2005).

Extensive training exercises have been linked to the legislative process, as well as exercises in provincial and local level consultation. Projects have been established to train judges and public prosecutors in the basic principles of the new Land Law as well as the new Environmental, and Forestry and Wildlife Law (*Lei de Florestas e Fauna Bravia* 10/99). The state, through its relevant and existing institutions has a coordinating role, in which the main tasks are elaborating a methodology framework, ensuring national compatibility and administering national and local registers, and a regulatory role. The private sector is encouraged to participate in land delimitation, in coordination with the public cadastral services. The NGO sector is involved in community sensitisation and diagnostics. Civil society is growing in strength and skills as it acquires relevant information through the Land Campaign.

Concluding thoughts

While their similarities outweigh their differences, Angola and Mozambique share some common characteristics in their histories: both countries were colonized by the Portuguese and achieved independence in 1975, mainly as an indirect result of wars for liberation, when Portugal withdrew rapidly, leaving behind a chaotic situation. Although the processes of colonisation differed somewhat in detail, the overall effect was rather more different from typical English or French colonization. Both have experienced long and protracted conflicts that have left a legacy of destruction and widespread poverty, although Angola's was singularly destructive and was fundamentally different in nature. Angola has only known peace for just on 5 years now; Mozambique for 15 years, so they are at very different stages of post-conflict recovery. Nevertheless, Angola is an enormously rich country with massive reserves of oil and diamonds; Mozambique is heavily dependent on foreign aid.

The process of developing land legislation has been very different in Mozambique to that in Angola (which still does not have a land policy), and it stands out as an example to many other countries in the region. In Angola the Land Law was rushed through with minimal consultation; in Mozambique the process leading to approval involved wide and participative discussions and a lengthy process of refinement. Mozambique's Land Law has been in place since January 1998, some nine years; Angola's Land Law was approved in December 2004, a little over two years ago, but the Technical Regulations are yet to be gazetted. This, amongst other factors, calls for considerable caution in making any direct comparisons. Nevertheless, as will be seen in the next two chapters, and linking back to Chapter Three, there are some common trends in the way in which land laws are implemented. Laws and policies, however good on paper, are of little use if authorities ignore or trample on them. There are, nevertheless, many more ways in which Mozambique's Land Law compares very favourably and stands out as unique in the region – and in Africa – as democratic and very progressive in scope.

With this as contextual background, the next two chapters detail the results of the research on Angola and Mozambique, examining the nexus of land and violence.

CHAPTER 6: ANGOLA – NEW BEGINNINGS OR MORE OF THE SAME?

INTRODUCTION

The people of Angola are facing numerous challenges as regards land in this post-conflict period emerging from nearly three decades of civil conflict: armed conflict has severely affected land tenure and access and an end to conflict is creating new tensions around land. There are rising pressures and tensions stemming from competition for valuable land and landed resources, while land rights for many rural and urban dwellers are more insecure despite the recent adoption of a new Land Law. These unfolding land issues need to be viewed within the broader context of vulnerability to change to appreciate how they are interacting with other stresses which are acting to undermine the ability to respond to current and future change, thereby perpetuating vulnerability.

The research findings discussed in this chapter are divided into two sections. The application of a SL and SAVI framework, as outlined earlier, provides a deeper understanding of what causes and drives poverty as well as vulnerability. Building on the findings presented in Chapter Five, this chapter contextualises the vulnerabilities that poor communities, rural and urban, are facing. In the second section, these themes are enhanced using the political ecology framework examining the nexus of land and violence in Angola. The research results provide a detailed examination of urban and rural conflicts and the resultant impact on livelihoods. The case studies draw on both primary and secondary sources of data, informed by the occurrence of land conflicts that simmered throughout the 1990s, increased in intensity and frequency from around 2000, and have since been most evident in Luanda. These are a source of grave concern and have met with accusations of patronage, corruption, and a flagrant denial of human rights. The primary case studies are the Gambos and Humpata in Huíla Province, and Luanda city. These specific sites were chosen because of recent disputes that have occurred and because of new developments (in agriculture or tourism) which have a potentially disruptive impact – socially, economically, environmentally or politically – on the activities and security of settled communities.

Since before independence, Angola has been struggling with issues related to land access, equitable distribution of land and tenure security. Pacheco, (2002: 3) sums it up: “The

legislative history of Angola, especially during the last 40 years, has resulted in a succession of injustices against the rights of traditional communities and the sustainability of their economies". Deep dissatisfaction over these injustices, a product also of adverse labour policies, played a role in stimulating the Angolan revolution in the fight for independence *(Ibid).* Civil conflict, too, has disrupted land ownership patterns as conflicts over the years have caused repeated and massive internal displacement over the years (NRC, 2005; Sapir and Gómes, 2006). And yet in spite of these disruptions, land conflicts were rare. This changed in the 1990s when 'land grabbing' by elites began, following the introduction of new economic policies (Shaxson, 2001). Although the war appeared to end rather suddenly with the death of Savimbi in March 2002, the first land conflicts began to increase in the last few of years of the war. This can be attributed to a variety of factors: with peace imminent people begin to appreciate the true economic potential of land and with this the scramble for land acquires a new urgency, indicating that the ending of war was anticipated some time beforehand; economic changes and, to some extent, government military successes in the preceding year, also acted to reduced risk levels in some parts of the country (*Ibid;* Melville, 2004). Since the war ended in 2002, land conflicts have become more common.

A political ecology analysis provides a deeper and more nuanced and comprehensive understanding of how and in what way the constellations of core issues, some briefly highlighted above, carry the seeds to generate or mitigate conflict and social disruptions and how these act to support or threaten sustainable livelihoods as a principle source of insecurity. In examining the patterns and regimes of accumulation, on which the approach of Peluso and Watts (2001) place great weight, analysis confirms here how inequitable distribution is linked to the politically well-connected elite, and it further locates the actors and their relations to each other in particular historical junctures – as evidenced in the strata of society established by the Portuguese colonisers. Researching land as an element of a wider livelihoods approach (Jenkins, 2005) brings into sharp focus that there are both threats and vulnerabilities (Liotta, 2005) and that it is necessary to focus on both the hard and soft dimensions (non-traditional) of security. This is confirmed, as will be shown for example, by reports of the peripheralisation of communities in Luanda as market forces take root in an environment characterised by poor governance (limited capacity and widespread inefficiency) as well as opportunism, compounding the numerous risks they face and deepening their impoverishment.

A livelhoods approach: vulnerability and livelihood opportunities in Post-conflict Angola

Vulnerability is continually generated and reinforced by interacting processes of change. "It increases significantly when the net asset position of an individual or household becomes so depleted that even an economic upturn cannot reverse the position easily" (Jenkins, 2001: 33). The ending of war brings enormous opportunities, but these are often difficult to grasp. There are two components to vulnerability (as outlined in Chapter Four): both components continue to produce vulnerable situations and contexts. External factors, for example, can be economic, social, political and ecological while internal factors, for example, such as gender, structure of households and social norms also affect vulnerability. A number of specific vulnerabilities were discussed in the previous chapter – those that emerge from structural poverty, inequity, HIV-AIDS and climate change. These must be considered together with earlier discussions on vulnerabilities that arise from violent conflict, such as the loss of social capital (Chapter Three) and the economic and environmental impacts of civil war (Chapter Three and Five).

6.1 ANGOLA'S PROTRACTED WAR

Angola's near 27-years of armed conflict (Plate 6-1) resulted in horrendous human suffering, retarding and many cases reversing development achievements (World Bank, 2003c; Kibble, 2006). The degree to which war, in general, increases levels of vulnerability, both short-term and long-term – at household, meso and macro levels – were discussed in depth in Chapter Three: Angola is no exception, as reflected in the countries human development indicators and the damage to the economy. In the section that follows issues that have a direct bearing on livelihood opportunities are discussed, such as the dislocation of populations fleeing from conflict, the impact on the environment, the challenges of post-conflict recovery and reconstruction and in particular, the centrality of land in rural and urban contexts. These serve to contextualise the levels of vulnerability against which land issues are now unfolding:

> "The prolonged conflict in Angola has had a profound impact on all aspects of social and economic life. It has contributed to the mismanagement of natural resources, widespread poverty, corruption, postponed elections, and regional destabilisation, creating a legacy which Angola will overcome only many years of sustained economic effort in a context of peace and national reconciliation" (World Bank, 2003c: 2).



Plate 6-1: Remnants of war – not child's play! Cahama, Cunene Province (Clover, July 2002)

People's livelihoods depend on the opportunities and assets (natural, physical, financial, human and social) available to them. The war not only destroyed the assets of people, ruined infrastructure, and harmed and displaced millions of people. It also significantly impacted the livelihood options and strategies available to people. It ruined the agricultural base of the country, by limiting access to inputs, reducing available labor, and by entirely isolating certain parts of rural Angola (World Bank, 2006). The protracted civil war in Angola saw the emergence of warfare itself as a widely used means of accumulating power and wealth. Both the government and Unita channelled the proceeds of mineral exports into arms purchases to sustain the conflict (Luckham *et al.,* 2001). This has had major implications for poverty. Citizens have not been able to rely on the state to protect them from violence and plunder, and the privatisation of war and growth of a shadow war economy exposed individuals and households to a wide range of livelihood risks and vulnerabilities[65].

[65] The shadow economy encompasses the broad range of economic activities that fall outside state-regulated frameworks. Once conflict has erupted, shadow economies are easily captured by combatants either directly or in close cooperation with criminal entrepreneurs. Shadow economies, thus, often become the basis for combat economies, while also providing income for criminal elites and mafia structures…with the breakdown of the formal economy, shadow economies become important sources of

Angola now faces the monumental challenges of post-conflict normalisation, the achievement of which must rest on a foundation of restoring trust to society. Poverty reduction is an integral part of rebuilding trust; development projects in turn are more likely to bolster peace in areas endowed with high levels of 'social capital'. For peace and stability to prevail, the needs arising from underdevelopment and huge inequalities must be addressed during this (re)construction phase. As Allan Cain, head of the NGO Development Workshop (DW), an NGO concerned with urban development which has had a presence in Angola for over 25 years, said recently:

> "Humanitarian solutions are kind of easy – you put food or resources in the hands of international NGOs or UN agencies in order to save lives. But in this phase of the post-conflict period, it is far more complex. The skills needed are very different. I believe Angola won't go back to war. But there are lots of conflict risks. *Issues that took Angola to war in the sixties and fuelled it for all these years haven't been resolved, things like land, regional disparity, massive poverty*. Those problems are all papered over now because people are so exhausted by war. But the problems that provoked violence and conflict haven't been resolved" (UNIrin, September 2006: 2).

6.1.1 A humanitarian crisis of enormous proportions

The pervasiveness of the conflict has resulted in greatly increased vulnerabilities. There has been a near continuous movement of people in cyclical waves of displacement. Both Unita and the Government of Angola carried out deliberate acts against civilians, including forced displacement, creating one of the largest humanitarian crises of the 1990s (Sapir and Gómez, 2006) – see Annexures 5; 6; and 7: maps[66] showing the extent of the vulnerability context at the end of the war:

> "The last phase of the conflict was characterised by cruelty against civilians by both warring parties. On the one hand, more than 3 million Angolans were trapped in the Unita-held zone. There, they were unable to receive any humanitarian assistance, as well as suffered radical Unita methods such as extortion, forced recruitment of men and children, and involuntary displacement to government-held areas in order to burden the government with humanitarian responsibilities. On the other hand, government troops also forced massive displacement. The governmental cleansing strategy was meant to empty significant parts of the countryside, hampering Unita forces' attempts to find villages in which they could harbour and recruit new troops"

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civilian incomes. In conflict situations, where traditional livelihoods are destroyed, civilian dependence upon shadow economic networks and activities is even more critical (Nitzchke, 2003).

[66] Maps - Annexures: 1 - Population Return April 2002 to February 2003; 2 - Impact of Recent Mine Incidents on Humanitarian Assistance Activities; 3 - Surface Routes for Humanitarian Operations

(Sapir and Gómez: 2006: 8).

It was only with the ending of the conflict, that as access expanded rapidly the catastrophic condition of much of the population and the magnitude of the problem became evident, thousands of IDPs emerging from the bush, often in appalling conditions having suffered extended periods of hunger and subjected to harassment, looting and physical assault (WFP, 2003). In many areas, catastrophic malnutrition rates of more than 45% were recorded among the newly arrived populations. Some 4 million people were facing severe food shortages, nearly 2 million people were reliant on WFP food assistance by the end of 2002 (see Plate 6-2), and WFP reported that in May 2002, up to 500,000 Angolans were in a critical nutritional state (WFP, 2003; All Africa, March 2003).

Many obstacles were faced by these people on their return, not least of which were the lack of physical rehabilitation of public infrastructures and the absence of basic social services. Deplorable road conditions, broken bridges and millions of mines are still among the major obstacles (WFP, 2003; NRC, 2005). While the MPLA did little to promote peasant agriculture after 1975, it is the war that truly ravaged the agriculture sector, agro-processing and domestic trade. There was a critical loss of assets and capacity – key agricultural, health, education and transportation infrastructure collapsed or destroyed. Much agricultural land was left untended and fallow for years or rendered useless by landmines. In addition the war also wiped out large numbers of animals used for traction (UNFAO/WFP, 2006). In 2003 the World Food Programme reported that just 3% of Angola's arable land was under cultivation (WFP, 2003). In July 2006, more than four years after the war ended, the country was still battling to achieve food security: a World Food Programme and Food (WFP) and Agricultural Organization national crop assessment (UNIrin, July 2006) reported that more than 800,000 people would require food aid until the harvest in May 2007.

An abjectly poor population, returning refugees and IDPs have lacked sufficient food stocks, seeds, tools and livestock. Unable to resume normal agricultural production in the near future, they have little chance of feeding themselves (UNDP, 2002; NRC, 2005). While many have continued to have access to food aid, this aid is generally not being provided in their home communities. Although the area of land under cultivation had increased, the legacy of landmines and lack of roads and services have slowed the pace of rehabilitation. The July 2006 WFP (UNFAO/WFP, 2006) report noted that low productivity is also a result of poor soil

conditions and the low use of modern inputs is low. Those hardest hit again are the vulnerable: former refugees and IDPs, female headed households and the sick and elderly.



Plate 6-2: World Food Programme – bags of food waiting to be collected: Matala, Huila. (Clover, July 2002)

Because Angola has experienced a loss of critical assets and capacity it is likely that it will continue to rely on humanitarian assistance for some time to come. Many Angolans have, in fact, begun to see the NGOs and their donor patrons as the main provider of basic social services, humanitarian relief and resources for rehabilitation, rather than the state. MINADER is hugely under-resourced. It does not have sufficient staff, they are underpaid, generally are unable to operate in the field for want of vehicles, and have no funds to provide support in the form of extension services, seed banks, tools, or grain storage facilities.

Vulnerability is linked to a complex interdependence among related issues (Liotta, 2005); this next section turns to the challenges of peacebuilding – of integrating all groups through policies of inclusion, of addressing poverty and inequity, and creating the opportunity for people to take full advantage of the opportunities that peace present. It looks at the general issue of poverty and inequity and the inequitable distribution of resources such as are seen in the education and health sectors. Agricultural growth can and does reduce poverty and inequality; the challenges facing rural development (such as landmines and access to markets) in Angola are looked at in depth. Levels of urbanisation are significant in Angola which saw many people flee to the urban areas during the war. The range of stressors that are faced in the urban environment are discussed as a frame for understanding the centrality of land access and tenure for building secure livelihoods.

6.2 [RE]CONSTRUCTION AND (BROAD-BASED) DEVELOPMENT?

It is still difficult to determine what might qualify as "normality" in Angola. The situation since the end of the war in 2002 has certainly held a greater promise of peace than any other period since the beginning of the independence struggle in 1961. Yet for this very reason these five years have certainly not been representative or normal in the modern Angolan context. This may seem an idle quibble, but it serves to emphasise that independent Angola has yet to establish its peacetime character. Hence, the importance of laying down the foundations for broad-based recovery and peace-building, that will ensure the link between security and development.

In the previous section an overview was given of the broader vulnerability context: the political, economic, social and environmental factors that have, and continue to, influence security and development of Angolans. Years of protracted and violent conflict have also been shown to have had a very debilitating effect on levels of development, deepening impoverishment and reducing opportunities. The indicators of levels of poverty and inequity at household and community level in Angola examined in the preceding chapter are the outcomes of such a comprehensive mix of factors. Vulnerability is endemic among the poor: it refers to "situations in which neither robustness nor resilience enables a system to survive without structural changes" (tenHave, 2006). Long-term vulnerabilities are characterised by their complexity and non-linear unpredictability and have profound implications for a changing security environment (Liotta, 2005).

Vulnerability is based not only on poverty, but also on powerlessness. There are a number of other factors – transforming structures and processes – that are collectively shaping vulnerability in Angola, such as loss of social capital, poor governance (economic, political and administrative) and corruption; weak institutions, gender inequality, and globalisation. In the rural areas, for example, there are institutional failures, the influence that the international political economy has on agricultural policies, climate change, landmines, weak or non-existent social nets to protect those most vulnerable because of years of conflict, and *inter alia,* destruction of the urban-rural links, including transportation and communications. These issues are examined in this chapter in relation to unfolding land issues. In the following section a more detailed picture is given first, of the challenges faced in securing sustainable livelihoods in the rural areas, and thereafter of the complex range of stressors facing the poor in an urban environment. This serves to provide the context for understanding the importance of land and an

analysis of the emerging land issues in both environments, which are addressed later in this chapter.

6.2.1 Rural life – a complex interdependence of vulnerabilities

> "The signing of a ceasefire agreement between the Angolan government and Unita rebels on April 4, 2002, could herald the end of Africa's longest-running civil war. But the nation's political stability and food security may still be in jeopardy if farmers' property rights are not secured" (AgJournal, 2002: 1).

Conditions in the rural areas remain particularly harsh, a number of factors hampering recovery and development of the rural areas, despite some progress in increasing access to people living in 'emergency pockets'. As will be shown, land problems are part of a complex range of impediments (such as food insecurity, lack of access to agricultural inputs and services) – cumulative and interacting stresses –and serves, that undermine the ability of rural people to respond to the current and future changes, thereby perpetuating vulnerability **(**Drimie, 2006). There are limited and fragmented social services, and staffing of the health and education sectors remain problematic. Many provinces have almost no functioning health infrastructure and outside of Luanda and the other major cities, responsibility for healthcare provision falling to foreign aid groups. Water supply and sanitation are poor almost everywhere. According to the UN, only 38% of the population as a whole and just 15% of those living in rural areas, had access to safe water in 2000 (EIU, Angola 2005: 14). The provinces have been neglected for decades, during the colonial period and, for obvious reasons, during the war and suffer from almost complete absence of basic services in the health and education fields. Some 98% of doctors, for example are based in Luanda (UNIrin, May 2006).

Subsistence farming remains the main livelihood strategy for a majority of rural Angolans. Most rural people do not have access to a sustainable income base outside of agriculture, and the high unemployment levels exacerbate the demand for land. Small-scale farming faces significant difficulties in most areas, such as the lack of inputs – which for the most vulnerable includes labor – as well as difficult access to markets. In almost all cases, farmers are only cultivating a small part of their potential land and yields are low (World Bank, 2006).

Food security

Even if food becomes available in the local markets, most households do not have the cash to buy it. The use of natural resources as a central part of livelihood strategies is not only limited

to agriculture and the full-time cultivation of land (Norfolk *et al.*, 2004). A wide variety of habitats and resources constitute "commons" that contribute to rural livelihoods – water for domestic use, livestock and irrigation; grazing and browsing for livestock; wildlife habitats providing food and medicine; building materials; edible plants; or raw materials for products and handicrafts. FewsNet (2006) reported in 2006 that rural households are returning to hunting as part of their multifaceted coping strategies, despite a government ban on illegal hunting. The collection of wood for sale, or for transformation into charcoal and subsequent sale, is a common livelihood strategy, especially in areas near town or where there is transport to urban areas. This practice has led to environmental degradation and depletion of woodlands in these areas and is not sustainable due to the long term impact on forests. There is a range of potential economic activities that can take the form of sub-contracts, joint ventures or leasehold agreements associated with ecotourism, wildlife based enterprises or commercial forestry.

The provinces of Huambo, Bié, Huíla – where the largest number of returnees, demobilized soldiers and their families are found – are particularly vulnerable to food security, as are the remote Provinces of Kuando Kubango and Moxico (World Bank, 2006). The past four years have been characterised by improvements in the food security situation in Angola. The area cultivated has been increasing as households expanded their area of cultivation following the return of more refugees, who have had added to the pool of available labour, and the greater security attributable to the continuing clearance of landmines. Nevertheless, there have and continue to be major challenges to raising aggregate national production and overall food availability to ensure adequate household food access and nutrition (UNFAO/WFP, 2006).

Access to land, resources and services

Access to sufficient quantity and quality of land is problematic as there are few alternative economic opportunities to subsistence farming and it has been put increasingly under pressure since the war as IDPs, demobilized soldiers and other returnees are entering the market for land (Norfolk *et al.*, 2004; World Bank, 2006). Inequality in access to land is an issue of crucial importance, which is only now starting to receive attention. The agriculture sector is predominantly subsistence and soil conditions are poor because of heavy depletion of nutrients during cropping (MITC, 2005) and use of modern inputs low. The soils in the majority of highland areas in central Angola require additional inputs to achieve meaningful maize yields (UNFAO/WFP 2006). Perceptions that good land is widely available are false; in many areas it

is of poor quality and unworkably remote or fragmented. It is only in the Central Highlands that soil fertility is high, and even here there are places where fertilisers are needed to compensate for the marked degradation of soils; elsewhere, larger areas of (less fertile) land are needed in order to guarantee subsistence. Large areas are also remote from markets and services.

There is an urgent need to diversify and expand the agricultural and the non-agricultural base of rural households. Logistical constraints, the lack of rural markets or sufficient inputs, and the inaccessibility of some areas, continue to constrain food production. The lack of markets is a reflection of transportation problems, a consequence of the limited and uneven progress that has been made in rehabilitating infrastructure such as roads and bridges. A consequence of this is the high retail price of food, which is unaffordable for the majority. The lack of market networks often prevents surplus produce from being transported to areas where they could be sold. Seeds and tools (including animal traction) are scarce, and inputs almost entirely sourced from relief agencies. Labour is also scarce in some areas as more than half of the households are headed by women. Many women-headed households have high dependency ratios with elderly and young to care for.

Land mines

The revival of agricultural activities is also severely affected by the large number of land mines that litter the countryside affecting access and undercutting food production as vast stretches of land are not yet safe for cultivation. The most significant socioeconomic effects are restricted access to agricultural land, limited access to areas used for firewood, building material and herbs, and limited access to roads and paths. The threat of mines on primary and secondary roads restricts access and remains a major hindrance to development. In 2006 the UN Development Program estimated that there were two million unexploded munitions; however, international NGOs conducting landmine clearance operations in the country estimated the number of landmines at 500,000 to one million (Embassy of USA, 2007). Large tracts of the country's rail infrastructure are off-limits and the rehabilitation of water and electricity distribution for much of the country is also affected, due to the widespread practice of mining high voltage electricity pylons and water reservoirs/dams during the many years of conflict (ICBL, 2006).

Markets

There is now no longer a unified national market; it has been replaced by a coastal enclave economy. Most of the rural areas have receded into a very basic form of subsistence economy, more or less completely cut off from markets. There are several causes for this: most obviously, the extended state of insecurity over the past three decades, the extreme shortage of skills, macro-economic instability and uncertainty, distortionary policies, and the severe and prolonged deterioration in physical infrastructure and services. The transport and communications infrastructure is very bad, and this hampers the movement of supplies to farmers. Road and rail infrastructure has been severely damaged, and the cost of air transport from the hinterland to the coastal towns is exorbitant. Furthermore, lack of access to finance and inadequate extension services remain significant challenges to the growth of commercial agriculture. Most farmers are too poor even to afford implements and inputs, which are anyhow hard to find in most rural areas. The net result is that since independence, the non-oil sectors of the economy have been in prolonged recession. Building secure livelihoods is extremely challenging under such conditions. Another frustration for returnees is not having sufficient capital to cultivate their lands, increasing the risk that the land will remain unproductive for some time. A common argument presented to support the usurpation of land is that it is not productive. Such arguments are rooted in discourses that need to be deconstructed for they are often based on myths of truth and rationality (Peet and Watts, 1996) thinly disguising competition which is more about power – socio-economic and political. Were the government to have in place an integrated rural development strategy, such arguments would in all likelihood fall away. In June 2004, MINADER announced its intention to enforce the land use legislation of 1992 which requires that land conceded by the government be put to effective use, and to subject production on such land to national development requirements (Melville, 2004a)[67].

While it is important to design an effective and inclusive rural development strategy, in part just

[67] In June 2004, MINADER announced its intention to enforce the land use legislation of 1992 which requires that land conceded by the government be put to effective use, and to subject production on such land to national development requirements (Melville, 2004a). Nevertheless, despite this obligation to develop land, this is not, and cannot be enforced because of institutional weaknesses. (Refer back to Chapter Three: 17).

to reduce the incentives for urbanization, there are also desperate needs to be filled in the urban areas that cannot be neglected. Contentious land issues in Angola have not only been confined to rural areas; in fact there is considerable concern around the rising number of urban land conflicts and threats to urban livelihoods as unfolding land issues combine with other vulnerabilities. It is often assumed that rural and urban vulnerabilities mirror each other, this is not the case. Attention to urban livelihoods now illustrates the specific set of stressors faced.

6.2.2 Urban livelihoods[68]

A major challenge facing the country is adjusting to rapid urbanisation. Approximately 40% of Angola's population currently lives in urban areas, of which about 60% – or 20-25% of the total population – lives in Luanda (Jenkins, 2005). The city is 'bursting at the seams' – built originally for half a million people, it is now crowded with a population estimated at between four and six million (SADOCC, 2005; APA February 2005). What this calls for is greater attention to urban planning, investments in urban infrastructure and the development of low-cost housing on serviced sites. Most of the new residents have settled in the peri-urban *musseques* and occupy a significant part of what used to be mostly industrial and farming areas (World Bank, 2006).

> "In the capital's *musseques*, or shanty towns, many people live in make-shift accommodation cobbled together out of tin sheets. Others have invested their life savings in making small improvements, replacing the sheets with bricks or adding a simple roof. Typically the value of a house is US$1,500 to $2,000 – a sum that equals a family's life savings" (SADOCC, 2005: 2).

Luanda, and all the main urban centres in Angola, suffer from many aspects of poverty, "that include not only inadequate livelihoods, income levels and asset bases but also poor quality and often insecure housing, inadequate infrastructure and services, inadequate legal protection of poorer groups' rights, and "voicelessness and powerlessness" within political systems and bureaucratic structures" (Cain *et al.,* 2002: ii; Plate 6-3). The poor are dependent on high-priced parallel market loans and have little or no access to credit as a means to improve their livelihoods (Cain, 2004). This serves to reinforce an understanding of vulnerability that is based not only on poverty, but also on powerlessness, and the necessity of a nuanced understanding of

[68] Interview in January 2005, in Pretoria: Allan Cain, Development Workshop.

the differences in power and voice, and the disparities in access and entitlement to resources that exist.



Plate 6-3: Luanda: flooding in 2007 (Anonymous)

In Luanda provision of basic services are extremely poor, with only 17% of households reporting a water connection, most relying on water purchased from tankers. (Plates 6-4; 6-5). "Those living in *musseques* pay many times more [up to 10,000 times more] for water and other essential services than those living in the cement city, meaning they consume less, and the resulting hygiene and health statistics are now some of the worst in the world" (Cain, 2004: 95). In their report on the provision of basic services to the poor in Luanda, Cain *et al.,* (*Ibid:* vi) noted the following:

- For 20 years there had been almost no provision to extend water to the peri-urban areas where much of Luanda's population growth had taken place;
- Conflict has damaged and inhibited the political and institutional foundations for ensuring basic service provision;
- Local governments and the water company lacked the political and institutional foundations for ensuring basic service provision; and
- Incomes were too low to allow conventional solutions, yet there was no tradition of community provision (and government services were wary of working with the community organizations).



Plate 6-4: Queueing for water – *musseque*, Luanda (Clover, July 2002)



Plate 6-5: Luanda, 2005: no refuse collection (Leao, 2005)

6.3 LIVELIHOODS AND THE LAND LAW(*LEI DE TERRAS 09/04*) OF 2004

Violent and protracted conflicts such as Angola has experienced cause widespread suffering and create a vicious circle or a conflict-poverty trap, accentuating inequalities. The preceding section, together with the findings discussed in Chapter Five, reflect the extent of poverty and the dynamics of vulnerabilities that Angola now faces. Taking a broader concept of violence and acknowledging the various forms of violence, it is evident that the security of Angolans is being compromised by a multitude of long-term, creeping vulnerabilities. These are complex, non-linear and unpredictable and in which the best response is uncertain (Liotta, 2005) and this has profound implications for the human security of poor Angolans. While recent land legislation has come into effect, it does not hold promise for constructively addressing these issues (Box 6-1). As with many other countries across the continent, in Angola land remains inequitably distributed and rights for many rural as well as urban dwellers are increasingly becoming insecure and unclear.

Box 6-1: Angola – The Land Law and forms of benefits for local communities
Natural capital It offers some protection for local rights, building on local concepts and practices that protect customary rights as it integrates customary and formal land administrations within a single policy and legal framework
Social capital (local organisations and alliances) People's capacity to articulate, demand or influence the policy process was given some attention during the period informing the adoption of the Land Law through public consultation and debate, but time frames and depth of consultation have been issues of contention. NGOs are playing a role in building human and social capital within communities as they assist, but they face constraints and there is a great need to capacitate people to understand their rights and inform them of the new Land Law.
Human capital (knowledge, skills, labour) There are no apparent opportunities for improving knowledge, skills, and stakeholder empowerment through processes of consultation in the course of building stakeholder relationships There is evidence of the building of social capital amongst community groups as a result of the implementation of the Land Law. This is most evident in Luanda, and in Huíla province where NGO's have a strong presence.
Physical capital (rural infrastructure and equipment) There is very little available in the way of rural infrastructure and equipment. Even animal power was affected by the protracted violent civil conflict. These problems are aggravated by the absence of an integrated rural development strategy to complement the Land Law.
Financial capital (savings and credit) There is no funding available for the registration of title and very limited funding available for agriculture in the rural areas where infrastructure and services are minimal. In the urban areas a few NGOs are working towards building capacity for self-help income generation, but costs of basic services are extremely high and distance from the central urban areas increasing with peripheralisation. These factors result in basic costs for securing property and building land based livelihoods beyond the reach of most Angolans. The possibility to capitalise on the opportunities presented by the market and growth in the economy are denied to people without title.

The application of a 'Political Ecology' framework is called for at this point to explore how violence is being expressed and made expressive in Angola, examining both what is contended and how. It does not search for triggers but examines the reciprocal relationship between nature and humans.

A violent environment? a political ecology approach to land and violence in angola

Having considered the specific challenges for peace-building, reconstruction and development, and the broader vulnerability context that the poor face for building secure livelihoods, this chapter also examines the research findings, using a political ecology approach. The development of land conflicts in the early 1990s are discussed before turning to the unfolding land issues since the ending of the war in April 2002. Characteristic of countries emerging from protracted periods of violent conflict, land issues have become prominent as the scramble for assets necessary to establish livelihoods gains momentum and as a market for land and landed resources begins to assert itself. With this as background, the core questions asked in this thesis are examined:

1. What accounts for the relationship between violence (evidenced in brutal physical acts, threats and increasing vulnerabilities) and land as a resource? (Refer to 6.6)

2. Are there lessons to be learnt from these findings that are particular to countries emerging from protracted violent civil wars? (Refer to 6.7)

The following section proceeds to examine firstly the emergence of land conflicts during the war – and which are associated with economic changes – and then it moves onto exploring land conflicts, rural and urban, since the war ended.

6.4 THE PRIVATISATION ERA: 1992 TO 2002

Conflicts first became apparent in the 1990s with the economic changes that allowed private ownership and resulted in land falling prey to powerful economic interests. As Shaxson (2001: 1) points out, “In this chaotic liberalisation, ordinary people’s rights to land use shrivelled and ownership has become unclear”. This is an issue which has continued to play out as land with real commercial value and potential has fallen prey to powerful economic, and even military, interests linked to the government.

The early 1990s marked a radical change in governance with the transition from a single-party system to a multi-party democracy and the adoption of a new economic model, one of a market

economy that effectively reduced the state's role in the economy.[69] The economic model required a land market and a legislative framework appropriate for the development of a private sector, able to attract foreign investment in commercial farming and cattle breeding. A highly controversial process of privatisation of the previously large state sector was carried out, in a poorly conceived and disorganised way, and coupled with implementation of the 1992 Land Law that did not reflect either liberalisation or security of tenure for smallholders. It ensured that the cultural and legal dichotomy that existed in the colonial period continued in terms of property. What is evident, in fact, is that economic failure had undermined the legitimacy of the socialist state, leading over time to *de facto* liberalisation and privatisation, with elites linked to the state and the military finding an increasingly profitable interest in liberalisation (Addison, 2001). It is during the series of so-called called privatisations – a period of legal ambiguity – that the precedent for 'land-grabs' in post-independent Angola were set (Melville, 2004b; Pacheco, 2004) and during which there was a marked erosion of ordinary people's rights**.** "From being a potential candidate for a market economy, Angola passed swiftly through a process of privatisation by the *nomenklatura*, in which the disciples of Lenin were transformed, overnight, into businessmen in the western mould, taking control of a large part of the state's resources and managing the remainder according to their prerogative as representatives of the people" (Marques, 2002). During the period that ensued, new forms of "state" patronage – or crony capitalism – emerged as a few wealthy individuals gained control over vast natural resources.

"With the intention of creating an entrepreneurial agricultural elite that would serve as an "engine to modernise agriculture", the privatisations were characterised by the ceding of land use rights by the state to various well-connected individuals and entities (Norfolk, *et al.*, 2004). Privatisation entailed the division and selling off of 33 state-owned coffee plantation companies into about 400 farms, sold to would-be commercial farmers. Big companies were registered and some, but not all, entered into a land register, and this led later to ambiguity (Pacheco, 2000) as newly divested state farms were quickly targeted by powerful politicians and members of the politico-military elite, their "superior access to bureaucratic processes enabling them to pick up

[69] The transition has since been a stop-start process, perhaps intended to be a signal to the west of a "friendly" Angolan face.

vast swathes of productive land that had been cultivated on a small-scale basis by local farmers since the mid-1980s" (Melville, 2004b: 2). Small-scale and peasant farmers were progressively evicted from the land and forced into already-overcrowded urban slums (Shaxson, 2001).

In the Huambo province authorities granted new entrepreneurs all the lands that were demarcated in 1975: by 1997 about 59,0000 ha had been granted to 785 farmers (Pacheco, 2000). In 1997 the first cases of land grabs were reported in the fertile Kwanza Sul province near Luanda. This rush to the former demarcations by new entrepreneurs, on the basis of the old register, also took place in the cattle ranching areas in the south-west and by 1998 the conflict here was being debated in the national and international media. Spurred by public outcries and the call for the 1992 Land Law to be revised, a powerful civil society movement (see 3.3: Angolan civil society) around land access and issues forced the government to open consultations around a new Land Law (Acord, 2005). The Ministry of Agriculture and Rural Development (MINADER) has since conceded that up to 1999, more than two million hectares of land in the whole country had been granted to commercial farmers (close to half the surface given to commercial agriculture before 1975), which largely remains unused (Pacheco, 2002). There is little evidence about where these concessions are located because of the lack of transparency in the government registration system.

The period preceding the end of the war saw an increase in land grabs. In January 2001 Shaxson reported that land in places such as the large and relatively secure coastal strip stretching from Lobito to Benguela and southwards for another 50 km to Dombe Grande, where land has real commercial value and potential was falling prey to elite interests. He said many were even reluctant to lease the land to the displaced or other poor people, in case of future ownership claims (Shaxson, 2001). In urban areas, the privatisation of government-owned real estate has provided a further opportunity "for the well-connected to acquire private property rights at nominal costs, to force up rents and to force out residents who were occupying room and apartments beyond the scrutiny of the wartime state" (Melville, 2004: 2).

6.5 LAND CONFLICTS SINCE THE WAR ENDED

6.5.1 Returnees access to land

The successful resettlement and reintegration of uprooted populations since 2002 has been a critical component of rebuilding a peaceful society, and it depends to a great degree on the ability of receiving communities to resolve land conflicts and to receive IDPs, ex-combatants and refugees without prejudicing their own livelihoods. As millions of displaced Angolans began to return, fears grew that there would be increasing numbers of arguments over land and ownership and access, raising concerns over the potential for serious conflict (UNIrin, November 2003). While this has not always occurred without localised tensions, the prevailing evidence indicates that land conflicts between families have generally not been a problem in the post-war period, as customary ownership of land is a deeply embedded reality and widely acknowledged. Because in most cases entire populations abandoned their places of origin, most returnees have been able to return with minimal conflict among neighbours. Research undertaken in 2003-04 by a team for CARE Angola in Bié province, for example, found that the vast majority of people who had been displaced had taken up occupation of their hereditary lands without problems, and in fact that almost all families had recognised access tenure over more land than they were able to cultivate (Norfolk *et al.,* 2004). Human Rights Watch in Huambo also reported that most families have been able to return with minimal or no conflict. With only 3% of the population having documentation of land ownership, rights to land are guaranteed by the oral testimony of witnesses, *sobas* playing an important role in administration of land, testifying to transactions and acting as intermediaries on behalf of those who needed access to land. They also performed an important and widely-recognised function in the resolution of conflicts (HRW, 2005: 29). Solutions to conflicts usually involved the further subdivision of land between family members. Where there is no *soba*, returnees rely on their families for access to land.

6.5.2 Growing opportunism

Two types of land conflicts, both related to the relative powerlessness of rural and urban poor have been increasing since the end of the war: occupation by powerful people of high quality land held by rural communities with good access to water, such as the coffee producing areas of the central Planalto and the agro-pastoral and transhumance of the South-Western areas, and evictions of the urban and peri-urban poor from the areas where they settled in Luanda and

other major centres. This serves to confirm findings by Peluso and Watts (2001) that conflicts are less generated by resource poverty and bankruptcy than by resource value and wealth. These are not necessarily new to the post-conflict era – Angola's protracted period of war kept such concerns off the political agenda – but they have increased. Highest on the agenda is the issue of land grabbing by elites.

While the return of IDPs and refugees occurred less traumatically than expected, it still represented a major source of actual and potential land conflict throughout the country, but most especially in those areas with a growing demand for investment possibilities in the agriculture sector, mainly by private investors (Groppo *et al.*, 2003). The reasons for these competing claims are rooted in legislative shortcomings (with ownership unclear, ordinary people's rights to use land have been dramatically reduced), as well in underlying socio-economic inequalities. As there is little surplus land upon which to settle any significant number of IDPs, resettlements were imposed and in some cases the newly displaced peasants were settled on lands that belonged to pastoralist communities.

Rise of former and new fazendas

Many of the returning IDPs and refugees have settled in those areas that are more accessible – these are the areas where many of the large farms or plantations are to be found and which have their origin in land concessions given to European farmers during the colonial era (Development Workshop, 2004: 8). In the Planalto[70], Angola's "breadbasket", the predominant form of land ownership is based on the colonial-era concession system, comprised largely of *fazendas.* As most returnees lack formal title to the land they occupy, the rise of former and new *fazendas* threatens to displace people who have been cultivating this land since the war. Increased calls for land restitution and the resolution of arising land disputes by returning refugees from neighbouring countries, displaced people and former combatants displaced during the conflict, are highly probable and will aggravate these tensions. The government has a responsibility to protect the rights of "new caseload" refugees to the land they were forced to abandon, but social

[70] Agriculture is the primary means of livelihood practiced by 94% of the rural population. 65% of these households also raise livestock, but only 22% raise animals other than poultry. 60% of households have no additional income to supplement agriculture (WFP, 2005: 6).

nets to protect those most vulnerable are weak or non-existent. As stated by the UN in Principle 29 (2) of the Guiding Principles Rights:

> "Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possession which they left behind or were dispossessed of upon their displacement. When recovery of such property is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation"[71] (UN-HCHR, 1998: 10).

There is much contention around the *fazendas*, which have their origin in land concessions to European farmers during the colonial era. In some cases they were built on land abandoned by communities who were relocated by the Portuguese in the 1960s and 1970s. With peace, it is anticipated that some of these concession holders will reclaim this land; however, should the land remain unproductive (for want of capital), it can be reclaimed by the state, even though peasant farmers may remain dispossessed, in terms of the provision in the Land Law for property rights to be extinguished if the land is not used in conformance with land use dictates (DW, 2004: 8). These land issues do not necessarily stem from unjust implementation of the law, but are often the results of a confused process that has been accumulating for dozens of years (Pacheco, 2002). One of the questions now arising is whether rising land values and the renewed cultivation of *fazendas*, in the context of agricultural led economic growth, will result in the forced displacement of people who had been cultivating these areas during the war, or in renewed land grabs. As more land becomes available for farming and as its commercial value and potential are realised, there are signs that wealthy politically connected elites – groups and individuals – are staking claims to tracts of land (Clover, 2005). Opportunism, which has become rife as the value of land has risen, has not only affected returning refugees and IDPs and so complaints have come from different sources:

- from displaced people who occupied the land and plantations freely or "officially";
- from the descendants of the ancestral owners of the land (not always known or revealed);

[71] Return is used to define the process of going back to one's original place of residence; Resettlement is used to define the process of starting a new life in another part of the country; Reintegration is used to describe the re-entry of formerly internally displaced people into the social, economic, cultural and political fabric of their original community.

- from former workers (normally from other regions) who stayed in those places following privatisation and ensured a certain security and benefited from the land and plantations; and
- from former owners (Portuguese, German, Angolan).

Land conflicts between private and community interests have been occurring with increasing frequency, many involving elite interests and political factors. In 2003 there were reports that a score of Portuguese investors, members of the Chamber of Lusophone Farmers (CAL) would reportedly soon receive farming and ranching concessions in the rich Central Highland Huambo province,[72] and of Zimbabwean farmers receiving concessions (personal interviews in Lubango, 2003). This shows that spatial levels of conflict, local through to global (Peluso and Watts, 2001) are important and it necessitates examining the type of social and political relations in which land is situated, local, regional, transnational and global (Peters, 2004). In the same year charges were brought against a former cabinet minister and general for terrorising local farmers as they sought to expand their landholding. He and his partner, a powerful businessman with connections to the diamond industry, are co-owners of the farm Kamphanda, 140 km south of Lubango, on which they are accused of running a reign of terror on their *fazendas*, "ordering the imprisonment of local farmers and their families in a container used as a private jail where some were allegedly tortured with electric cattle prods" (SouthScan, 2005: 1). The complainants in the case, who are backed by some local and international NGOs, believe that the landowners were trying to instil fear in the local community and to expand their *fazendas* beyond their original limits.

The case has raised the contention around the *fazendas*, which have their origin in land concessions to European farmers during the colonial era. In some cases they were built on land abandoned by communities who were relocated by the Portuguese in the 1960s and 1970s. Research by Development Workshop in 2004 (HRW, 2005) reported a case where the local authorities permitted a Brazilian coffee producer to take over several thousand hectares for cultivation without consulting the local community, and the area they demarcated encroached upon the land occupied by local residents. As a result of the support of a local NGO, ADRA-Angola, and legal assistance from an NGO in the case, the producer abandoned his plans. In

[72] Portuguese agriculture businessmen focus on Angolan farms, Reported by Xinhua News Agency, 6 August, 2003.

February 2005 it was reported (Jornal Apostolado, February 2005) that ex-farmers who left the country after independence in 1975 were pressurizing the department for agricultural and rural development in Huambo province to regain their former farming properties. Most of them had title deeds issued by the former Portuguese colonial regime. These have in some cases resulted in competing claims for land restitution between those who acquired lands under previous regimes, or those who lost them in the interior, and returning refugees and internally displaced people (NRC, 2005; HRW, 2005).

There are numerous questions about who is receiving the major land concessions and for what purpose. Post-conflict processes may in some cases lead to increased inequalities. Peasant farmers are seeking to return to their land at exactly the same time that land is under greater pressure than ever before from commercial interests. Research conducted in Kuanza Sul (Filipe, 2005) reports communal farmers being denied land access rights by large-scale commercial farmers. Reports of conflicts between peasants and commercial farmers have since increased in frequency as communities claim that their traditional lands have been demarcated as private farms and awarded as concessions to other communities or individuals. The system for the awarding of development contracts remains vague and open to corruption (Parsons, 2005: 57) and this leaves open the possibility that provincial development plans are set to ensure the vested interests of wealthy landowners as elite interests and political factors feature prominently in areas where there are acute land conflicts between private and community interests; it is these same elite groups and individuals who are reluctant even to lease the land to the displaced or other poor people in case of future ownership claims.

At a conference held in Luanda in May 2005 at which the results of research carried out by NGO Land Network, *Rede Terra*[73], in Lunda Sul, Huambo and Uige province were presented, Fernando Pacheco, president of the Angolan NGO ADRA warned that the Land Law gave the State rights to attribute land concessions arbitrarily, ignoring ancestral occupation rights by rural populations. He added that the judicial and the constitutional basis for agricultural land management is very confused, disorganised and outdated. Paulo João, representative of the

[73] *Rede Terra*, Land Network, is a consortium of twelve NGOs dealing in land matters set up to facilitate the debate and coordinate ideas (All Africa, *Consortium on land set up in Huíla Province*, 23 June 2004).

Rural Development Programme of Quissama in Bengo province, warned that land conflicts were imminent, since new large-estate landowners were increasingly occupying land without considering ancestral occupation rights of local populations (Jornal Apostolado, May 2005). Vicente Pinto de Andrade, economist and MPLA member, called on the Angolan government to immediately issue the regulations of the Land Law and to revise the law in order to reach a less ambiguous document and prevent land conflicts (Jornal Apostolado, February 2005).

Martinho Chachiua, Angolan programme officer at the Electoral Institute of southern Africa, commenting in May 2005 on recent tensions between Angola's ruling MPLA party supporters and members of the opposition, Unita, said that they were more about competition for resources such as water and fertile land, than political differences. The tensions have been confined to the provinces, where there has been very little development, so returnees are expected to encounter animosity from local communities. "Communities are battling to cope with very little, which means that they will compete for resources" (UNIrin, May 2005).

In July 2005 the minister for environment and urbanism (MINUA minister Sita José,) announced that it will decree local regulations of the land law for the Angolan eastern, northern, southern and central regions, to respond to concerns from rural communities with regard to land acquisition, possession and use. The second 'Diamond Industry Annual Review' noted in a report in July that the new Land Act reinforced the state's ownership of land, and hence the existing Special Regime for the Daimondiferous Mineral Reserve Zones, which sets out land access rights in mining areas. As such, "there are no rights of access to, or residence in, active mining areas ... [and] villages can be relocated to make way for mines" (Gordon (ed.), 2005: 9) The report noted further that "with 145 concessions awarded in 2004 alone, the restrictions [in Mineral Reserve Zones] could involve large areas of the national territory, affecting a considerable proportion of the population". According to the editor, "three years of peace is enough time for an oil-rich, diamond-rich government to have made wider social investments in the diamond areas and to have produced development policies that are more supportive of Angola's artisanal miners". In the northeast provinces of Lunda Norte and Lunda Sul, which account for a large portion of Angola's diamond production, the local farming populations had their farming lands seized by the diamond mining companies and the private security companies imposed restriction on circulation of free movement (personal communication). This is also the case in the southern provinces of Namibe and Huíla where large reserves of marble, granite and quartz are now being mined (Xinhua, January 2006).

The involvement of the armed forces and government officials in land grabs has been an area of concern made public by officials. In September 2005 Job Castelo Capapinha, governor of Luanda, called for severe sanctions against illegal land seizures perpetrated by members of the Angolan armed forces (FAA) and in the same month the Attorney General of the Armed Forces promised to fight illicit land seizures (AngoNotícias, September 2005). In January 2006 the Luanda governor warned again of legal action, this time against government officials he said were involved in the illicit sale of land for construction purposes (APA, January 2006). Furthermore, he called for more actions to identify, denounce and sanction FAA officials who abuse their function and the army reputation in order to promote land seizures, mostly for commercial purposes. General João Maria, General Attorney of the Angolan armed forces (FAA), responded with the promise to fight illicit lands seizure by army members following various denounces submitted to his office.

6.5.3 Huíla Province – Gambos and Humpata, 2003 (See Figure 6.1)

The preceding section has given an overview of unfolding land tensions since the end of the war. Attention now turns to the focus areas of this research site: firstly to the province of Huíla, where opportunism expressed in rural land grabs and enclosures has been particularly prevalent, and then to the urban conflicts in Luanda. While there was some evidence of land grabs during the colonial period, it was some 10 years before the war ended that the first conflicts became most apparent. Of particular prominence were the conflicts in Huíla province, and these gave impetus to the first calls for a revision of the 1992 Land Law. Since the end of the war conflicts have increased, evident in resource rich rural areas and gaining significant publicity in urban Luanda.

Conflicts are not confined to any one province in Angola, but for the purpose of this study attention was focussed on Huíla province and in particular on the Gambos and Humpata districts. It is one province that has clearly been affected by land grabs and conflicts at many times during the course of the last fifty decades. Land conflicts are not new to the Gambos, an area 120 km south of Lubango in southern Huíla province – they were first experienced in the 1950s following massive land grabs by European farmers (Box 6-2):



Figure 6-1: Map of Angola. Huíla province is shaded.

> "Conflicts first emerged here between commercial farmers and local communities in the early 1990s, simmered throughout that decade, and increased in 1997. Since then land has again been grabbed by wealthy businessmen in the relatively peaceful south-west where there are a proliferation of ranches and commercial farms and disputes were noted to have increased following the end of the war" (ALSSA, personal communication, 2003).

A dispute that arose over land rights in the Gambos, western Huíla was the first indication that a serious land crisis was brewing. Effectively it was a land grab, benefiting well-connected families of the politico-military elite at the expense of small peasants who had been occupying

Box 6-2: The Gambos (Alberto, 1998: 1-3)

The municipality of the Gambos is located in Huíla province, in southern Angola and covers an area of 8,420 sq.km. There is no year-round watercourse in the area, and roughly one hundred dry riverbeds that hold rainwater over a period of time from a few hours to two weeks during the rainy season.

During the colonial era, livestock marketing in southern Angola was one of the main vectors of development. Such activities date back to the 19th century and intensified around World War II, in the 1930s and early 1940s. The activities were conducted in a traditional manner without any disturbance. In the 1950s, commercial expansion led to the confiscation of lands from local inhabitants, culminating in the creation of "ranches" complete with all necessary infrastructure. The commercial success of livestock slaughtering operations greatly contributed to the construction of industrial slaughterhouses in the northern, central and southern regions of the country (Sofrio de Luanda, Lubango, Namibe, Camabatela, Concar no Huambo). European breeders occupied more than 1,500,000 hectares, a situation which led to serious land conflicts with the indigenous pastoral population.

Following independence (1975-1990), with the massive withdrawal of Portuguese colonists, several situations had a direct impact on the Gambos pastoral community: i) the nearly total breakdown of marketing channels; ii) a breakdown in veterinary assistance; iii) deterioration of more than 70% of all infrastructure (hand pumps, water storage); iv) deterioration of social infrastructure; and v) availability of space from former breeders.

From 1991 to 1996, there was a modest renewal of livestock marketing in the south. The local population competed to recover former compounds. The majority of claimants had no technical or economic capabilities. Development agencies began the process of rehabilitating and/or constructing social infrastructure, as well as water points for humans and livestock.

and tilling much of the land of the former state farms on an ad hoc basis, without land titles, since the mid-1980s. Consultation did not take place, which led to a growing resentment and uncertainty among the peasant farmers and pastoralists, the latter finding their land cordoned off by new landowners who limited their movement. When in 2001 the authorities of the province revealed that many of these farmers in fact held more land area than was registered or than they needed, an NGO – *Rede Terra* – stepped in and the case was negotiated before being partly settled (Pacheco, 2004): A systematic survey by the Huíla provincial government revealed that many of the “farmers” held much more land than was indicated on paper and more than accorded with their “technical, financial, and management capacities” (Pacheco, 2000). On 22 March 2001, in the first ever legal recognition of community land tenure, some 4,500 hectares was returned to the communities in the tiny Tchicala municipality, thereby resolving – for the time being – the conflict (AgJournal, April 2002).

Traditional cattle raisers require more land to sustain increased numbers of cattle, but the carrying capacity of the land has been reduced (Bledsoe and Pinto, 2002). Commercial cattle

grazers are encroaching upon lands traditional cattle raisers, and cattle corridors are being closed. Commercial farmers have also reclaimed the use of old colonial farm concessions onto which many traditional rural community cattle raisers and farmers had moved and occupied in addition to the traditional community lands. Conflicts are occurring as new concessions of the old colonial parcels are made or as landowners or concession holders from the past reassert their rights *(Ibid).* Such conflicts may well continue as government grants new and renewed concessions of the colonial parcels, or as landowners or concessions holders from the past (especially post-1991) reappear and reassert their rights.

In 2001 there was a rush in to formalize demarcations by new entrepreneurs (Pacheco, 2004). Bledsoe and Pinto point out in their report (2002) that many of the traditional cattle raisers and farmers, believing much of the land in the colonial concessions to be rightfully part of the traditional lands, have reclaimed use of old colonial farm concessions. Thousands of hectares of land, the territory of pastoral people and their cattle, have become fenced in, now the private property of wealthy new landowners, including government officials:

> "Each day the ministers and the military people are occupying more land. One day there's a fence, the next day the people wake up and the fence has moved a little bit wider. These people feel really unprotected" (UNIrin, December 2003; ALSSA personal communication 2003).

Traditional cattle raisers require more land to sustain increased numbers of cattle, but the carrying capacity of the land has been reduced as the total number of cattle has increased significantly over the years. As commercial cattle ranchers encroach upon lands of traditional cattle raisers, cattle corridors are being closed, grazing land and water access points reduced. Pastoral leaders say the land has been taken illegally and their traditions and customs, passed down over centuries, as well as their livelihoods, are under threat. Pastoral populations have also objected as in many cases the new farmers denied or frustrated access to water source and pastures. As indicated before, vulnerability is often linked to a complex interdependence among related issues: these problems have been severely aggravated by drought in recent years – as traditional water points dry up, pastoralists are forced to move on to where there is water, increasing the density of cattle.

Renewed conflicts

In 2003 insipient conflicts were again seen to be emerging in Huíla with reports of large tracts of land that were once communally farmed becoming the legal possession of individuals. New

fences, as evidenced by the number of newly cut ('green') poles observed in late 2003 (Clover, observation on field trip, September 2003), had been erected in the Gambos area of Huíla province with little or no regard for consultation with communities. Conflicts have arisen as communities have been forcibly removed from their land to make way for the fences (with no compensation), community access to water cut, community land relinquished in exchange for water rights and even small villages enclosed on farms with right of tenure secured in exchange for labour (often at rates as low as 200 Kwanza [US$2] per month – FOS personal communication, 2003), and cattle corridors closed off. Likewise, the King of the Gambos is now (again) contesting a case in which the community has had its land enclosed by fences on three sides. Provincial government authorities (site visit and personal communication, September 2003) insist that in such cases, compensation must be provided by the land owner in the form of infrastructure and services (such as schools and clinics) for the community, but that the role of government institutions can only be to monitor, not to enforce implementation of these requirements.

A particular reference was made to the culture of the (mainly pastoral) people in the south of Angola and how this has exposed them to land conflicts (FOS, personal communication, 2003):

> "In southern Angola the culture of the people is not respected. Although more aggressive in their attitudes towards intruders, they are 'fragile' people, easily bought and susceptible to being conned. The use of alcohol in trade is increasingly being noted as yet another way in which their culture is being undermined."

In 2004 it was reported that a severe lack of rainfall in an area straddling Huíla, Cunene and Namibe provinces in the southwest, an area home to thousands of nomadic cattle farmers and their 1,5 million head of cattle, ignited tensions in the area between two groups of nomadic cattle herders that led to the four deaths (Amnesty International, 2005). While such tensions are known to have occurred over the years and are generally solved by traditional dispute-resolution systems, humanitarian workers noted that life for these traditional farmers had worsened substantially over the past five years as big farmers claimed stretches of communal land for their own grazing (IRINnews 2004; EDC News 2004). These findings echo those of other researchers examining pastoralism in Africa (Quan, 2006; Cotula *et al.*, 2006), that these groups are often marginalised, and on the basis of accusations of being backward and primitive governments support the modernising of the livestock economy.

In Humpata a conflict erupted in 2002 following the forcible removal of the community by the

new owner of a farm, a general (personal communication and site visit). Over a period of time some 3,000 families were dispossessed of their land, "driven to the most difficult regions in the province" (Jornal Apostolado, 2004). The community had not received compensation, but had lodged claims against the 'general' for the building of a school, clinic, boreholes and accommodation for teachers in lieu of land lost. Negotiations are made extremely difficult and arduous because of the "strong connections to people in high places" (ALSSA personal communication, 2003) and in this case also because the general lived in Luanda and employed a farm manager who undertook the negotiations but was not in a position to make decision (personal communication). While the community had resigned themselves to the loss of the land – some 300ha – they had raised new concerns that once fenced the property they had lost in fact totalled 312ha.

An estimated 3,400 Khoisan people live in small, dispersed communities in Huila, Cunene, and Kuando Kubango provinces. The Khoisan are traditional hunter-gatherers who are linguistically and ethnically distinct from their Bantu fellow citizens. Their very limited participation in political life has increased, and Ocadec, a local NGO advocate for the Khoisan, has worked with provincial governments to increase services to Khoisan communities and to improve communication between these communities and the government (US Department of State, 2005). Adequate protection for the property rights of traditional pastoral communities was a concern; however, following the Council of Ministers approval in August of the land reform regulations to allow groups to apply for land tenure, a group of Khoisan, near Quipungo, Huíla Province, was granted a provisional land title in October 2006 (US Department of State, 2007).

There is a well-founded belief that sometimes land is contested "on the face of it" for agricultural use, while the claimants' real interest lies in its potential for mineral exploitation – diamonds, asphalt, gold or manganese. Parsons reports (2005) that army generals are frequently reputed to have private business interests, particularly in the diamond industry.[74] Not all attempts are successful: during a FAO programme being carried out in Northern Huíla in 2003, a land claim for 5,000 ha presented against the community by a member of the military elite

[74] See for example references to the expulsion of illegal diamond miners – *garimpeiros* - from Angola during April and June 2005.

was successfully contested on the basis that he was not from the area; the piece of land in question had in fact been mined for gold during colonial times (personal communication, 2003.

Granite mining in Huíla

During the 1970s and early 1980s a state-owned company mined granite and marble in Namibe and Huíla, in 1983 producing 4,450 cubic metres of granite and 500 cubic metres of marble (Geographic.org, 1989). Production ceased indefinitely because of the war shortly afterwards, but over the last three to four years, AngoStone which holds mining rights in Huíla, Namibe and Cunene provinces, has been mining (under a contract with the Angolan Ministry of Geology and Mines) Red and Black Granite (Angola News, 2006; EIU Angola 2005). During 2005 a pool of some 11 companies produced some 38,000 cubic metres of black granite, the bulk of which was exported, earning about US$1,4 million (Xinhua, 2006). This was an increase of 137% over the previous year.

These recent developments have raised the spectre of a new set of land conflicts as a new set of 'actors' have come onto the scene purchasing land not only for agriculture purposes, but for mining granite[75]. A highly lucractive business, many of the investors have business links with government officials. A system of patronage prevails: through the payment of "commissions" to local governing officials, the granting of concessions is ensured so that the land can be registered, and high profit margins are guaranteed as they are able to by-pass the payment of taxes to central government. Paradoxically, Padre Pio (personal communication, 2006) notes:

> "The local communities are seeing none of the benefits of the massive increase in income generated from the sale of granite – schools, health centres and infrastructure is poor if not non-existent in these areas and levels of impoverishment extremely high. The wage levels paid to workers are extremely low, further impoverishing the people of the area. Security of land tenure for poor people is also being threatened by current expansion of areas for granite mining. There are also livelihood and environmental impacts, most especially for farming communities whose access to water is cut or restricted, and there is also an increased use of scarce water resources

[75] Telephonic interview and e-mail correspondence, 18 October 2006 - Padre (Jacinto) Pio (Wacussonga), Roman Catholic priest and community activist.

> in the quarrying procedure."

Environmentalists tracking super quarry developments point to destruction of natural habitats which are likely to include: 1) the destruction of natural water sources, 2) the introduction of foreign organisms (through ballast water) which pollutes water for drinking purposes and could destroy native species and habitat, 3) the failure of developers to encourage recycling of demolition rubble, and, 4) increases in noise and dust pollution. Although environmental protection is an integral part of the development process and cannot be considered in isolation from it (Elliot, 1998), this is a common example of growth and economic opportunity tramping basic human rights.

The next section attention turns to urban land issues – notably in Luanda where there have been several cases of contentious, and sometimes violent, forced evictions since 2001. Rapid urbanisation, a multitude of challenges of urban land management and evictions resulting from the growing commodification of urban land are some of the constant threats that much of Africa faces; Angola is no exception but it has chosen to deal with these issues particularly harshly.

6.5.4 Urban land challenges – the case of Luanda

Land plays an extremely important role in development and reconstruction, over and above basic shelter and security and especially in the urban areas, the "rising prices of land values represents an important source of wealth – individual, collective, private and public….It is a source of income and a versatile component in survival strategies" (DW, 2002: 4) The urban and peri-urban communities around the major cities is the largest (some 60%) and fastest growing sector of Angola's population. With peace there has been an increased potential for business and foreign direct investment in the country and the resulting pressure on urban land.

Since the end of the war the government has turned its attentions toward urban reconstruction, establishing a new Ministry of Urban Development and Environment in 2003. In 2005 the National Reconstruction Office was set up to oversee post-war rebuilding, and in 2006 it was reported that the government was planning the biggest urban project ever attempted in Africa – a mega-city dubbed the *Nova Cidade de Luanda* (the New City of Luanda) to house four million people (Amnesty International, 2007):

> "Luanda's informal settlements are impeding commercial expansion and are clearly disadvantaged in competition due to their dweller's lack of legal title" (APGG, 2006: 13).

Many people in these areas are in an ambiguous legal situation as regards their land tenure.[76] Families who fled fighting ended up occupying or buying land on the informal market from people who usually had no legal title to it. In peacetime, this is now prime property for commercial interests and the poor run the risk of being turned out of their homes as businesses clamour to take up city-centre and suburban real estate. There is now an active housing market, rents, house prices and land prices rising steeply nearer to the city centre. Cain, in an interview in 2003 commented:

> "Many poor people have papers showing they bought the land, but that is not a title deed. It's just a document which show they bought the land from somebody probably did not own it, or probably did not have permission to sub-divide it. All these people are at risk because they don't have formal occupation" (UNIrin, November 2003).

It remains very difficult for the majority of people to obtain the legal recognition to the land, and therefore to get the support of the Land Law. In a study undertaken by Development Workshop, they found that three quarters of the residents of the peri-urban districts of Luanda

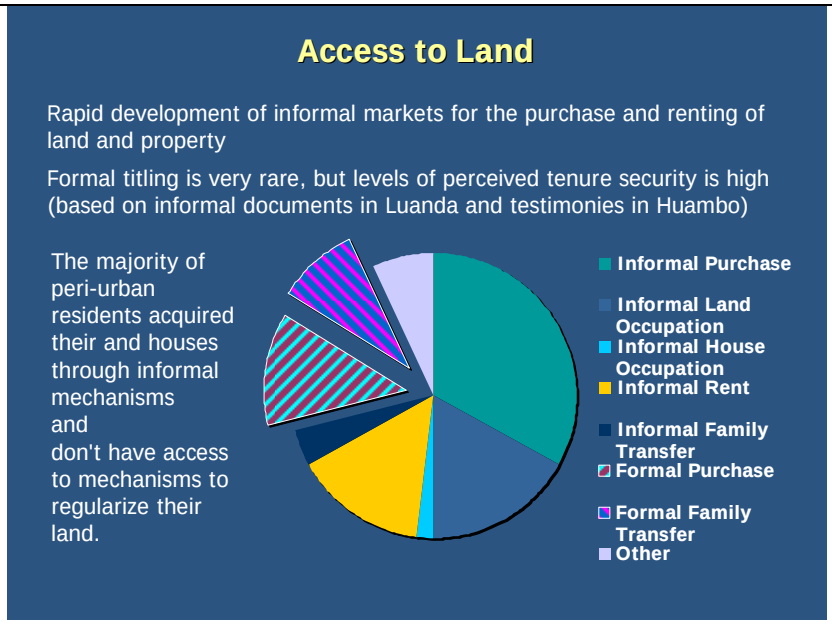


Figure 6-2: Access to Land – Luanda (DW and CEHS, 2005: 8)

[76] The Decree 46-A/92 regulates "surface rights".

had no clear title to the land they occupied (Cain, 2004: 97; see Figure 6-2). The implications of this are that the vast majority of urban dwellers will become informal occupiers of their land. In effect this will "criminalise" the poor majority**.** There is a high level of family investment in the houses they've built, most poor families having accumulated savings that are tied up in the land they occupy and the house they built or purchased, so loss of their homes is deeply impoverishing. Almost no land has been made available on the commercial market.

Mass expropriation of land occupied by poor urban families, with inadequate financial compensation, is becoming a new feature of post-conflict urban development. Between 2001 and 2006 thousands of families were forcibly evicted by the National Police or Armed Forces of Angola from various neighbourhoods in Luanda, and as Allan Cain has stated:

> "In the major cities, especially around the capital, Luanda, many families who fled fighting in the countryside ended up occupying or buying land on the informal market from people who usual had no legal title to it. In peacetime, this is now prime property for commercial interests and the poor run the risk of being turned out of their homes as businesses with deep pockets clamour to snap up city-centre and suburban real estate" (IRIN news organisation, 2003: 2).

The period preceding the end of war

Mass expropriations began shortly before the end of the war, as evidenced by arbitrary and forced evictions carried out at police gunpoint in Boavista (some 10,000 residents in July 2001), Soba Kapassa (December 2002) and Benfica (March 2003) (Pearce, 2001; UNIrin, July 2001; Amnesty International, 2003; All Africa November 2003). Expansion and removals have been characterized by total disorganization and there has been no land demarcation for *musseques* (that would necessitate implementation of a "site and service" concept) so people squat without any services (Ambassador, personal communication 2003). People were not consulted beforehand and none of the families were offered compensation, only a few offered alternative accommodation (All Africa, June 2003), with most forced to live in tents or in houses far from their workplace or schools (Parsons, 2005). In Boavista, some 5,000 households were relocated to a tent town 40km outside Luanda the reason given by the government that the hillside neighbourhood was unsafe and susceptible to flash floods. Critics pointed out that Boavista – a well-established residential area with a spectacular view of Luanda bay, occupies some of the city's most sought-after by commercially undeveloped land (McClelland, 2001; Harman, 2001) – advertisements for a luxury housing development on the site followed soon after the evictions from Boavista (Pearce, 2001). The thousands of families evicted from Boavista, spent nearly

two years in tents after their eviction and this resulted in many of those having to abandon their jobs as the transport fees would use up more of their income (*Ibid*).

From late 2001 to December 2002 over a thousand houses in Soba Kapassa, a ward in south Luanda, were razed to the ground, destroying the resident's initiative to turn their neighbourhood into a carefully planned housing estate. These homes were demolished to make way for the Luanda Provincial Hospital which was inaugurated in February 2006; there are no records of government any attempts by government to re-house or compensate these people (Amnesty International, 2006). In Benfica over 470 houses were demolished to make was for a new housing estate to the north of Luanda, over 40 kilometres away. Promises of new housing as compensation have failed to materialise. The report by Amnesty International entitled "Mass forced evictions in Luanda – a call for human rights-based housing policy" issued in November 2003 called for a moratorium on forced evictions, claiming that over 5,000 households had been forcibly removed from their homes in these three mass evictions. In the report they raise the concern that the "system for registering land and housing almost collapsed during the war and was unable to cope with the expansion of households in Luanda" (UNIrin, November 2003). Implicit in Amnesty's report is appeal to a broader concept of human security that moves beyond a needs-based focus to a rights-based focus.

Evictions since 2002

Mass forced evictions have continued to be carried out without the procedural protections and due process required by international law and standards (Amnesty International, 2007). (Plates 6-6, 6-7, 6-8). In 2005 hundreds of farmer families had their lands seized for the construction of the new international airport of Luanda, some 38 kilometres from the capital. In the Cidadania neighbourhood of Viana municipality more than 500 families were forcibly evicted on several occasions between September 2004 and May 2006 (Amnesty International, 2006). (See Annexure 8 – Eviction notice). After each incident the residents refused to move and tried to rebuild their homes. When the Viana market was closed down it resulted in violence between police and traders. Luíz Araújo and other members of SOS-Habitat, an NGO doing advocacy work on these issues (See Annexure 9), have been arrested and beaten up on a few occasions



Plate 6-6: Cambamba I – Municipio do Kilamba Kiaxi: making way for the government project, Nova Vida. (2006, Anonymous).



Plate 6-7: Cambamba I – Municipio do Kilamba Kiaxi, demolition and displacement. (Anonymous)

(Amnesty International, 2007). Giving credence to allegations of private business interests influencing government actions and decisions of police brutality during evictions (Parsons, 2005), in another case the shopping centre due to replace Kinaxixi market is to be built by a company run by one of Dos Santos's closest allies (EIU, June 2004: 14). As appositely stated by Melville:

"…if those who benefit from the legislation are the already well-connected, whose

> principle motivation for exercising their property rights is speculative, then the economic growth driven by the development of private land-ownership will be diverted away from those most in need and most capable of delivering results.…The privatisation of government-owned real estates also provides a further opportunity for the well-connected to acquire private property rights at nominal cost, to force up rents and to force out residents who were occupying rooms and apartments beyond the scrutiny of the wartime state" (2004: 12).



Plate 6-8: Cambamba I – Desperation: Municipio do Kilamba Kiaxi, demolition and displacement. (Anonymous)

Pressure on the outskirts of the principal urban centres has often resulted in land conflicts as land ownership became private, but without titles: people have papers showing they bought the land, but no title deed. Many of these people have purchased plots of land (in good faith) through informal markets, occupying without title, though not illegally in terms of the protection offered under the civil code. Peri-urban Lubango (Huíla province), for example, "experienced a growing number of conflicts in 2002-3, involving both communities and residents of old colonial farmsteads being forcibly displaced" (Clover, personal communication, 2003).

In November and December 2005 there were yet more evictions on the outskirts of Luanda, in Cambamba 1, Cambamba 11, Banga Wé and 28 de Agosto, the government seemingly determined to wage war on the urban poor as some 600 families were uprooted to make way for a new housing scheme, police and security guards violently demolishing homes without warning, let alone negotiation or regard for any legal process (Araújo, personal communication,

2006; Palmer, 2006: 25; SADOCC, 2005: 1). Some had lived there for many years, some for decades, the typical value of a home $1,500 to $2,000, which is equivalent to a family's life savings, their livelihood insurance, and basis for social and economic existence. Most of those who were evicted later returned to the areas and some put up shelters. According to Amnesty International, the Provincial Governor set up a commission of enquiry into the forced evictions, but the purpose of this was seen to be "only to investigate the involvement of provincial government officials in the illegal sale of land and the granting of land permits" (2006: 2). Again in March 2006 there were further evictions in these four Luanda neighbourhoods – some 600 families were forcibly evicted after having been given one days notice (Amnesty International, 2006). The evictions were carried out violently, without prior consultation and without due process of law, (Annexures 8 & 9). Christian Aid reported (UNIrin, January 2007) that poor neighbourhoods were being replaced with middle-class suburbs to accommodate a burgeoning expatriate community, where new houses being sold for about US$500,000 and were beyond the reach of poor people.

The potential for conflict is compounded because so far the government has failed to make land officially available on the commercial market, except for middle- and upper-class housing, or new commercial developments; land is not demarcated for the growth or development of *musseques*, (zones of self-built houses) and expansion and removals are disorganised. Hence people are increasingly "squatting" in areas that are devoid of any services, further aggravating levels of poverty. Such cases show no signs of diminishing, especially with the post-war increase in construction and development projects. Allan Cain highlights a critical concern:

> "…that the new Land Act risks annulling all these informal occupations and making all of those people who occupy land informally, illegal. These rights need to be articulated and regulated, and rules need to be set up. Regularising land rights will unblock a lot of people's own capital for improving their housing conditions" (Cain, personal communication, November 2003).

Amnesty International (2007: 10) sums up the impact of urban evictions over the last 6 or so years:

> "The forced evictions have targeted the poorest families who have least access to the means of securing their tenure and for whom the state has done little to provide affordable adequate housing. Hundreds of those forcibly evicted remain without shelter and have not received compensation. Some were forcibly relocated to other areas, which were almost invariably far away from schools and places of work, and which often lacked services such as sanitation and amenities. Furthermore, they were not given security of tenure to the land making them vulnerable to further forced

evictions. The evictions have had the effect of driving people deeper into poverty."

ANALYSIS: violence and land as a resource in Angola

Having provided an overview of the (re-)emergence of violence related to land access and tenure in Angola, this section now returns to the core questions asked in this thesis.

1. What factors account for the relationship between violence (evidenced in brutal physical acts, threats and increasing vulnerabilities) and land as a resource?

2. Are there lessons to be learnt from these findings that are particular to countries emerging from protracted conflicts?

The analysis is framed using a nested approach that draws on the political ecology framework as well as the SL and SAVI frameworks. Under the political ecology framework, the "*social relations of production* as arenas of opportunity and constraint" (Peluso and Watts, 2001: 29) focus on three vectors that frame the key *Environmental process*:

- *'Entitlements'* and the '*Patterns and Regimes of Accumulation'*;
- '*Governmentality*': the forms of access to and control over resources (modes of enforcement); and
- *'The Actors'* that emerge from the social relations of production.

An important aspect in this that of the *Environmental processes* – i.e. processes such as resource abundance and wealth, conservation or deforestation by which violence occurs or is often occluded.

A nested framework for analysis

Frameworks are useful mechanisms for organising the detailed social, political and economic analysis required; nevertheless caution has to be exercised not to use these in a way that they operate as a mechanistic, straitjacket which serves then only to awkwardly accommodate the complexities that must be taken into consideration in analysing the relationship between violence, resources and the environment. A "nested" approach has been adopted in this thesis, as discussed in Chapter Four, which draws primarily on a political ecology framework and supported by a modified SL framework.

6.6 QUESTION 1: ACCOUNTING FOR THE RELATIONSHIP BETWEEN VIOLENCE AND LAND AS A RESOURCE?

This chapter examines various cross-cutting issues that highlight the complexity of the broader social, economic and political contexts in which different interests compete. The point is again made that there can be no single theory of land conflict – an overview of land conflicts in Angola reveals clearly that there is no single land issue, and there are both indirect and direct drivers of conflict. This gap or lacunae, calls for a conceptual approach that is more comprehensive in scope, but sensitive to differing contexts, particularly where different combinations of stressors interact. An illumination of the factors that account for the relationship between violence and land as a resource cannot, therefore, take the form of a simple listing of these. Rather, what is presented here are the dynamic modalities in which the nexus of land, livelihoods and conflicts in Angola are emerging – forms and tactics of violence; the intersection of violence with the bio-physical characteristics of environmental resources; and the normalisation of violence. Analysis draws primarily, but not only, on a political ecology framework. The SL and SAVI frameworks add value, for example, by emphasising that vulnerability is based not only on poverty, but also on powerlessness; the concepts of social and political capital provide a nuanced understanding of the difference in power and voice, and a livelihoods framework that focus on institutions draws attention to the differential impacts on various groups and the weaknesses in tenure regime governance that influence the potential for conflict to emerge.

6.6.1 Entitlements: patterns and regimes of accumulation

Angola is a highly unequal society where discrimination has been rampant in many spheres of social, political and economic life. The historical patterns of entitlement to land and other natural resources, as well as access to the political regimes and institutions that determined these, a key element in the SL framework, are still tellingly evident in Angola today. Findings for Angola are preliminary, but even at this stage recent reform of the Land Law does not appear to be enabling the reduction of vulnerability or reducing the incidence of land conflicts. In most cases the beneficiaries are the politically well-connected elite.

This section examines the way in which land rights are affected by the prevalent economic regimes at both national and global levels – as argued when using the SAVI framework and a political ecology framework – and how discourses and interests shape each other and are

influenced by the actions of actors and actor-networks (Forsyth, 2003). Land is important for (revival of) agricultural production, as well as for shelter or high-value commercial use in urban areas. The connection between access and tenure and the prevailing economic and development agendas are indicative of the way that patterns and regimes of accumulation are shaped.

Development discourse – visions for growth

> "The vision for development in Angola ends at Luanda…and this excludes the *musseques*" (Care International, personal communication, 2003).

Angola is extremely rich in resources (as discussed in Chapter Five) and has tremendous potential. However, it's huge oil – and to lesser extent diamond – wealth has contributed to problems which are inhibiting broad-based economic development (McMillan, 2005: Kyle, 2003: 6):

- Pronounced "oil syndrome" effects such as an overvalued exchange rate distort the economy in a way that puts agriculture at a disadvantage and impedes growth;
- The government's own focus is primarily on oil and not on the more time consuming and difficult progress of agricultural development. This, and the resulting anti-agricultural bias of investment makes progress outside the oil sector slower;
- The general and extreme corruption associated with oil revenues retard the ability of the private sector to function.

This is what Peluso and Watts (2001: 35) are referring to when they talk of "Environmental processes": the transformative power of resources, and notably oil, which "makes people and states fabulously wealth, seemingly without effort…and appear to be ubiquitously saturated with criminality, corruption and violence". For decades now Angolans have suffered from a government that seemingly does not care for its people – as Pacheco (2000: 2) states, "The oil phenomenon disturbs the normal economic and social development of Angola." Public revenues are mainly oriented towards the party and nomenclature, while the parallel economy "comprehensively dwarfs the official market. With international scrutiny on the oil sector, the diamond sector is becoming increasingly important as an instrument for hidden payments to the members of the elite (BTI, 2006: 1). In their report on 'Courts under Construction in Angola: What can they do for the Poor?' Skaar and Van Dunem (2006: 5) comment:

> "The legacy of Marxism/oneparty statism coupled with a concentration of economic and political power in the hands of a few, gives reasons to doubt the political will to ensure a more equal distribution of power and wealth. According to a recent report, more than four billion dollars in state oil revenue disappeared from Angolan government coffers from 1997-2002, roughly equal to the entire sum the government

> spent on all social programs in the same period (Human Rights Watch, 2005 cited in Skaar and Van Dunem). The Angolan government has indeed on repeated occasions been criticised internationally for non-transparency and lack of accountability. In the Transparency International Corruption Perceptions Index of 2002, Angola was ranked 98th in the world."

Other telling comments made in personal communications (Luanda 2002 and 2003) are the following:

> "Angola is characterised by a 'negative peace[77]' – a very weak government which has control over all resources and no will to change, and now the opposition has been disarmed. Parliamentarians are superficial to the process, and policy makers have limited appreciation of their roles."
>
> "The government has no desire to address the issue of transparency and no real commitment to addressing poverty, and the "*Futungo*[78]", which is just an extra layer of government that in fact exercises the real control, is immune to criticism."
>
> "The government lacks any clear economic development policy and community participation is minimal, at most 10% of Angolans wield any power to determine policies. Throughout the post-independence period the government has had no policy of social inclusion – this continues to be the case."

There is widespread concern around the government's lack of commitment to put in place a development plan to address poverty. While an externally conceived PRSP has been drawn up, it has been done so with the international community outside of Angola (COIEPA, personal communication, 2003). A representative of Care, an international NGO, also questioned the PRSP: "on paper it is good, but it is debatable whether in practise it will measure up to its potential because of the lack and of willingness of government to do what it says it will, and because of the difficulties they lack arising from lack of human resources and the limitations faced because of the shortage of educated staff. While NGOs could help, government is still extremely suspicious of them".

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[77] Negative peace is when there is peace in the absence of war, but opponents do not feel secure. Security is not so much dependent upon the preservation of negative peace as on the building of peace in a constructive way. The key elements of positive peace are peaceful settlement of disputes, international cooperation in solving problems of an economic, social, cultural or humanitarian character, promotion of respect for human rights. Positive peace is also called associative peace; it establishes open lines of communication (www.rimun.nl/).

[78] The 'Futingo' is the select group of individuals surrounding Pres Dos Santos – the economic, political and military networks run by the presidency.

Development discourses are made evident in the strategies, or the lack of, adopted for rural and urban development. These are now examined.

Agriculture – absence of integrated development strategies

The economic transformation that started at the end of the 1980s resulted over time in important changes in the overall situation. Policy and practice served to recreate the pre-independence structure, with politicians largely assuming the role of the colonisers. The dualistic character of Angolan society continued, with differentiated treatment of so-called *indígena* (the peasant farmers) and the *assimilado* (the ruling class). As for rural development, government policy given priority to the new commercial farmers rather than to small-scale peasant farmers, which would have done more to raise production, alleviate poverty and reduce household food insecurity than the low-wage employment provided by the *fazendas*. It has been argued that for the government it was a priority to gain and maintain control over natural resources that would finance their development activities (Groppo, 2001).

A central and fundamental issue today is the need to integrate land policy into a development strategy that is part of a wider social and economic development vision. Groppo (personal communication, 2003) points out that "There must be must greater awareness and comprehension of the strong links between food security, rural development and land tenure". Groppo's statement confirms the importance of land policies being integrated into wider social, economic and environmental planning in order to strengthen sustainability (Quan *et al.,* 2003). In the rural areas this would be reflected in the protection of existing local land rights and at the same time the promotion of new investment that is needed so badly. Insecure land rights and policies that discriminate against smallholder agriculture render infrastructure reconstruction in rural areas ineffective (World Bank, 2006).

The country needs to build market economies, to move from subsistence farming to commodity production, and to create infrastructures to support small- and medium-scale enterprises, particularly rural markets and trading networks. But, as a representative of an international NGO reports (personal communication, 2003): "The government takes little responsibility for rural development – it relies on the FAO and the World Bank to support initiatives that address the need for food security and agricultural revival, especially in the traditional sector". In a meeting with the Provincial Chief for Rural Development in Huíla province (personal communication 2003), he confirmed that while they have a "multi-disciplinary" departmental

approach, that agricultural inputs come from the FAO as "government inputs are limited because we have no vehicles and limited staff to provide extension services", and that hope for the future lay in "World Bank sponsored projects working with NGOs".

Care International officials also noted the lack of support from government for rural development or for addressing the issue of food security (personal communication, 2003). The incipient threat that this carries is captured in the following statement by a resident of Lubango (personal communication, 2003), (see research conducted in Huíla, 6.5.3):

> "Land is a safety net for most poor people but this is now being threatened. Land per se does not mean making a living – lack of inputs from government (no extension services, no experimental stations or inputs) and no access to loans to develop land translate into land often not being fully utilised – and this serves as an excuse to take the land."

There are very real fears that the lack of cultivation by communities could provide justification for government takeover of 'unutilised' land (FOS personal communication, 2003).

Pacheco, president of ADRA – a key NGO dealing with land – and former Minster of Agriculture, maintains that the new law gives greater priority to the economic rather than the social value of land. Communities see land as representing not only their guarantee of survival, but also their culture and heritage: "Social representations of land and land tenure systems give structure to the relation between man, land and agricultural production" (Pacheco, 2002: 1):

> "People's rights to access land constitute basic building blocks for enhancing and sustaining their food security. Moreover, land rights are an integral part of social capital, giving people the foundation on which to assert self-determination within their society, culture, agro-ecosystem and economic context" (Ramírez, 2002: 4).

Pacheco (2000) believes there to be a disinterest in rural populations, their socio-economic organisation and their ways of life because "agriculture and rural areas do not have sufficient relevance for the country's economy". Leading elites, he ascertains, fail to recognise knowledge systems which comply with a reality that exists beyond their theoretical construction and their discourse. In other words, the urban-industrial interests of the elite, most of whom are the former *assimilado*, (many of whom are *mestiço*) dominate to the exclusion of any concerns for the interior – and in particular those of the 'inferior', black Ovimbundu, the *componese* (peasants). This is a social and economic cleavage that has deep historical roots in Angola and persists today. This opinion is reiterated in the growing belief that the government is unable, or unwilling, to reconcile such a vision with its own approach, which is informed by a technocratic

and purely economic view, and which excludes the community social and rights-based value system and fails therefore to respect traditional law. There is no viable rural development strategy in place – more often than not it remains an appendage to policies and not the driving force.

In the opinion of the Minister of Assistance and Social Reinsertion, João Baptista Kussumua, one of the main challenges of the post-war period is the revival of rural communities and reactivation of their economy, which he says is central to a strategy of reducing poverty (Angola Press Agency, April 2003). However, as a member of a leading NGO states (personal communication, 2003): "The government is seen as removed and detached from the problems facing the country especially those of the rural areas. Notably, the leadership has lost its Angolan culture, and there exists a huge divide between the leadership (*mestiços)* and the rest of Angolan society". In the ministries report for 2004/5 the government gives special emphasis to private agriculture and livestock linked businessmen, to boosting the rehabilitation of coffee and to the provision of incentives to stimulate the creation of middle- and large-sized agriculture and livestock farms (Fischbein, 2005: 3). At the Business Symposium in Angola held in May 2005, Fischbein (*Ibid:* 1) called for Angolan agriculture "to be transformed from a subsistence-oriented farming system toward a more market-oriented production system". This thinking seems to predominate. A member of ADRA (in a personal communication, 2003) speaks of the "two visions for land – the government held "intellectual" vision and the community based "cultural" vision, and these opposing views are at the root of the conflict. The former is based on modern, legalistic law and fails to respect traditional law. The government is unable to accommodate both visions because it aspires to a private sector-led vision of economic development, emphasis being placed therefore on large commercial farms". (See research titled "Rise of former and new *fazendas*", 6.5.2). A locally based land activist (personal communication, 2003) noted that "the government sees the value of land in purely economic terms and is focussed on large-scale commercial agriculture in particular". These comments are echoed by a member of COIEPA, the Inter-Church committee for Peace in Angola (personal communication, 2003):

> "The lack of a land policy is the most basic problem. The government has a technocratic and economic vision for the development of the land, which excludes the "community spirit of life". For the community it represents culture, "life", our ancestors, and the guarantee for survival. There is no linkage between the two (apparently) conflicting visions. Government has also failed to consult with the community. They have no strategy in place to address these concerns. For real

community participation the draft Land Law must be translated into mother tongue."

The Director of an international NGO in Angola adds his voice to these arguments (personal communication, 2003): "Government has no development plan for the country – and has no interest in developing one. It appears to have a "policy" of focussing on commercial agriculture, but not within the context of an economic development policy. The acquisition of land for "farming" is very often a camouflage for acquiring land that may have mineral resources. It is also part of the social culture of government officials – that of the desire for a holiday venue!"

If the law satisfies only agro-industrial needs (which in all likelihood will justify the concessions already given to favoured people), and does not ensure the protection of rural community interests, such as water rights, a new social conflict could emerge (Dell, 2002). A concern has been expressed (DW and CEHS, 2005) that the Land Law is built on the erroneous belief that there are large amounts of land available for human habitation and development, when in fact land suitable for urban and rural development with good means of access and adequate services is relatively limited. "There is a general perception that there is a vast amount of land, whereas in fact in some areas productivity has been declining resulting in increasingly limited access to good land – and thus pockets of dense settlement. For example, in parts of Huambo there has been over-utilisation of productive land and shifting agriculture practices have not been adopted; this has been aggravated by lack of inputs and the predominant practise planting of maize over many years" (Norwegian embassy staff, personal communication, 2003).

Agricultural rehabilitation, generally considered politically neutral, can easily take on political dimensions, in which case rehabilitation is clearly not enough. An example of the government's strong commercial interest is confirmed by an international NGO (personal communication, 2003): "Government is putting resources into strengthening commercial agriculture, especially coffee production in Cuanza Sul. Many elites are buying up old *fazendas* at "knock down prices" and all new developments in this province are focussed on the transport network for the coffee belt". A report from the Inter-Africa Coffee Organisation (OIAC) in August 2005 called for the coffee sector to be part of the government's priorities "since it represents a culture that promises, in long term, to contribute to the reduction of poverty and achieve self-sufficiency", and said they aimed to boost output more than 40-fold through replanting (APA, August 2005; Reuters, August 2005). As has been noted, Huambo and Bié provinces have seen a revival of claims for old *fazendas*, often purchased very cheaply, with local populations being pushed onto

poorer land or reduced to being employees. While the successful promotion of exports enhances the value of both the land and the labour involved in those exports, it should be remembered, (as evidenced by colonial history) that "in country after country, when land has become valuable enough, the powerful have pushed the weak off what land they had" (Berry, 2001: 130, quoted in Fortin, 2005: 5). A concern expressed by a representative of UN-OCHA (personal communication 2003) is that "while there are many employment opportunities stemming from the *fazdendas,* there are no frameworks in terms of labour legislation, and no trade unions. There are even cases of IDPs being used to clear land for generals without any remuneration. The problem is that people do not know their rights". It is important to note that labour and land legislation acted in concert during the colonial period to deprive people of their livelihoods – and this seems to be emerging yet again. This gives credence to the emphasis given by political ecologists to the importance of political analysis and cultural factors, including the power relations and other preconditions for economic change. In a field visit to the Gambos, the local facilitating NGO, ALSSA (personal communication, 2003) reported cases of small villages being entirely enclosed within newly enclosed farms, but these villagers were able to secure their right of tenure in exchange for providing labour. These issues were brought to the attention of the NGO in response to claims of "slave labour", physical abuse (photographs were exhibited to prove this) and the employment of children as labourers. Claims of abuse of labourers and minimal (below cost of living) wages was also made in regard to the case of "The General" who 'acquired' a farm in Humpata – the local NGO in this case noted (personal communication) that "labourers on the farm earn exceptionally little, but they do not know their rights. Local authorities are of no help as they 'administer nothing', are top down and act only to instil fear".

While there is considerable merit in developing the very good potential for commercial agriculture, this should not be used as a guise for the increasing number of land takeovers. The government must develop an equitable, consistent land-use policy balanced between agri-business and smallholders. At the same time, policy with respect to agriculture should not see the agrarian economy split into two, namely modern and traditional, but rather see the two as complementary and engaged in a dynamic interaction based on partnership and shared resource use. The issue is particularly important in ensuring stability of the process of re-entry and reintegration of displaced people. While land per se does not ensure the means of making a living, it is a safety net that should not be threatened. Policy needs to promote both equity and productivity, identifying how these can complement each other. Issues of equity need to

permeate all aspects of policy, and not be limited to vague statements, which invariably translate into a gap between vision and reality.

Heightened urban tensions – the flagrant abuse of basic rights

The process of urban economic development has seen the demands for plots in the centre of the city, combined with the upgrading of services, result in increasing land values (Cain: 2004), while the south of the capital Luanda is now particularly experiencing a great deal of commercial growth – refer to research on "Urban land challenges". With elections due in 2007 investors want to make money, capitalising on the commercial growth. This process of 'gentrification' results in the poor taking the opportunity of short-term financial gains from selling off their plots – and then migrating to the periphery where land is cheaper but there is a loss of access to services and infrastructure and livelihoods are more tenuous. The poor then "lose out on the premium benefits or profits they would normally gain in the course of urban gentrification or upgrading" (*Ibid:* 98). The poor are also losing out as a consequence of the mass expropriations that have taken place in Luanda and for which they receive no, or at best, inadequate financial compensation. The government has also made use of the military and the police in the demolition of old houses in preparation of these new developments. The beneficiaries are the partners in these new projects – often joint venture, state-private partnerships, where foreign capital is invested to upgrade services that significantly increase the value of the land. There seems to be no interest in ensuring fairness in the implementation of policies: the marginalisation and further impoverishment of the poor in all these processes appears to be an acceptable consequence of "growth and development", while provision of shelter and livelihoods for the majority, and reconstruction and upgrading of peri-urban areas, is all but ignored. Cain (*Ibid:* 98) in 2004 noted that the "alienation of the urban poor from lands they have lived and worked on for many years is likely to produce serious civic conflict in years to come, unless the Government develops policies that recognise customary and existing occupational rights". This ominous prediction was realised in the following two years – as detailed in the Amnesty International report of January 2007. It is noteworthy that the government has acted in such a manner as to keep public knowledge on these issues very low key, masking these social struggles. In December 2005 a SADOCC report (2) noted that "until there is clarity around the land law and its implementation, speculative behaviour will continue. The possibility of elections has also acted to keep a lid on land conflict, with the government allegedly concentrating on winning votes and avoiding bad publicity".

6.6.2 Governmentality: forms of access to and control over resources

Angola inherited limited experience of governance and public infrastructure at the time of independence, and the human and physical capital that did exist was decimated by war. The institutions to administer or allocate land to the rapidly growing population have not been reinforced. There is considerable concern regarding the capacity of Angolan state structures– juridical, regulatory, fiscal, cadastral and to fulfil to perform the devolved responsibilities that are envisaged by the new Land Law or to resolve land disputes.

Governmentality is about the disciplining of forms of life, the modes of enforcement, so in this section the institutional issues and processes of production are examined: land policy and legislation, administration and institutions. Examples are given of the ways in which these affect environmental security, often as deliberate actions on the part of government or other institutions.

Land policy and legislation

One of the key ways of determining how entitlements to resources are distributed is through policy and the legislative mechanisms in place. Policies are invariably enmeshed with politics currents and issues of power (Fortin, 2005). In Angola most legislation emanates from the Executive, not from the Parliament, and there is a "tendency toward even tighter presidential control and a tendency to restrict rights [is] rather disconcerting with respect to prospects for social rights to be respected and upheld by judges in Angola" (Skaar and Van Dunem, 2006: 7).

The law was initially drafted with limited inputs (see Chapter Five). Despite several revisions, it was seen to be more a question of government imposing its ideas than a process of consultation or of taking on board the suggestions from civil society and NGOs. The new Land Law has to a large degree been developed by foreign consultants and it does not seem to have the rights of the rural poor in focus; it is also difficult to access and understand. The process is still incomplete in the absence of a Land Policy and there are many grey areas which are open to interpretation, creating confusion and insecurity, not least because the Regulations have not yet been published or promulgated. The language used in the law is very judicial and therefore not accessible to ordinary people, acting as a further limitation to knowledge of land rights. Together these present many opportunities for bending the new laws one way or another in practise not least because elite interests prevail; it has been suggested that the haste with which

the Land Law was approved in the absence of a land policy is a strong indicator that this is the case. Capacity to implement the law is highly questionable, even where the intent may be good.

In this context the lack of clear objectives is critical – clarity of law depends on clarity of policy. To date there are no formal, written land policies that describe or guide the priorities to be promoted through land use, tenure or transactions, nor is there an implementation framework, and this leads to concerns about the capacity of the state structures to perform the devolved responsibilities envisaged by the Land Law. As already noted, the 1992 Land Law did not reflect either liberalisation or security of tenure for smallholders. Again, with the new Land Law, there is uncertainty over a possible conflict of interests over intent: social equity and the preservation of traditional ways, or economic development. The legislation has not been based on public data gathering or surveys, no research was done to characterize traditional rural community customs and land use or the potential for a variety of land conflicts, and it does not reflect an analysis of how land is actually managed today (Bledsoe, 2002; DW and CEHS, 2005). An official of an international NGO (personal communication, 2002) notes furthermore, that "The government has determined that the Land Law is to be implemented first, followed by the Constitutional law, and can be amended if necessary later. But the new constitution is being discussed only by a small elite circle so expectations are not high that it will meet the requirements of civil society."

Debate, consultation and "accessibility"

Debate and consultation are critical to the process leading to the approval of a land policy and a new land law; the drafting of workable law requires genuine involvement of all categories of stakeholders, both government and non-governmental institutions, central and local institutions, communities and private sector organisations. For the first time in Angola's history, a law was open for public debate, and for this the government has been commended, although most of the credit is given to the role of the NGOs and media in raising public awareness. The law was initially drafted with limited inputs. Various studies were conducted and the Land Law did go through several revisions, but it was nevertheless more a question of government imposing its ideas, than a process of consultation or of taking on board the suggestions from civil society and NGOs. As was noted by an FAO official (personal communication, 2003):

> "The initial draft prepared by Pres Dos Santos' own advisor (a personal friend) was not entirely approved by the government, so it was pushed through the party channels for approval…The informal "Land Commission" subsequently formed

> (which was considered to lack technical expertise) presented the combined drafts in 2001 and approval of the Provincial governors and the top MPLA structures was sought and given – but it is considered nothing more than a reflection of the way that the top-down structures and politics operate in Angola."

The Land Law was rushed through Parliament, out of session, and the process of approval and implementation is said to have been imposed, not negotiated and it was not characterised by an open and democratic approach. The opposition parties were very late in becoming involved, and reports indicate that the MPLA was itself divided over some issues (Rimli, personal communication, 2005). Furthermore, the level of debate in parliament was considered to be poor, with voting along party lines indicating little engagement in the subject matter. MPLA members voted in a solid block in support of the adoption of the land law, while the opposition either voted against, or abstained (Cain, personal communication, 2005).

The protracted war had enormously negative impact levels of education and literacy, and popular participation in decision-making processes is limited by the country's high illiteracy rate of some 60%; furthermore, most Angolans have little or no knowledge of the law and their legal rights to property and access to information is still limited. They therefore stand little chance of standing up to powerful public representatives. Methods of consultation have not included translation into mother tongue where necessary, an analysis of the history of ownership, cultural links and population movements, or strong community empowerment (as opposed to NGOs facilitating the processes). Under the 1992 Land Law a centralised vision of the state as controller of the economy prevailed, and so participation of civil society was not considered a necessity. Now, after so many years of civil conflict there is a strong need for people to be better educated and informed about their land rights and the benefits of a land law, for advocacy and for broader consultation.

The role of international NGOs in their assistance to the government in drafting the Land Law has not been endorsed by everyone. In their report on urban land reform DW and CEHS (2005: 65) note the concerns that the process did not adequately take into account the complex reality in Angola and was driven more by pressure from international financial institutions for a more market-based system:

> "The colonial legal framework dominates official thinking, as does the idea that agriculture and urban areas need to be "modernised" – that rural land needs to be transferred to more modern farmers to be used productively and to private sector developers and high-income groups for urban investment" (*Ibid:* 65).

While the UN-FAO and World Bank are seen to be very supportive of land reform, their commitment to putting this into practise has been questioned (FOS, personal communication, 2003).

Lack of knowledge and rights

Not having sufficient knowledge of their rights or of the Land Law because information has not been available, or illiteracy, are factors that play a critical role in tenure security for the poor. Across the country as whole, very few people have formal legal title to their property and land. In Luanda most of the settlement and housing plot acquisitions have been through the informal market, with only a small percentage having full legal titles to the land they occupy. Because people do not know their rights, be they land or labour related, they remain vulnerable to exploitation. It is only in certain areas, "islands of knowledge", that people have knowledge of the new Land Law and understand their rights – these are confined to areas such as in and around Luanda and Huíla province (especially the Gambos) – see research on Huíla – where there has been, and is, active involvement of NGOs (Padre Pio, personal communication, 2006).

Women

The vulnerability of women is particularly severe: Women's rights and other gender-related issues also need to be addressed in all discussions of land policy. Women are particularly vulnerable because massive displacement has resulted in a disproportionately large number of women headed households. Essentially temporary custodians of land passing from father to male heir, they are without land rights as customary rights leave land in the control of men; upon divorce, separation or death, a woman faces the risk that the husband's family takes everything of value (including land) from the wife. Women also have the least social power and no effective decision-making powers, as evidenced by recent reports that women and female-headed households returnees are being disadvantaged by being allocated lesser quantities of land than men. The introduction of formal legal rules, through land reform and titling and registration, cannot afford to fail to recognise the rights of women.

As secondary rights holders, women's land rights are not secure and this remains one of the main challenges (Isaksen *et al.,* 2006). Women are doubly disadvantaged as societal attitudes generally lag behind the provisions of the constitution – thus although the rights of women are constitutionally protected and the constitution takes precedence over customary law in Angolan

courts, women's lack of access to formal institutions is widespread.

The Regulations – 'Regulamentos'

> "Regularizing land rights will unblock a lot of people's own capital for improving their housing conditions…It is also an opportunity for the state because in that process it has an opportunity to impose local rates and taxes, and transfer duties or titling duties" (Cain, cited in All Africa, December 2003: 2).

The Regulations (which specify the institutional setup for the formalisation of land rights, setting out guidelines defining different forms of land occupation (including commercial use, traditional communal use, leasing, and private homes) and by-laws of the new legislation were approved (in August 2006, having only been cursorily discussed) but they are not yet promulgated (World Bank, 2006). *"Regulamentos"* are extremely important in Portuguese law making (Rimli, personal communication, 2006). Even though the Land Law calls for follow-on regulations, it failed to set out a uniform and principled approach for promulgating them (Bledsoe and Pinto, 2002). In February 2005 President Dos Santos announced the formation of two presidential commissions to review Angola's economic and urban planning legal and regulatory regimes to ensure that both reflect Angola's new economic realities (LiquidAfrica, 2005). These have only recently been approved, but not published or gazetted, and so there continues to be considerable confusion about what constitutes a legal title capable of standing up in a court of law. It is understood that they will not be published now until the elections (anticipated only in 2008), "because from what has been heard the norms were quite hard on poor people and there were several negative reactions. So, the mood being totally pre-electoral, it's in stand by" (Advirta, personal communication, March 2007). Under Angola's civil code, even if the owners of the land are without title, they are believed to occupy it in good faith and have rights, but as evidenced by the evictions in Luanda, these basic rights have been ignored. This begs the question whether there is mal-intent behind the delays.

The legislation and capacity problems in the legal system

The Land Law has been criticised for not taking into account *usufructus* or traditional property. While the new law seems to make it easier for the relatively well-off to secure urban housing property rights, it increases the vulnerability of disadvantaged communities as it does little to address the issue of land held informally. Should they fail to regularize their papers and acquire official title to the land they occupy within the stipulated time frame of three years, the government will have the authority to appropriate their land. The risk then is that informal

landholders – and the vast majority of Angolans do not have the necessary papers providing legal ownership of property – will be illegal occupants of the land they live on. Very few people in Angola have registered title deeds, and furthermore most farmers do not have knowledge of their boundaries. The government needs to establish a process for extending formal land rights at no cost to those occupying irregular urban and peri-urban lands (Cain, personal communication, 2005). The 3-year time frame is not considered realistic – prior to the law being passed NGOs and civil society argued for a minimum of five years – because not only is the country struggling to rebuild its legal and administrative framework, but there is also the question of whether the state institutions have the capacity to deal with land titling in this time frame. Concerns have been expressed in view of a number of restraining factors: the fact that the legal system is in tatters, there is no accurate or updated land registry, knowledge of the land law and land rights is minimal, access to information among most rural citizens is poor, and the general lack of safe roads and transport, which make it difficult for impoverished farmers to travel to provincial centres to lodge their land claims. As Allan Cain from Development Workshop said in 2003, prior to approval of the Land Act (HRW, 2005: 30-31):

> "Unless the new law includes provisions to protect the rights of informal and traditional landholder – or at least guarantee community consultation in developing land use plans – social conflict could occur between residents and elites, such as military officers and government officials, who are given title to large concessions regardless of whether the land is already occupied. New land legislation should also be accompanied by institutional changes to gives residents recourse in cases of land appropriation, and by a public education campaign to inform citizens of the consequences of the new land law and to teach them how to protect their rights."

Concerns have been raised with regard to the many different reasons presented for the taking of land, in the absence of an expropriations law (Bledsoe, 2004). Under the new law, government tools for expropriating confiscated land are, in fact, greatly increased. The law circuitously permits the mere classification of land as being within or needing to be within the public domain, to be a sufficient declaration that the land is needed for a public benefit. There is also no principled way for determining just compensation because there is no land market and there is no land valuation function or expertise. In effect this is tantamount to a reduction of rights. However, the government has promised that these concerns have been heeded and will be detailed in the by-laws that have yet to be gazetted. Development Workshop is playing an active role in discussing with government the importance of consultation and the establishment of clear rules for expropriations and compensation (Cain, personal communication, February 2005).

A precondition for access to basic civic rights is the possession of a valid *cedula* (birth/civil registration) but many people still have no formal identification documents either because they have lost their papers in the upheaval of war, or because they have been living in areas controlled by Unita and inaccessible to state employees. Others have been refugees in neighbouring states. (The Ministry of Justice started a nationwide free civil registration campaign in April 2005, but it has faced serious logistical constraints.) Even if people can apply for an identity document, it can take up to 2 years to receive it (APGG, 2006).

Administration and institutions

Outside of Luanda, central government is represented through provincial delegations, but their institutional weakness leads to the continued centralisation of functions in central government (Jenkins and Smith, 2003). The dynamic – and often tense and poorly defined – relationship between provincial and central level institutions is an important contextual feature of the land question in Angola (*Ibid*; Groppo, 2001; Quadros, 2001) – this is what Young (2000) refers to as a problem of interplay. Others problems are that the *cadastre* or legal land registry in the provincial governments has not been updated since 1975. The National Institute for Geography and Cadastre is responsible for the national cadastre – until 2003 it was subordinated to the Ministry of Defence (DW and CEHS, 2005) and was split between at least 6 departments with widely different political power and objectives (De Wit, 2001). This means that any search for land is extremely complicated and there is no overall mapping of the one-off individual land regularisations. (See research on "Growing opportunism", 6.5.2).

Negotiations for the granting of land have not always been conducted in an appropriately formal and objective manner (Bledsoe and Pinto, 2002). As already noted, the chaotic administrative history has made it possible for elites to take advantage of local communities. There are also concerns of insufficient funding and capacity at the provincial and municipal levels to perform the devolved responsibilities required for implementing the Land Law. In the urban areas, clashes occur for many reasons other than the primary problem of access and definition of rights and the ill-defined nature of rights to occupation, such as confused responsibilities within government, clashes between formal and customary land allocation procedures, and also weak management capacity of government or other land title holders (DW and CEHS, 2005).

Conflict resolution mechanisms: The Land Law does not deal with potential conflicts or with the needs of more vulnerable groups whose survival strategies depend on the access to land

(DW and CEHS, 2005). A user-friendly dispute resolution system is needed, for without negotiations it is more likely that tensions could develop into open conflict. Negotiation and consultation processes to harmonise formal local government and traditional customs are also needed. As questions of land reoccupation are best handled by local land management structures, with little intervention from the state, decentralisation is critical as it would militate against the development of inter-institutional issues (national level versus provincial level) and other problems that could lead to conflict. Consensual agreements can be reached if the appropriate guiding framework and adequately trained facilitators are in place.

Institutional overlap: The mandates of certain ministries overlap, and there have also been tense and poorly defined relationships between provincial and central level institutions. There are insufficient officers in the provinces, an inadequate registry and a lack of judicial capacity, and conflicting laws on how to issue titles and protect those titles without an adequate registry (UNIrin, November 2003). Angola now needs to develop a transparent, functioning, efficient and effective land administration system that also integrates the reality of customary land management systems into formal national legislative and administrative frameworks. In a similar vein, there needs to be an inventory of all natural resources in the country, systems and training set up for administrative matters such as participatory methodologies, geographical information systems, monitoring and evaluation.

There is a very real need for coherent policy and an integrated approach. Groppo (UNIrin, December 2003: 2) has called on the government to accept the help of the international community towards achieving a more informed and balanced decision making process:

> "We are lobbying for a more holistic approach – how to combine the customary rights with the so-called policy rights, linking security of tenure with issues of development. The risk is that Angola ends up with a set of inconsistent laws, which bring confusion into the implementation. Without sufficient offers in the provinces, with conflicting laws on how to issue titles and protect those titles, without an adequate registry, without sufficient judicial capacity, this would be a mess."

Traditional authorities: "Informal mechanisms for land allocation have developed on the margins of the formal state system, or entirely separately. In some areas traditional land allocation mechanisms have reasserted themselves" (DW and CEHS, 2005: 63). (See research on "Returnees access to land", 6.5.1). It is important to recognise and value the role of customary systems and those who manage them, without institutionalising them and removing their inherent flexibility and legitimacy in the eyes of the local people. When ancestral rights are

ignored because prevailing discourse shows a disregard for them, then vulnerabilities increase. This has been the case in Angola. The very real possibility of an active and informal land market within and between traditional communities cannot be overlooked. If formal laws do not correlate with customary and traditional realities, there is the risk that these will be ignored by the traditional communities. However, most real communal lands in Angola exist in areas of low demographic pressure (primarily in the eastern and south-eastern half of the country) where communal property conforms to pastoral use; elsewhere it corresponds with semi-subsistence agricultural economies (Pacheco, 2002).

The role of the traditional authorities is a contentious one. According to Mendes (UNIrin, 2000), "Since 1975, the *sobas* have lost their power. They have been politicised and many have become part of the political system of the MPLA and thus no longer able to make decisions on behalf of their people". Although traditional authorities were given consideration after independence, this occurred outside of any legal or institutional framework and the de-legitimising of the role of the *sobas*, which began during the colonial period, was continued. There is a concern that the power granted to *sobas* may undermine the rights of women. The juridical personality of communal land is not clear – if it is assigned as individual property to the *soba*, some fear he may be subject to manipulation, or abuse his powers (World Bank, 2006).

The judiciary: "Lack of accessibility is the most serious impediment in Angola's justice system, which is out of reach to an estimated 80% of Angolans" (UN Human Rights, cited in Parsons, 2005: 55). It is a considerable concern that in the virtual absence of a functioning provincial justice system, communities have little recourse to the courts. There are a number of concerns regarding the generalized failure on the part of the Angolan government to implement social and economic rights (Skaar and Van Dunem, 2006).

The lack of human and technical resources within the justice system itself is a critical concern. Reforming institutions and establishing democratic accountability is extremely difficult in settings with centralised power. The judiciary, which is often the weakest of the three state branches and therefore in urgent need of reform, is also the branch the executive frequently uses to wield control over in order to ensure support for political decisions. In such a context, the courts cannot be an institutional voice for the poor. What appear to be calculated practices on the part of government institutions is an example of

how the different forms that violence takes (Peluso and Watts, 2001) are situated in forms of governing. This mirrors the findings of Young (2000) on the theme of 'interplay' in analysing the roles institutions play in causing and confronting environmental problems. The politics of institutional design and management comes into play when actors forge links between issues and institutions intentionally in the interests of pursuing individual or collective goals" (Young, 2000: 26). Political linkages are common in situations where actors seek to use a second arena to gain advantages with regard to the pursuit of interests that are blocked in a primary arena. Due to the high levels of poverty and the lack of resources among the poor, access to justice for the poor is a considerable concern. The problem is reinforced by the social and geographic structure of Angola: the elite is centred in the capital Luanda, where also the functioning courts are located, thus making the urban-rural divide very deep (see research on Humpata, 6.5.3).

6.6.3 Environmental processes

Understanding the environmental processes by which some factors become causes of violence is a key element in the Peluso and Watts framework. It looks to the causal powers inherent in Nature itself – not only at environmental scarcity, but also abundance and resource wealth, environmental change associated with the human transformation of renewable resources, environmental enclosure and forms of conservation and preservation (Peluso and Watts, 2001: 26).

In general findings highlight the increasing pressure on land in those areas where the population is highly concentrated: around the main cities, coastal regions, and in the Central Highlands (DW, 2004). However, the issue is not one of scarcity of land, but rather the ability to produce on available land i.e. the primary scarcity is a capacity to make the most productive use of land because of lack of inputs and resources. These constraints are in turn influenced to a large extent by politically contingent factors, which are examined under the section on "Agriculture – absence of integrated development strategies".

Conflicts in Angola are less likely to be generated by resource poverty and bankruptcy than by resource value and wealth. In particular it is those areas which are of economic and strategic value where conflicts and tensions over land are most likely to occur – in the rural areas where commercial agricultural interests are strongest (such as for revival of the coffee industry), and in

the urban areas where commercial interests for prime land are keenest. Land tenure systems are vulnerable and land rights are insecure especially for women, migrants, IDPs and farm workers. Both farmer owners and peasants on 'unused' land on commercial farms worked by community members and/or previous farm workers experience a lot of insecurity. Formal written legal title has become of critical importance to Luanda's burgeoning peri-urban population as private investment increases and demand for scarce land from private investors grows.

6.6.4 The actors – the central role of interest groups and politics

Untangling the role of the state and other actors and actor networks requires an examination of the social relations and how violence is expressed and made expressive (Peluso and Watts, 2001), and is particularly illuminating in the case of Angola. This section focuses on the role of the elite. Civil society and NGOs are also key actors; these, however, are examined under the section that looks at the loss of social and political capital as being particularly relevant in a post conflict environment.

Angola is a politically centralised State, despite successive wars having prevented the actual governing of large stretches of the country. The governors of the provinces have no autonomy and report to the President of the Republic, the Cabinet and the Provincial Assemblies. It is over 16 years since parliamentary, presidential and municipal elections were last held. Government accountability to the population remains weak. In a recent report Parsons notes that:

> "…citizens have few opportunities for legal redress against perceived injustice or abuse, and localized corruption is still endemic. The legitimacy of the government itself remains questionable because elections have not taken place since Angola's first democratic vote, in 1992. The ending of the war, which should lead to a decrease in currently high levels of military expenditure, has not yet been followed by increased dedication of resource to broad socio-economic development" (2005: 46).

President of the *Commenitarion Nucleos* of Land, an organisation working for the protection of land rights of rural communities, noted in 2004 that power in Angola is concentrated in the hands of a few: "It's difficult to fight people in government, they are civil servants, governors and businessmen at the same time" (All Africa, March 2004: 1). Political power is concentrated in the president and the Council of Ministers, through which the president exercises executive power. The council can enact laws, decrees, and resolutions; it can therefore assume most functions normally associated with the legislative branch. The National Assembly comprises 220 deputies elected by proportional vote in the 1992 elections; however, it has little power

relative to the president and Council of Ministers. This body has the authority to debate and pass all major legislation, including the national budget. In a recent report the US Embassy (2007: 1) states that "While opposition deputies held 43% of parliamentary seats and substantive debates sometimes took place, including the frequent calling of government officials to question-and-answer sessions, few mechanisms existed to check the power of the MPLA majority or defeat legislation supported by the executive branch". An ICG report (2003b: 1) notes that:

> "Although numerous high level officials seek to enact fundamental changes, they operate within a deeply entrenched system of economic, political and military networks run by the Presidency, or *Futungo*…[that] coordinates the broader patronage networks that comprise the foundation of the state and controls the resources and major government decisions."

Political interests and the role of the elite

Angola has a long history of cynical, corrupt, highly centralised, and top down governance – and callous indifference to the poor. Corruption and inefficiency of poorly functioning government institutions characterise Angola – in fact the government is acknowledged to be one of the most corrupt in the world, some suggesting that corruption has now moved from being endemic to systemic (Palmer, 2006). Rule of law and enforcement of contracts cannot be guaranteed (EIU Angola, 2005). Marques (2002: 11) is unequivocal in his comments: "the Angola political elite is constituted so as to serve the interests of power, through corruption, looting and the private control of petroleum revenues…today, the theft and looting of public property is a badge of affirmation, honour and dignity; the calling card of the elite":

> "The patronage network permeates a political system in which ministries and the cabinet play only a junior role in affairs of state and are subservient to the real centre of power, which is the presidency. For years the latter has operated as a parallel state not answerable to parliament, the MPLA or other institutions…[economic] reforms have been highly selective in order to protect the interests of the ruling elite and a system of political patronage dependent on the presidency" (EIU, September 2006: 7, 9).

Elites and the role of oil as an environmental process

Greater insight into the patrimonial networks that exist in Angola is provided by Vidal (cited in Malaquias, 2004). He discusses several types that have become critical for managing the political, economic and coercive sphere in society: a political network that expands outward (from the presidential centre) into society in concentric clientelistic circles; an economic

network, financed by oil revenues, that ensures that some grow enormously rich while others barely survive; and a military/security network linking the commander-in-chief to the soldiers and security officers that have ensured the survival of the regime:

> "Commercial alliances of state and private actors can result in market interventions that generate monopoly profits for influential elites to the cost of small enterprises and consumers (including the poor). Such is the case with Angola's *Empresários de confimça* ('the few trusted enterprises')" (Addison, 2003: 2).

That elite interests prevail in access to and control over resources, most particularly in the oil and diamond industries, has long been acknowledged (Fandrych, 2005). (See "*Scarcity and Surfeit"*[79] for more on this). Land, and particularly prime land, as a key resource is no exception, and it has been suggested (Palmer, 2003) that the reason for the attempts to rush through the legislation in the immediate post-war period was indicative of the "elite merely trying to secure by law its past illegal land grabbings". A representative of one of the European embassies echoes this suspicion (personal communication, 2003): "The government wants now to use the Land Law to legalise some of these expropriations (and in so doing to ensure ownership beyond their reign) – civil society sees this as nothing more than legalised lawlessness". It has also been suggested that Dos Santos, who is not revered like (former President) Neto, wished to be remembered for leaving a legacy of something of value to the people of Angola so took it upon himself personally to revise the 1992 Land Law (Groppo, personal communication 2003). Calls to halt the ongoing concession process, which lacks transparency, emanate from concerns about elite land grabbing as it is a process that tends to award concession to the relatively few who have access to the laws, rules and mechanisms, as well as access to credit (Bledsoe and Pinto, 2002). The practice of making large land concessions to a privileged few has made possible the continuation of the former communist ruling class in its role as the elite. There are numerous questions about who is receiving the major land concessions and for what purpose. This also raises the question of whether the new law is deliberately failing to be definite – is the covert intention to leave the bureaucrat with greater discretionary powers that will serve to ensure vested interests are not tampered with?

It is in exploring who are the elite, that the "convergences of culture, power and political

[79] Lind, J. & Sturman, K. (eds.) (2002) Scarcity and Surfeit: The ecology of Africa's conflicts, Institute for Security Studies, Pretoria.

economy with the historical geography of material practice" become evident (Peluso and Watts, 2001: 25). Many of the reasons for the Angolan civil war can be found in the type of social structures created by colonialism (Porto, personal communication: 2005). (These were discussed in Chapter Five.) What is evident in Angolan society today is that points of cleavage are regional, rather than ethnic, and the roots for this are located in the stratified concept of society imposed by the Portuguese, who remained for the most part in the coastal areas. This ideology has been incorporated into, and continues in current Angolan society. Indicating the possible risk that lies in land grabs by the elite of land in the interior, an ICG report (2003a: 11) warned: "Coastal people should not end up owning most of the land in the interior…on the Planalto, the *mesitiço* coastal people will own the land of the black Ovimbundu people. Herein lie the seeds of the next conflict in Angola."

The international community

There has been an assumption on the part of many that Angola is in transition and that the intransigence of the government will change. But the Angolan elite remains largely immune to international pressure for good governance – and which is directed more towards questions of transparency and a secure climate for foreign investment rather than democracy, poverty alleviation and broad-based growth. There is a naivety around the close connections between the Angolan elite and the geopolitics at play that serves to ensure the continued investment by the main international 'backers'. Kibble (2006: 5) notes that this "lack of international pressure is against the background of declining world oil production now over the 'Bell curve'…[while]…Angola is able to use the rhetoric of sovereignty and anti-imperialism which resonates well in the southern African region". Added to this are the geopolitical issues around China[80] and the US keenness to compete favourably as political patron and major aid donor – in the interest of protecting its oil investments. The net result is that elite accumulation persists with equanimity, the government shrugging off concerns over its policies. In essence, what cannot be overlooked is that the issues of Angola's domestic governance cannot be separated from issues of global governance.

[80] China has become the country's main single buyer of Angolan oil. In 2004 the Chinese government granted Angola a credit of $2 billion, guaranteed by Angola's oil supply (BTI, 2006).

6.7 QUESTION 2: ARE THERE LESSONS TO BE LEARNT FROM THESE FINDINGS THAT ARE PARTICULAR TO COUNTRIES EMERGING FROM PROTRACTED CIVIL WARS?

Having outlined the factors that account for the relationship between violence and land as a resource, this section turns to the second question posed in this thesis. In Angola linkages emerge between its long history of war, the process now of building peace and some of the factors that contribute to levels of violence over land and landed resources and to. Many of these are not unique to Angola – reference is made to Chapter Three which provided an overview of the impact of conflict on livelihoods and the implications for land tenure.

6.7.1 Structural poverty and inequity

It must not be assumed that the ending of war will reduce vulnerabilities. Peacetime has not provided the opportunities anticipated for building resilience and reducing the vulnerability of the poor. In Angola the relative powerlessness of rural and urban poor has increased in many cases and it has been shown that post-conflict processes may lead to increased inequalities. This is most evident in the urban areas of Maputo and in rural areas where there have been land grabs, for the reform of the land laws has not enabled the reduction of vulnerability and it is difficult for the poor to either obtain legal recognition to the land they 'own' or to defend their rights. The pressures the urban population face with displacement have further impoverished many of them, and this at a time when the opportunities for addressing many of the historical problems of underdevelopment should instead be bringing a dramatic improvement in urban living standards. The findings have highlighted the importance of the political and institutional dimensions of poverty, which are critical to the success of any poverty reduction programme, especially when there are such low levels of development and high levels of social exclusion.

Emerging out of 27-years of protracted conflict, Angola's population was already highly vulnerable. During decades of war households have depleted or entirely lost their capital stocks, limited access to natural resources during war restricting the freedom of livelihood options. Resilience to natural and other shocks at the household level has been undermined and opportunities for disaster mitigation are extremely limited. For subsistence farmers the lack of inputs and services, despite the return to peace, in addition to reduced levels of resilience, means that the poor people have little ability to withstand threats to land rights. Lack of education, poor literacy levels and lack of infrastructure and services in the rural areas mean that poor people do not have the knowledge or means to be fully informed of their rights under

the Land Law or to secure the opportunity through the justice system to guarantee their legal rights are being met. A precondition for access to basic civic rights is the possession of a valid cedula (birth/civil registration) but many people still have no formal identification documents either because they have lost their papers in the upheaval of war, or because they have been living in areas controlled by Unita and inaccessible to state employees. Others have been refugees in neighbouring states. (The Ministry of Justice started a nationwide free civil registration campaign in April 2005, but it has faced serious logistical constraints.) Even if people can apply for an identity document, it can take up to 2 years to receive it (APGG, 2006).

Vulnerability is often linked to complex interdependence among related issues. Angola's population has been subject to multiple livelihood pressures over the years – colonialism, a war of liberation and civil war, economic policy changes, drought (in the south-west), more recently floods, and HIV-AIDS. More than 30 years of internal conflict has had devastating and long-term effects, which have left the country in a difficult and complex social and economic situation. It has one of the highest poverty rates in Africa, with more than 68% living below the poverty line and most of these live in rural areas where poverty is pervasive, and it is characterised by huge inequalities in income, access to resources, to services and to degrees of empowerment.

In the urban areas vulnerability to disasters such as flooding is a product of many different factors – geographic (where people are located, overcrowding), lack of basic sanitation and water provision, as well as social, economic and political powerlessness.

6.7.2 Weak government institutions

Weak institutions of governance are most often the triggers of increased insecurity. Strong institutions are accessible and accountable, and have organisational efficiency. There is a tension in post-conflict situations as there is a need to deal early on with land policy, legislation and governance to ensure access, security of tenure and equitable distribution. But for countries emerging from war this is politically and practically difficult, especially in a case such as Angola's where the conflict has been so protracted. The slow pace of re-establishing administrative and institutional structures of reforms in a fluid situation makes the management of these land issues easily subject to manipulation and abuse. This may even be deliberate, and certainly seems to have been in Angola.

The ability of the state to function effectively during war was significantly weakened, and its power and penetration reduced in areas beyond the capital, Luanda. Angola inherited limited experience of governance and public infrastructure at the time of independence, and the human and physical capital that did exist was decimated by war. The institutions to administer or allocate land to the rapidly growing population have not been reinforced. There is considerable concern regarding the capacity of Angolan state structures – juridical, regulatory, fiscal, cadastral – to fulfil to perform the devolved responsibilities that are envisaged by the new Land Law or to resolve land disputes.

It cannot be assumed that government institutions will pick up the pieces at the end of war and resume business as usual. Most of those in government positions have never known "normality". The administration has not much of a presence beyond Maputo and the coastal areas. Capacity within government takes many, many years to be built, and in the mean time the situation of uncertainty, of weak capacity to monitor and implement, leaves the door wide open for opportunistic behaviour, flagrant and unchecked corruption. This is especially evident among those such as the politico-military who are eager to become part of the new economy, to 'make up for lost time' and receive due 'compensation' for their war efforts.

Outside of Luanda, central government is represented through provincial delegations, but their institutional weakness leads to the continued centralisation of functions in central government (Jenkins and Smith, 2003). The dynamic – and often tense and poorly defined – relationship between provincial and central level institutions is an important contextual feature of the land question in Angola (*Ibid*; Groppo, 2001; Quadros, 2001) – this is what Young (2000) refers to as a problem of interplay. Others problems are that the *cadastre* or legal land registry in the provincial governments has not been updated since 1975. The National Institute for Geography and Cadastre is responsible for the national cadastre – until 2003 it was subordinated to the Ministry of Defence (DW and CEHS, 2005) and was split between at least 6 departments with widely different political power and objectives (De Wit, 2001). This means that any search for land is extremely complicated and there is no overall mapping of the one-off individual land regularisations.

Institutional overlap

The mandates of certain ministries overlap, and there have also been tense and poorly defined relationships between provincial and central level institutions. There are insufficient officers in

the provinces, an inadequate registry and a lack of judicial capacity, and conflicting laws on how to issue titles and protect those titles without an adequate registry (UNIrin, November 2003). Angola now needs to develop a transparent, functioning, efficient and effective land administration system that also integrates the reality of customary land management systems into formal national legislative and administrative frameworks. In a similar vein, there needs to be an inventory of all natural resources in the country, systems and training set up for administrative matters such as participatory methodologies, geographical information systems, monitoring and evaluation. The law circuitously permits the mere classification of land as being within or needing to be within the public domain, to be a sufficient declaration that the land is needed for a public benefit.

6.7.3 Loss of social and political capital

A dimension that explains inequity and corruption is that of the extremely negative impact protracted and violent civil conflicts have on the social capital of societies, often overlapping with and reinforcing already existing cleavages. The exclusivity and primordial tendencies of warring parties prevails, while "Corruption, broadly defined, is frequently an integral part of the covert financing of war and, perhaps more perniciously, in many cases also forms part of the ongoing motivation for violent conflicts…A continuum therefore exists between the emergence of the conflict, the dynamics that sustain it and the post-war phase" Galtung, 2003: xx). The problems of post-war construction are summed up by Galtung: i) the rush to spend significant resources in a short period of time is often at the cost of prudent administrative procedures; ii) transitional governments are by definition weak and have varying degrees of legitimacy; iii) public works and construction is the sector most prone to high-level extortion and bribery, iv) the absence of transparency and accountability. Angola does not have a transitional government, but evidence of all the other points are to be found.

Angolan civil society and the NGO sector

With no elections for 15 years and elections now on hold until 2008/9 (SADOCC, February 2007) the channels for citizens to express their preferences are blocked except through civil society organisations, the media and direct action. Popular participation in the conduct of public affairs (and Government accountability to the public in turn) is generally very weak in Angola, inhibited by the country's high illiteracy levels, and the climate of prohibition and control that has prevailed – "denunciation and intimidation resulting from over three decades of civil war

and Marxist-Leninism" (BTI, 2006: 5). The long history of centralised control and mentality of subservience to hierarchical control has left weak local government and a civil society that tends to "wait on government to deliver" (personal communication, NGO in Huíla, 2003). Unita lacks the tools to pressurise the government to meet its obligations, and civil society has been disempowered further by lack of involvement in the peace building process, and lack of access to information.

Since the early 1990s, when there was some opening up democratic space, the number of civil society organisations has mushroomed, although most of these remain very small, are predominantly based in Luanda, and many suffer from capacity problems and a lack of financial resources. A recent US Department of State report (2006, cited in Amundsen and Abreu, 2006) indicates that there are now more than 100 international NGOs operating in Angola, and there are currently some 360 NGOs are registered with the *Forum das Organizaçõs Não Governamentais de Angola*, (FONGA), but it is believed that most exist only on paper (World Bank, 2006: 8). The majority of nationally based NGOs have limited experience in sustainable development activities given the fact that until they have only been engaged in the delivery of humanitarian assistance in an emergency context. Although the scope of their programmes is now adapting to the transition to the rehabilitation and reconstruction, the majority have sustainability problems and therefore can only operate with external funds *(Ibid).* While there was unification around the need for peace, most of them were involved in the provision of humanitarian aid (largely food aid and basic health services) (Sousa, 2002) there has been fragmentation since the war ended (ICG, 2003a).

Civil society initiatives in response to land issues developed in earnest around 1997 when the first workshops, organized by ADRA[81] and ACORD in southern Huíla province, and Benguela in 1998, were held. A key early driving force behind these was Padre Pio, an activist priest (DFID, 2005). When the war ended a range of civil society groupings saw the obvious need for

[81] ADRA is one of the oldest NGOs in Angola, established in 1990. Its basic aim is poverty alleviation and sustainable rural development. The land issue is an important part of their work: in Huambo province, for example they have assisted the rural population in suing the government over the use of communal land - the government had planned a project on communal land without the consent of the population (Amundsen and Abreu, 2006).

concerted action to check government efforts to push through the new land law. In December 2002 *Rede Terra* was formed[82].

Since then, the process of drafting the new land law has been a "powerful formative experience for civil society" (DFID, 2005: 27). Development Workshop (DW), an international organisation with long-term expertise on peri-urban land issues has played a very active role throughout. Organisations such as DW and *Rede Terra* managed to get invited by parliament to submit their comments "and gave well studied opinions on the draft law" (Amundsen and Abreu, 2006: 10). These two organisations have been credited for the impact of research, which warned of the lack of administrative capacity to deal with legislation, as the primary factor for the concession by the government to give people three years, not one, to register their titles (DFID, 2005). Amundsen and Abreu (2006: 38) note that *Rede Terra* is "an example of how civil society organisations can successfully unite and influence national legislation, even legislation of vital importance to the ruling elite."

In 2003 Care International (personal communication) reported that historically government has been "suspicious of NGOs and the NGO law is honorous and can be used by the government to terrorise organisations with the threat of being shut down, so they constantly walk a thin line." The government is seen to give orders, not consult and is threatened by NGOs which 'it considers to be conniving with foreign forces and feels threatened by them" (All Africa, 12 March 2004: 1). Some five years after the war ended, Angolan authorities have still not fully accepted civil society's voice, watchdog and control functions, and the legal framework continues to be restrictive. In 2004 Cain, head of DW, noted that civil society was growing in influence and "Angolan civil society today is emerging as a national movement" (Cain, 2004: 98), but that much remained to be done to develop grass-roots, peri-urban civil society. Since then, it has been reported that over the last two years, while the presence of international NGOs had been helpful in opening a space for civil society and providing funding and other resources, "there has been a worrying narrowing of this space" (APGG; 2006: 12). Concerns were expressed in 2003-4 that international donors were showing an increasing reluctance to support

[82] *Rede Terra* (Land Network) is a network or consortium of 20 organisations, nationals and internationals, which aims to influence public policies related with land tenure, access and use of land (Amundsen and Abreu, 2006).

NGOs, interpreted by one international body to be "a consequence of government's belligerent attitude towards them" (personal communication, 2003). More recent reports are, however, now emerging of increasing donor support from international bodies, including the oil companies, for NGOs (Rimli, personal communication, 2007).

The question of the role of NGOs is raised, as pressure for embracing the broadening of environmental issues into claims for livelihoods, entitlements and social justice gains momentum across Africa, while in Angola NGOs are potentially a great force for increasing debate and encouraging greater accountability, they are under increasing pressure. There is general acknowledgment that the continuing presence of NGOs in Huíla province, and in Luanda city, has borne fruit and land access grabs can no longer go unnoticed or without a strong response (DFID, 2005; Padre Pio, personal communication, 2006). The responses of the government to SOS-Habitat, the NGO that has taken the lead in dealing with the abuses arising from the forced urban relocations through its calls for civil disobedience (Araújo, personal communication, 2006; *ibid*), is testament to this.[83] Their activism has raised the ire of the President, Dos Santos, who has accused the NGO of inciting unrest and promoting land invasions (Amundsen and Abrau, 2006). Overall there is a clear and sustained improvement in awareness levels within civil society, and where land NGOs are active they appear to have "modified the behaviour and policies of Angola's rulers" *(Ibid)*, but they do operate with a tangible fear of backlash and their effectiveness is mediated by the broader political environment. Government contempt for NGOs and disregard for the opinions of civil society will continue to be a great frustration as they seek to influence positive change and justice for all. The debate about whether to follow the route of constructive engagement with government or to use confrontational tactics in the face of a government which so easily circumvents its responsibilities continues to be a divisive one. The regime is not monolithic though, and the positive inclination of many nationally based NGOs in Angola to network, means that potential for influencing change positively does exist (Amundsen and Abrau, 2006).

[83] The Amnesty International report, February 2007 details these.

Development discourse – the macro-economic agenda, rise of opportunism and the normalisation of violence

During war the structure of the economy was deeply affected as evidenced in the levels of inflation, destruction of agricultural markets and dramatic drop in levels of food production, a shift away from expenditure of health and education services towards military expenditure, and collapse of the manufacturing sector. The government is no longer in survival mode and is now eager to be part of the 'global economy" – beyond the oil industry. It is open to and eager for foreign investments. But, being de facto liberalisation, the links are mainly through the elite, the central patronage that operates around the president's office, the futungo. The post-war environment has not brought a dilution of 'crony capitalism' – state patronage – rather it has been strengthened by the hunger of international investors from the West eager to engage with a booming economy. With peace large amounts of fungible money is being pumped into the country by the donor community and transnational capital seeking new investment opportunities. In so doing it is creates massive opportunities for embezzlement and theft. There are also pressures for economic investment and government reconstruction programmes, especially in the urban areas. This is not translating into broad-based development but an emphasis on narrow based growth that outweighs concern for the vulnerable poor – and often a trampling on basic human rights. For example, discourses around growth have further marginalised groups such as pastoral farmers, on the accusations of their being primitive while the government wanted to modernise the livestock economy. This is also reflected in the emphasis on large-scale commercial farming while small-scale commercial and peasant farmers receive little or no support or are marginalised and deprived of the land. Reviving agriculture is crucial after war and requires a comprehensive understanding of the evolving social, economic and political contexts, local and global. A detailed analysis of the realities on the ground is essential for sound judgements to ensure a comprehensive rural development strategy. When contracts are awarded for commercial agriculture they need to do with these facts in mind. However, in Angola the judicial and constitutional basis for land management remains confused, disorganised and outdated after so many years of war, and this has made possible the awarding of development contracts under a system that is vague and open to corruption, increasing tensions between these two sectors. What these reveal is how discourses of development serve to justify the state's drive to ensure access to and control over resource rich land and potentially productive land that will provide a source of foreign exchange.

The scramble for access to the assets necessary to (re-) establish livelihoods for large numbers of people began even before the war ended and picked up momentum in the immediate post-conflict period. The institutions and laws necessary for meeting claims and resolving disputes were not in place, except at the local level where these bodies had both legitimacy and were able for the most part to resolve community level disputes. However, in the fluidity of the situation, land grabs that involved the elite – and sometimes state or military officials – have been common and the community have had little recourse to government institutions to address such opportunistic behaviour or resolve tenure issues. Robin Palmer, Oxfam GB land advisor, emphasises the need to adopt a pro-poor, long-term perspective on land issues, noting that tensions arise from the "short-term horizons of politicians anxious for re-election, and, as in Angola, also keen to indulge in unrestrained rural and urban land grabbing and slum clearances" (Palmer, 2004: 10).

Political connections with international interests are also evident in the grabbing of land for commercial agriculture with reports of government officials drawing up contracts "with foreigners to work the land through 'front' organisations of which the officials are the main shareholders" (Padre Pio, personal communication, 2003). This was made possible initially because the cadastre was controlled by the generals. Related to this are the bi-lateral trade negotiation between officials and foreign farmers with land being exchanged for trade deals – and which are not necessarily favourable to Angola because the officials/generals know little about such negotiations (FOS, personal communication, 2003).

6.8 A SUMMARY OF THE FINDINGS

In this chapter, the tensions around land have been explored. Application of complementary frameworks has enabled identification of the following key issues.

When looking at the causal powers inherent in nature itself it is evident in Angola that conflicts are less likely to be generated by resource poverty than by resource value and wealth – where commercial interests are strongest. While there is increasing pressure on land in those areas where the population is highly concentrated, the primary scarcity is a capacity to make the most of productive land because of lack of inputs and resources. The research has shown how specific resource environments such as oil and minerals are constituted by and constitute the political economy of access to and control over resources. Both war and political violence affect the allocation of power and resources that in turn impact negatively on poverty and inequity.

The corruptive role of oil and diamonds is a significant factor in Angola – a small elite in government has control over these resources, has no will to ensure broad-based development – focussing on their own urban-industrial interests – and is able to act with impunity to ensure that patterns and regimes of accumulation are not only maintained but strengthened.

Historical patterns of entitlement to land and resources can be linked back to social structures created by colonialism and beyond, that were created centuries ago. Lines of cleavage that were created have been incorporated into and continue in current Angolan society, further entrenched through various forms of access to and control over resources. Some of these are deliberate – such as legislative means which fail to offer security of tenure and that increase tools the government can apply in expropriating land, or the granting of concessions. Others are associated with capacity problems because of limited experience of governance evidenced in weak management capacity, confused responsibilities or the weak relationship between central and provincial government.

A review of the actor and actor networks involved brings to the fore the role of the elite, many of them officials in this highly centralised and top-down government. The international community is failing to put any real pressure on the government of Angola, more concerned with protecting its own interests, while the new geopolitics at play with China's growing interest in the region serves to further dampen the strength of external criticism. There are links to the national military, and linkages to foreign investors. The links that actors forge with each other and institutions in the interests of pursuing their particular goals is most evident in the workings of the judicial system, which leaves citizens with few opportunities for legal redress. The effectiveness of civil society in assisting poor people to pursue their land claims and gain access and make effective use of land is very strongly mediated by the broader political environment in Angola. The suppression of civil society by government, and their weakened status because of financial constraints (arising from the reluctance on the part of international donors), ensures that inequities are politically sustainable.

Of the lessons that can be learnt, the key one is that unavoidable clashes between the economy and the environment are especially intense in a post-war environment as pressures for economic investment and government reconstruction take precedence over the needs of the poor, giving rise to both open violence and loss of livelihoods. The particular history of a country that has known protracted war and the factors that contributed to this and emerge from it, are important

for understanding the dynamics of land and violence. This has been seen, for example, in how colonial history shaped political and social structures, the high levels of vulnerability – endemic, extreme and long-term 'creeping' vulnerabilities – and the destructive effects of war on rural livelihoods. War also plays a significant role in contributing to a chaotic administrative history and weak governance. Loss of social and political capital during war, and the rise of opportunism during the fluidity of a post-conflict environment are factors that coalesce to aggravate land conflicts.

Concluding thoughts – The paradox of the plenty: sustaining inequity through the normalisation of violence

The key themes that have emerged from the research results on Angola are the following:

- *The causes and effects of tensions and vulnerabilities are multi-dimensional. Contextual factors – such as deep structural poverty, vulnerabilities linked to a complex interdependence among related issues, the role that various local and global actors play, and various governance problems are all contributing factors.*
- *There is widespread appropriation by the powerful (coastal) minority of elites, and the government is complicit or a key actor in many of these. The judiciary has for the most part failed civil society and the government often been complicit in conflicts.*
- *Analysis of the forms of access to and control over land highlight the centrality of the institutional element. Capacity to deal with land issues is weak and this can be traced back to highly centralised government structures, inequity, the legacy of skills development from the colonial era, and the destructive impact on governing structures of protracted war, felt especially in the rural areas (Jenkins and Smith, 2003).*
- *Vulnerability is based not only on poverty, but also on powerlessness. The crucial issues of social and political capital, that are so markedly affected by violent conflict, by colonial history, and by the corrupting power of oil resources (Peluso and Watts, 2001)illuminate the differences in power and voice, and the disparities in access and entitlement to resources that exist.*
- *The wealth generated by oil has entrenched attitudes that allow the ruling elite to act with impunity and to the deepening levels of corruption. These cannot be viewed without reference to global issues – global networks that have no interest in challenging the government's lack of transparency, as well as the rising price of oil. These new forms of governing are seen in the development of such networks that "make it difficult for citizens to see how they can obtain accountable government" (Peters, 2004) or ensure broad-based, pro-poor development.*

Using a political ecology approach, the next chapter examines the very different process in Mozambique of developing first a Land Policy and then a Land Law and the unfolding nexus of violence and land in this country. It is a Land Law that is democratic and innovative, protects the rights of the poor and is designed to attract investment. Widely lauded, it nevertheless has problems that arise from its implementation. Institutional issues and the role of actors are shown to be important factors.

CHAPTER 7: MOZAMBIQUE – RECOGNISING THE IMPORTANCE OF LAND TENURE

INTRODUCTION

Mozambique has known peace now for over 15 years, and in this time has introduced a Land Policy and Land Law that have been lauded for being progressive and innovative in scope, enhancing rights and also designed to attract investment. One of the poorest countries in Africa, it has made considerable progress during this period to address issues of poverty and inequity. Nevertheless, the country continues to face many challenges in this regard and as this chapter discusses, there are many blockages presented by the implementation of the Land Law to the realisation of pro-poor policy objectives. Land conflicts and increasing threats to livelihoods remain a challenge. The focus of this study is on the poor and the centrality of access to land and natural resources for securing livelihoods. This is done by taking a comprehensive approach to the various dimensions and drivers of change that affect livelihood opportunities and increase vulnerabilities.

As with Angola, the discussion of the research findings is divided into two sections: the application of a SL and SAVI framework, and the used of the political ecology framework. Together, these show how different social and political factors during and after the war have conditioned livelihoods; and how violence is expressed and made expressive. Building on the findings presented in Chapter Five, this chapter contextualises the vulnerabilities that poor communities, rural and urban, are facing. Mozambique is a country prone to natural hazards, chronic vulnerability and persistent humanitarian needs. The population has been subject to multiple livelihood pressures over the years – colonialism, civil war, economic policy changes, prolonged periods of drought and more recently, devastating flood, climatic changes and HIV-AIDS. External shocks such as global commodity price volatility and the continuing shrinkage in migrant labour opportunities that reduce rural incomes (De Vletter, 2006), economic liberalisation and ineffective and or inappropriate government policies, have also contributed to create structural problems that require very little additional negative impetus to significantly reduce rural incomes and deepen impoverishment as existing adaptive capacity is increasingly eroded and undermined by such factors (Eriksen *et al.*, 2003).

In the second section, the political ecology framework is applied in examining how violence is expressed and made expressive in Angola. The research results provide a detailed examination of urban and rural conflicts and the impact on livelihoods. Mozambique's Land Law is designed to contribute to poverty alleviation and to providing new economic opportunities and overall there have been many success stories, but there are land conflicts, several blockages to the realisation of pro-poor policy objectives, and cases in which livelihoods are being threatened.

The first section, together with the contextual analysis of Chapter Five, permit a realistic analysis of the political, economic, institutional, social and cultural issues that give a nuanced and comprehensive understanding of land rights, access and tenure. In the last section a political ecology analysis, together with the SL and SAVI frameworks, support a comprehensive understanding of how and in what way the constellations of core issues carry the seeds to generate or mitigate conflict and social disruptions and how these act to support or threaten sustainable livelihoods as a principle source of insecurity. The primary case studies, Matutuine district and Marracuene, both in southern Maputo Province, were selected because of their history and/or the recent occurrence land conflicts. Conflicts in other parts of the country are also examined, including those in Maputo city, providing a contrast of rural and urban conflicts.

Peace time development challenges and forms of vulnerabilitY

While the SL approach emphasises the promotion of sustainable livelihood strategies and poverty reduction, a vulnerability analysis shows how cumulative and interacting stresses can undermine the ability to respond to current and future change, thereby perpetuating vulnerability, and it considers how interventions may affect vulnerability, either positively or negatively. External factors can be economic, social, political and ecological while internal factors such as gender, structure of households and social norms also affect vulnerability. A number of specific vulnerabilities are discussed in the following section – those that emerge from structural poverty and inequity, HIV-AIDS, climate changes. These must be considered together with earlier discussions on vulnerabilities that arise from violent conflict, such as the loss of social capital (Chapter Three) and the economic and environmental impacts of civil war (Chapters Three and Five).

7.1 BEARING THE COSTS OF WAR

The war had an enormous human, social and economic impact on the country in terms of death, disability, and widespread displacement and trauma suffered by the population. Over half the population were forced out of production and much of the social and economic infrastructure was destroyed, including roads, bridges, railways and schools (UNESC, 1997). Some 1 million people were killed during the conflict, which was characterized by direct attacks and use of terror against civilians, forced labour, forced conscription of child soldiers and practices of forced relocation. There were some 1.7 million refugees, and between 3.5 and 4.5 million internally displaced across the country, half of them into camps or resettlement schemes; some 2 million who were displaced outside official schemes faced a precarious existence (*Ibid*). "The massive displacement was strongly affected by the means and strategies of warfare which were adopted by the two main protagonists, in particular those of Renamo" (UNHCR, 1997: 2). Violence against civilians served the purpose of securing resources (mainly food) from the local population and it was a tool to weaken the resource base of the Government and its capacity to govern. The massive displacement meant that the possibility for farming was drastically reduced and this led to food shortages among the rural population. The drought, which affected the country in 1983-85 and again in 1991-92, severely affected the population whose ability to withstand the effects were severely compromised already by the conflict.

7.1.1 Natural resources

The natural resource base of the country was severely affected during the armed conflict. Wildlife resources, especially large mammal species, were decimated in many areas inside and outside of protected areas. In those areas where troops were stationed for extended periods, hunting for meat and trophies was especially severe and infrastructure within the protected areas was largely destroyed (Hatton *et al.,* 2001). The decline in wildlife numbers of Gorongosa National Park during the civil war is notable: the 3,930 sq km national park once carried one of the highest concentrations of large mammals in southern Africa, but infrastructure was destroyed during the civil war and animals poached, being an area close to the headquarters of the Renamo army. Most mammal species declined by at least 90% and some species, such as rhino, became extinct (Anderson *et al.,* n.d.). In the Maputo Elephant Reserve, the number of elephants declined to a mere 100 (personal communication with Reserve official, December 2006). The natural resource base in peri-urban areas and areas adjacent to guarded transport

corridors also came under heavy pressure due the large influx of displaced people. In the immediate post-war period the de-mining process was accompanied by widespread and uncontrolled harvesting of wildlife and forestry resources (Hatton *et al.,* 2001). The destruction of this natural resource base has implications for Mozambique's development potential (especially of the tourism and forestry sectors) that are being experienced today, and this is an issue which reinforces the importance of environmental protection as an integral part of the development process and the importance of protecting the environment in its own right. On the positive side, conflict means that some areas were left in pristine condition and others that were abandoned by farmers due to insecurity were able re-vegetate during conflict.

7.1.2 Landmines

As countries transit from war to peace they have to deal with the many ways in which protracted conflict has impacted on livelihoods, creating an environment conducive to rebuilding trust, addressing underdevelopment and huge inequalities. From 1964 to 1975, the struggle for independence led to the laying of mine belts by the Portuguese colonial rulers along the Tanzanian border and sporadic mining on roads and paths by insurgents from Frelimo. From independence in 1975 until 1992, Frelimo used landmines extensively to protect economic infrastructure and Renamo used them to interdict roads and supply routes. Both also placed anti-vehicle mines on roads, bridges and river crossings to inhibit troop movements and damage the economy. A review of 10 years of mine action in Mozambique, conducted in 2005 by the Geneva International Centre for Humanitarian De-mining (GICHD), concluded that mine and UXO contamination no longer represents a humanitarian emergency in Mozambique, but is rather a constraint on reconstruction efforts and development. Vast areas are now cleared and this contributes to freedom of movement of people and goods – and thus to poverty reduction towards development. In 2006, the south of the country was reported to be the most affected with 72% of the affected areas, 48% of the affected communities and 64% of the affected population. Manica and Maputo are believed to be the most affected provinces in the country (ICBL, 2006).

7.2 RECONSTRUCTION AND DEVELOPMENT: VULNERABILITY CHALLENGES

Mozambique has made remarkable progress in establishing stability and peace since the end of the war in 1992. Although there are areas of concern, there is certainly no immediate prospect of violent conflict and the risk is low-medium even in the longer term, and poverty has been reduced from 67 percent to 57 percent in the last ten years.The country has shown an impressive rate of growth, but the benefits are patchy and have not been felt in the hinterland. Economic disparities remain a significant feature of Mozambique, while pro-poor development often appears to be little more than an extension of the patronage system into the rural areas. These are expressed in different ways. Regional disparities, an underlying problem in the civil war, remain unresolved. “Problems of disparity between the regions and the treatment of different ethnic groups became features of this conflict and date back into struggles that have recurred throughout Mozambique’s colonial history” (Vaux, 2006: 9). “While ethnic and religious identities have not played a significant role in the conflict, to some extent ethnicity and territory have combined to define political identity and motivation, with the north and central parts taking issue with the government over a felt neglect of their economic and cultural interests” (UNCHR, 1997: 3). There is still a perception that Southerners enjoy better opportunities through the political system than those from the central and northern parts of the country. Overall, despite the outstanding economic and political performance, other areas of possibility instability stem from the fragility of the multi-party system, the high dependence on aid and a deficient national taxation system (Kulipossa, 2006).

Another area of concern is that of governance, with few checks on the increasing problems of clientelism and patronage. This raises concerns that Mozambique’s long-term macro-economic and political stability may be threatened by allegations of increased levels of corruption in government institutions and the domination of political and economic powers by elites. The rapid process of privatisation that has taken place since shortly before the end of the war has played a considerable role in the growth of the number of elites, many of whom use this wealth to reinforce and consolidate political power. Widespread problems of corruption also open the way for illegal exploitation of natural resources such as timber, and land enclosures. The justice system is also highly politicised – despite massive fraud, especially in the area of privatisation, no senior government official has yet been convicted and so corruption continues with impunity.

7.2.1 Rural livelihoods: dependence on agriculture and natural resource usage

> "…land and natural resource use by rural communities occupies a central position in their livelihoods, probably to a far greater extent than most other rural communities in the southern African region" (Norfolk and Liversage, 2002: 1).

Because there are few opportunities for cash-earning activities (and certainly fewer than in other countries in the region), the reliance on agriculture and other natural resources are high and most people have a diversified suite of livelihood strategies, depending on common resources for subsistence purposes. These include the collection and sale of forest products such as honey, medicinal plants, building materials, production of charcoal and salt, hunting, fishing (rivers and along the coast), and there is also a reliance on local crafts such as basket and mat making, carpentry, pottery and beer and spirit production.

As Norfolk (2004: 6) states:

> "…other natural resources are collected, processed and/or marketed by many families, either as a predominant activity or as part of a diversified portfolio of livelihood strategies designed to spread and minimize specific risks. These include resources such as bush meat, honey, clay, roots and tubers, medicinal plants, building materials, thatching grass, firewood and the production of charcoal and salt. Forests in particular, provide a range of resource central to people's livelihoods."

Other difficulties small-scale rural farmers confront are difficulties in accessing health and education services; continuous and growing limitations in production facilities (techniques and technology); constraints in terms of access, control and influence in decision-making about natural resources; non-existence of or poor markets both for consumption goods and














Plate 7-1: Natural resources; securing livelihoods: Honey, fruit, building poles, 'muti'products, fish, charcoal, a 'machamba', shop in rural village; central market in Maputo (Clover, 2006)

commercial agricultural products; non-profitable prices of agricultural goods; low capacity to use natural resources compounded by weaknesses in the resource management systems. There are also environmental factors that continuously and strongly influence poverty among peasants, such as poor health, specifically HIV-AIDS and other serious diseases; poor transport conditions exacerbated by the poor condition of the roads; lack of rural credit; lack of appropriate strategies for the practice of agriculture in semi-arid areas; and the internal weaknesses in terms of peasants' organizations.

> "Many rural areas with large populations and considerable agricultural potential continue to today to have extremely difficulty accessing the national road network…Rural trading is therefore beset with problems of transport availability, at cost that make Mozambican trading comparatively disadvantaged" (Norfolk, 2004: 4).

Landmines continue to threaten the lives of rural people. No accurate maps were left by the rebel troops and government troops who laid the mines during the 16 years of conflict, and some tracts of land are still rendered out of productive use. The cyclone-induced floods in 2000 worsened the situation in the central and southern provinces, sweeping away site markings on identified minefields, while the heavy rains also unearthed more mines and moved them around (UNIrin, July 2006b).

Regional disparities are marked in Mozambique – research undertaken by the Southern African Migration Project (de Vletter, 2006) reveals considerable variations in wealth with more than half the households in the South found to be in the highest quartile while almost half the households of the North are in the lowest quartile and barely 5% in the highest quartile. Rural southern Mozambique has fewer resources, is agriculturally poorer and more vulnerable to climatic instability in comparison to the rural areas of the Centre and North.

Although the Land Law, the constitution and the new family law protect women as equals and forbids any form of discrimination on the basis, the access, security and land tenure in rural areas are largely determined by customary rules regarding land rights in which women are almost always disadvantaged. Customary rules, and high illiteracy rates of 83% for women compared to 52% for men (ROSA, 2006), are the main factors.

Economic marginalisation and the agricultural sector

The agriculture sector has been substantially liberalised since 1997. "The government has withdrawn from direct involvement in production, processing, and marketing activities. It has eliminated nearly all fixed prices, slashed support of cereal marketing, and ended restrictions on external trade for most commodities although it still retains the role of setting policies. Officially, almost all non-tariff barriers to trade have been eliminated" (Eriksen *et al.*, 2003: 3). Palmer, (2006: 2) sums up his view on the impact of economic liberalisation: "It is clear that the clumsy imposition of liberalisation, the rolling back of the role of the state and of state marketing boards, grain reserves and the like, combined with manifestly unfair international trade rules, have left many people living in poverty far more vulnerable than they once were and far more dependent on access to land than ever before – while that very access is increasingly threatened in a globalising world". The insights of Peters (2004: 269) are valuable here as they illuminate the importance of identifying "those situations and processes…that limit or end negotiation and flexibility for certain social groups or categories" as they serve to "reveal processes of exclusion, deepening social divisions and class formation".

In Mozambique under the transition to a market economy (See De Estavão Baloi, 2001) land is becoming scarce and expensive; a dualistic view of agriculture which sees two separate sectors, 'modern' and 'traditional' predominates and the receives little support: the banks do not provide agrarian credit so farmers cannot get loans; in rural areas the farmers face many problems in accessing markets because of the absence of or poor road and rail infrastructure.

7.2.2 Urban poverty

The urban context in most African countries is characterised by rapid urbanisation as well as economic decline. Mozambique is no exception. It inherited a severe legacy of underdevelopment from the colonial period that was followed by a *lassez faire* attitude to urban development. Today, poverty is as much an urban phenomenon as rural. Unemployment levels are high, while the informal sector that provides little more than subsistence livelihoods and which has previously absorbed many of the unemployed, has become less attractive for the rural labour surpluses as increasing competition makes economic survival increasingly difficult (de Vletter, 2006).

Urban development and housing continue to be a very low priority in the face of the lack of virtually any formal land management. Insecurity of land tenure characterised by a large informal market is widespread and urban environmental problems are severe as evidenced by the lack of access to basis services such as potable water and sanitation, and poor transport infrastructure characterise the cities, described in Chapter Five (Jenkins, 2001; Jenkins 2005).



Plate 7-2: Maputo city: The old, and……



…the new. These two homes are 150 metres apart. (Clover, 2006)

"Massive immigration from the countryside and lack of employment opportunities within the secure zone of Maputo have resulted in a rapidly expanding belt of squatter housing and mass of poverty at the city's fringe" (Roth *et al.*, 1995: 1).



Plate 7-3: Maputo city centre: vegetable seller. (Clover, 2006)

7.3 LIVELIHOODS AND THE LAND LAW (*LEI DE TERRAS 19/1997)*

The process of developing the land law in Mozambique was a remarkably open and consultative process and followed by an equally remarkable campaign of public awareness. Several intermediary objectives were set, people were well informed, and the law based on an analysis of the actual situation on the ground. Mozambique's well-conceived 1995 Land Policy and the 1997 Land Law are democratic and very progressive in scope and, guided by principles of equity and sustainability. They provide a progressive and innovative framework for decentralised rural development and poverty alleviation. This policy, and the innovative Forestry and Wildlife Law (*Lei de Florestas e Fauna Bravia*, 10/1999) and the Environmental Framework Law of 1997 (*Avaliação do Ambiental*), have all been designed to enhance rural livelihoods by strengthening rights of people – especially the rural poor – to natural resources. (See Box 7-1). All contain provisions to protect existing local rights on the one side, and promote local level participation in resource management on the other.

The legal framework recognises customary land allocation as one of three ways in which a Land Use Right is acquired., Except in areas that are not in the public domain (National Parks, public infrastructure, etc.), the Land Law confirms and gives formal legitimacy to all customarily acquired land rights. Unlike its regional neighbours, Mozambique has a law that provides for a

single, integrated legal structure that covers different tenure systems (CTC Consulting, 2003). There is evidence that the legal and policy framework is providing new economic opportunities for rural residents and private investors within a growing market economy. It allows private sector access to customarily acquired land, and individuals with customary rights can take their land out of customary jurisdiction. The law also provides for 'good faith' occupation, mainly to safeguard the rights of IDPs who chose to remain where they were after the war, but also to give some protection to the millions who simply occupy land without formal documentation being readily available. Clear mechanisms and conditions are provided for private sector investors who seek new land rights from State. The law empowers local people to participate in land and natural resource management, including the allocation of rights to investors and conflict resolution. Through consultation with investors, they can choose to keep their rights, or strike deals that generate resources for local development. Finally the 1997 Land Law closed the book on outstanding 'validation' processes where former colonial occupants had a right to reclaim lost land rights, and required all unsettled claims to be resubmitted, including the key provision for a community consultation" (Tanner, 2006: 3).

There are three key elements in the Land Law that are designed to contribute to poverty alleviation objectives (Norfolk and Liversage, 2002: 1-2):

- "Strengthening of land tenure security for family sector producers. The use of land as productive resource is recognised as forming an integral part of the rural poors' survival strategies, so by strengthening security of tenure it is hoped that will invest more in the land.
- Encouraging investment in the rural economy through the granting of private land concessions.
- Establishment of partnerships between investors and rural communities, which it is hoped will strengthen land tenure security of both communities and investors, mutually beneficial relationships will develop, and this will result in a better environment for investment by both outsiders and rural communities."

Overall, there have been many success stories, especially in the beginning, and as Tanner says, "successes are uneven, but are beginning to knit together" (Personal communication, December 2006). It is, nevertheless, not an unqualified success story and while the consensus on the 1995 land policy is still in place, it is facing "serious challenges to move towards some form of market in land rights" (Tanner, 2005). The success cases are limited in number and as Tanner *et al.*, (2006: 1) note, "to date these new laws have not lived up to their promise in terms of poverty impact and greater local participation in resource management decisions". Nevertheless, countering these trends in elite capture, are strong civil society calls for interesting alternative

models.

Box 7-1: Mozambique – The new Land and Natural Resources Laws: forms of benefits for local communities

Natural capital

The Land Law includes innovative provisions that identify and protect local rights, building on local concepts and practices that protect customary rights. Integrating customary and formal land administrations within a single policy and legal framework, it furthermore protects local rights while providing for secure land access by investors (Tanner, 2006).

All the new Natural Resources legislation contain provisions that recognise and protect community and local rights over the land and other natural resources, and promote local participation in natural resources management decisions. One of the major potential benefits is better conservation of common pool resources.

Social capital

There is evidence in several areas of the building of social capital amongst community groups as a result of the implementation of the Land Law. "Through their use of the law, communities are being drawn more deeply into Mozambique's national (legal) framework, which is decreasing rural communities' isolation and helping to build a more inclusive nation-state" (Knight, 2002, cited in Norfolk, 2004: 36).

People's capacity to articulate, demand or influence the policy process was given high priority during the period informing the adoption of the Land Policy and Law through fairly extensive public consultation and debate. The National Land Campaign was launched by a coalition of international and national NGOs in 1998 to disseminate the key basic messages of the Land Law down to local level.

After the adoption of the Land Law, the Land Commission and FAO carried out training in the community aspects of the Land Law. This programme was very successful, although its impact was affected by the wide-spread problem of illiteracy.

The Technical Annex, which deals with the key issue of how to identify 'local communities' and 'delimit' their land borders, has many advantages as a development tool in which communities gain a wider understanding of their resources, and gain in confidence.

NGOs are playing a key role in building human and social capital within communities as they assist with the development of local resource Management Councils.

Human capital

Opportunities for improving knowledge, skills, and stakeholder empowerment as well as for institutional strengthening, mentoring and networking, are all evident in the Land Law and the suite of natural resource legislation.

A range of "participatory measures" were incorporated into the new laws and put into practice through a range of projects and programmes in different sectors.

Mozambique's Land Law recognises the importance of stakeholder relationships – partnerships and alliances as a crucial element for long-term success. One of the most important practical aspects of local participation in the Land Law and other natural resources legislation is the obligation to carry out community consultations – outsiders who wish to gain access to local land and resources must get the approval of local people. During the process people are told about their rights and the proposed project towards reaching an agreement that brings benefits to both sides. The process creates the opportunity for communities to become more organised and united as they realise the value of cooperation and dialogue with investors.

The formation of a local resource Management Council builds capacity at grassroots level to manage resources sustainably.

The Legal and Judicial Training Centre (CFJJ) has run programmes offering training for paralegals in the NGO and public sectors; seminars for district officials to develop knowledge of civil rights, application of the Land Law, conflict resolution. It has also provided training to officials and administrators of the National Parks on environmental issues and tourism.
Financial capital The potential of concrete financial benefits arising out of partnership or joint venture deals is significant. The legal and policy framework is providing new economic opportunities for rural residents and private investors within a growing market economy. Secure tenure offers the chance for building-up financial capital. Land and natural resources have great potential for combating poverty through creating jobs and contributing to the balance of payments through tourism, CBNRM, and agricultural production *inter alia.*
Physical capital Land is a valuable physical asset, but for land and other natural resources to be productively and sustainably managed, additional investments are needed to develop appropriate physical capital, such as irrigation, roads, bridges, markets, farm machinery, storage and processing facilities. Mozambique's infrastructure is notoriously poor and there has been insufficient investment into the rural areas to assist with reconstruction.

7.3.1 Problems and constraints

The blockages to the realization of pro-poor policy objectives arise from:

- Uneven implementation of the law;
- Absence of official resources for community land delimitations – need for a much greater concentration on and provision of resources for the implementation of the poverty-related elements of the policy;
- Weak governance in institutions such as the justice ministry, MICOA, and DINAGECA with public bodies not always having the staff or equipment to combat infringements;
- A cursory manner in which local consultations are conducted. The consequence of this is the difficulty then in finding balance between the interests of foreign investors and the land rights of local users; and
- Rapid growth in a market economy and the associated trends towards land concentration and the tramping on basic human rights in the face of opportunism.

Land conflicts, vulnerable livelihoods: A political ecology approach

Having considered the specific challenges for peace-building, reconstruction and development, and the broader vulnerability context that the poor face for building secure livelihoods, this chapter first examines the research findings, reflecting on both desk and field research. It examines land conflicts in the early 1990s that occurred in the early years of peace, before turning to more recent developments subsequent to approval of the Land Law in 1997, and the growing competition for land. Characteristic of countries emerging from protracted periods of violent conflict, land issues have become prominent as the scramble for assets necessary to establish livelihoods gains momentum and as a market for land and landed resources begins to assert itself. The previous section has shown how rural and urban livelihoods are under threat from a multitude of stressors. These include structural impoverishment arising *inter alia* from colonialism and years of conflict climatic conditions, poor governance (economic, political and administrative), and growing pressures for a market in land; institutional failures, weak urban-rural links, including transportation and communications, and the influence that the international political economy has on agricultural policies. This section now examines the research findings, having considered some of Mozambique's development challenges and the broader vulnerability context that the poor face for building secure livelihoods. The section then returns to the core questions asked in this thesis.

7.4 LAND CONFLICTS IN THE IMMEDIATE POST-WAR PERIOD

As confidence in the prospects for a durable peace rose, so the massive return to the devastated rural areas began. Returning populations were confronted with a wide variety of challenges: huge areas were found to be depopulated; there were inadequate local infrastructures, poor access to water, lack of food security, lack of agricultural tools and seeds to plant and almost non-existent employment opportunities. Those who had been internally displaced were the first to return, for the most part self-reliant, returning without assistance in transport or resettlement. One million returned during the first half of 1993, and an additional million before the end of that year (UNHCR, 1997). As international assistance was able to establish operational capacity in the countryside more people were able to return, receiving assistance both for transport and reconstruction. One of the major challenges to resettlement was the availability of food as families were often forced to split up and live in both the area of flight and the area of return

where one part of the family would start rebuilding the house and cultivating the land. Because of the widespread destruction during the war, some areas were found to be unsuitable for living and in many cases depopulated. Access to water, lack of food security, and a lack of agricultural tools, seeds or employment were all enormous challenges. The severe lack of basis services and rural infrastructure was a severe constraint to agricultural growth. The World Food Programme provided assistance to 3,8 million in 1992/3; this number dropped to 1,9 million and 1,5 million in the following two years, and declined thereafter until 1998 (UNCHR, 1997). Until the end of 1996 most international programmes were considered as being in a transition phase between emergency and development assistance, the focus being on continued assistance for reconstruction and recovery.

7.4.1 The growing competition for land

In a post-conflict environment that presented a mix of socialist principles and an increasing shift towards capitalism, the problem of land was complex, and potentially explosive. Access to land played an important role in Mozambique's recovery after so many years of war and it quickly became a critical issue as more than 5 million people displaced by war began to return to their original areas where they still had customary rights over abandoned land and resources (McGregor, 1997). It was anticipated that there would be many disputes over land (UNCHR, 1997), and while there were problems with land reoccupation (Quadros, 2001), in the vast majority cases where conflicts occurred these were settled by the customary authorities/local land management structures who had managed land and natural resource use before the war, confirming that customary systems had survived "not only post-independence policies and the disruption of war, but also the decades of colonial administration that preceded them" (Tanner, 2002a: 8). Over the course of one and half years, "between 300,000 and half a million land transactions were estimated to have been handled in accordance with customary law, outside the formal legal system" (*Ibid*: 9). By 2000 the situation in the rural areas had stabilised and by 2006, 13 years after the beginning of return and resettlement, a sense of normality prevailed across the country.

Conflicts between smallholder and commercial interests

The majority of land conflicts at the end of the war were between smallholders and commercial interests that were related to the exponential growth in demand for land, (and that continues to this day) spurred by continuing economic reforms and the Peace Accord. Post-war land

acquired value as a productive capital asset, becoming available to national urban elite and other investors at virtually no real cost (Tanner, 2001). Deserted farms and under-used plantations were to be expected in the immediate aftermath of many years of war: the government, eager to address problems of food security and revive commercial agriculture, was liberal in its response to perceptions of "free land", looking favourably on those who seemed willing and able to revive agricultural production. The state began to privatise the state farms with multinational corporations and this sometimes necessitated IDPs and ex-workers who had received land on state farms being forced to leave (Tanner, 2002). Myers, (1994: 604-5) reports that, "high-ranking government officials were responsible for several of the worst land disputes" that involved large joint-venture enterprise taking land from small-holder farmers, with government complicity. These support the findings of Peluso and Watts (2001) who note the importance of taking into account the spatial levels of conflict local through to global – that when resources are in great abundance and have strategic value, these gain value through increased global and regional demand. The findings of Peters (2004: 297), also illuminates the "ways in which local, national and international processes intersect in deepening social inequality in access to value land".

As demand for land rose with occupation of abandoned and apparently 'unoccupied' land by new investors, this gave rise to a number of conflicts between local people and investors. Some returnees found that private investors were on their land – a consequence of the legislation that supported new land requests in areas without occupants, and over land that had been abandoned for more than two years. This process of some of the best land (most in prime river valley areas of traditional grazing lands) being occupied or claimed by these groups continued for some years, threatening livelihoods in many areas of Mozambique (Tanner, 2001).

Like Angola, Mozambique appears to have an abundance of land, but this belies the actual availability. Some areas have an abundance of land; in other areas is may be relatively abundant but there is a limited amount that is readily accessible and in proximity to other economic opportunities, with much of it in economically unviable areas (Myers *et al.,* 1994). Rural populations then – and this persists today – were concentrated in several areas, many within 5 kilometres of the coast. These were the areas most attractive to investors – for either agriculture or tourism. Other areas being sought by investors, foreign and domestic, were those that were suitable for grazing, mineral exploitation, forestry and timber exploration or hunting.

Most concessions were acquired for agricultural speculation. Myers *et al.,* (1994) report that the number of concessions granted at provincial and central levels of government amounted to some 40 million hectares, most of them post-1990. These land concessions created shortages in numerous locations, many of which were in the most densely populated and strategically economic areas. It was also suspected (Myers *et al.,* 1994) that Renamo was granting hunting and possibly agricultural concessions in its area of political control. Rights acquired through concessions were frequently not clear, nor transparent.

The fact that the state continued to grant large land concessions to private foreign and domestic commercial interests, most to former colonial interests, while few were made to smallholders, became increasingly contentious. This gave rise to a growing number of conflicts, especially where the land was in prime agricultural producing or traditional grazing areas. Inconsistencies in both formal and customary land tenure systems resulted sometimes in land disputes and conflicts in those regions where demand for land was high: urban and Green Zones, around irrigated farming sites, near former State Farms, and on private estates. Palmer (2006: 19) on a tour of Mozambique in 1992 noted "that there were significant developments in the form of former Portuguese settler owners seeking to regain their property, which had been nationalised at independence in 1975, and of elite interests seeking to lay claim to land (especially in Zambézia) in an extremely fluid situation…There were concerns around competing claims to land as people returned to a countryside much of which had previously been unsafe, as a large number of concession claims were made by South African and other speculators". Myers *et al.,* (1994: 51) detail the range of different conflicts that occurred. These were:

- Conflicts between the state and smallholders due to expropriation of lands by the state or over state farm land that smallholders had occupied as squatters, labourers or former owners;
- Conflicts between the state and commercial producers over land alienated more than once by the state, over state farm lands, or over short term leases;
- Conflicts among private commercial producers;
- Conflicts between new commercial producers and returning Portuguese interests or between new commercial interests (both foreign and domestic) and Mozambican capital from the colonial period;
- Conflicts between joint-venture enterprises and private commercial interests and between joint-venture enterprises and smallholders;
- Conflicts between commercial interests and smallholders;

- Conflicts among smallholders, particularly between displaced or reintegrating and local smallholder populations; and
- Conflicts between the government and Renamo (or other political parties) over the distribution of land concessions outside the scope of the law in their respective zones of influence.

As the granting of numerous new concessions gave rise to conflicts and further dispossessions, it became increasingly clear that the national legal and regulatory framework governing land use was failing to provide secure tenure rights to either smallholders or larger commercial interests. It also promoted a policy of development dependent on outside investors bringing in their capital and expertise. As Chris Tanner, FAO consultant with the Land Commission project subsequently stated:

> "Especially after the end of the long civil war in late 1992, land has acquired value as a productive capital asset and has been available to national urban elite and other investors at virtually no real cost. Large areas of the best land have been occupied or claimed by these groups in recent years, in a process that continues to threaten local livelihoods in many areas of Mozambique" (Tanner, 2001: 2).

7.5 RECENT DEVELOPMENTS: LAND CONFLICTS AND THREATENED LIVELIHOODS (SEE FIGURE 7-1)

Demand for land has increased since the peace agreement in 1992, and especially in recent years as investor confidence has grown in the light of continued political stability and the continued likelihood that Frelimo will remain in power; this has brought in increasing number of speculators, a rise in opportunistic behaviour and a growing land market, despite land being owned by the state. Demands for land – which have grown especially fast in the urban areas – are being driven by both external investors and Mozambican nationals. The areas that are most sought after are those that have high commercial value – areas rich in natural resources and that have privileged locations characterised by good access, infrastructure and services, as well as urban areas. This is evident in the location of recent conflicts that are concentrated around areas well suited to commercial farming, locations ideal for investment in tourism ventures (along the coast and conservation areas) and in urban and peri-urban areas. The majority of conflicts are those that occur between private investors on the one hand and poor peasants – individuals or a community – and can be the consequence of a variety of factors such as land grabs, a poor or incomplete consultation process to establish a partnership, investors not sticking to their word in agreements made, or issues of 'rights of way' being denied the community on the part of the investors. Others, which are mainly over boundary delimitations or overlapping registration, are

between private individuals or between communities.

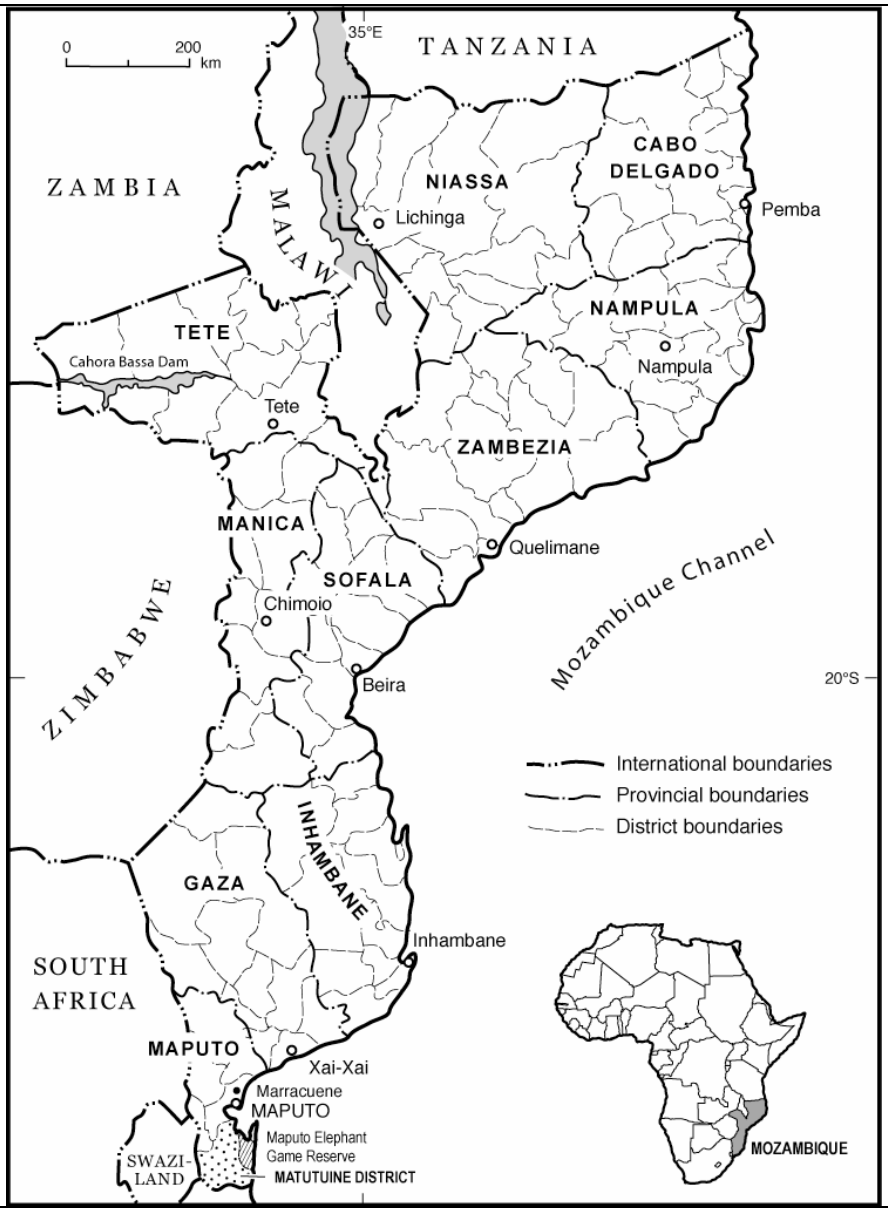


Figure 7-1: Map of Mozambique. Note areas of study: Matutuine, Maputo Elephant Reserve, Maputo, and Marracuene. (Source:

Overlapping rights or dual registration of titles occurs when land that is already occupied is registered in another's name, or land is sold twice, or the ownership boundaries overlap when an area is declared to be larger than it really is. Local communities and individuals (nationals and foreigners), the State, private investors and associations have been involved in these

conflicts. The older of these conflicts, those between individuals or communities, are decreasing; conflicts arising from land speculation and opportunistic behaviour of investors (local and 'outsiders') are increasing. Conflicts over 'rights of way' arise from land enclosure and concentration. Key regions are still facing problems generated by huge lands claims from private investors that directly threaten community land production systems. Such conflicts mainly occur in resource rich areas.

The preceding section has examined land conflicts in the immediate post-war period, that is, since 1992. The Land Law in 1997 responded to many of the issues that arose during this time, as well as being informed by clear policy that sought to redress long-standing issues. Nevertheless, land conflicts do continue to occur and there are, as will be shown, blockages to the pro-poor policy objectives that are evident in the loss of and threats to livelihood opportunities. The contrasting areas where research was conducted are rural Matutuine (including conservation areas), urban (Maputo) and peri-urban (Marracuene).

7.5.1 Matutuine district, southern Maputo Province – research site, 2006[84]

One of the first high profile cases is that which arose from the attempted land grab by James Blanchard of the Elephant Coast Trading Company in Matutuine, southern Maputo province. This is an area rich in biodiversity, an unspoilt coastline, and land that is ideal for cattle grazing. Blanchard was granted a 50-year lease on 583,000 acres of forests, lakes, beaches, and coral reefs, essentially the entire coast south of the capital, Maputo, to the South Africa border, on the understanding that he would set up a large reserve, whereas in fact he was a land speculator whose intention was to sell off large plots (at a cost of around US$1million each) to other investors (Motherjones, 1997). Conflicts with the community first began when he fenced off parts of the Futi River, thereby encroaching on their lands and interfering with the communities' access to water, the obtaining of medicinal plants and access to sacred forests for their ceremonies. In Mozambique these rights to natural resources are inalienable. It was through the intervention of the Swiss based NGO, Helvetas, in 1998, that this was resolved after some two

[84] Site visit and personal communication with Mateus Mutemba and Geraldo Palalane (Helvetas); Vianna Abdul Jamal and Mario Faurio (Kutsembe); Mr Fumo (Tinti Gala); representatives of Muhau land Management Council; John Ledger.

years (Mutemba and Palalane, personal communication, 2006). The government revoked the concession owing to the death of Blanchard in 1999 (Pitcher, 2002).

Around the time of 1992-93 a South African investor met with a community in Matutuine to discuss a land partnership. At the meeting the committee was given a meal with alcohol and documents were presented to them for signature of approval for a land transfer. These were signed by the representatives at the end of meeting. However, when the investor moved into the area and began fencing off the demarcated area the community objected and called on the NGO Helvetas to assist. The agreement was cancelled and the investor forced to withdraw on the basis that the consultation was not properly carried out and the committee stated that they had agreed only to accept offers of employment, not to hand over land. Furthermore, the community disputed the representation of the committee, claiming that the members had been appointed by the Tribal Authority, and not elected by the community. Corrupt behaviour on the part of the investor and the Tribal Authority are critical elements in this case. Following this experience, Helvetas initiated a drive amongst communities in the area to carry out delimitations of their land.

Matutuine (see maps in Annexure 2), an area in the southern province of Maputo, has also experienced conflicts over rich agricultural land for commercial ventures. In the Muhau district the delimitation and establishment of a very large cattle ranch, SIAGRI, resulted in many people losing their grazing lands. The intervention of an NGO, Kutsembe resulted in some of this land being returned after a settlement was reached in which SIAGRI gave compensation. However, more recently communities in the area have had cause to accuse SIAGRI of "once again trying to invade our lands" as the failure to properly fence their land was resulting in their cattle invading neighbouring *machambas* (personal communication with representatives of Muhau village, 2006). A well-connected government official is involved in SIAGRI. A similar conflict is developing with a Portuguese expatriate landowner in the area who is being accused by the local community of "deliberately extending his land beyond the boundaries agreed" *(Ibid).* Hanlon (2002) notes that "Cattle-raising is proving particularly fashionable" especially amongst the urban elite who treat it as a hobby or weekend farm. (Similar patterns elsewhere in the southern African region refer to such people as "cell phone" farmers!) In late November 2005 an official from Cabo Delgado province reported that he had registered 90 land conflicts involving the cattle raising owners and local populations (Zonde, personal communication, 2005).

***Maputo Special (Elephant) Reserve*[85]**

A boundary and 'rights of way' dispute occurred between the Elephant Game Reserve and the Gala community (refer to maps: Annexure 2 and Annexure 10) which claimed that the Reserve had enclosed an area used by the community for fishing, water, and reeds and had also cut off their north-south access routes. The dispute arose over loss of access to the three lakes, one of which fell into the Gala community address and had initially been fenced to incorporate it into the Reserve. Maputo Elephant Reserve authorities had retrospectively reduced the area that had been delimited by the community (Nhantumbo, 2002 cited in Norfolk, 2004). With the support of Helvetas, and armed with the knowledge of their rights to land and natural resources, the



Plate 7-4: Tinti Gala Lodge welcome board (Clover, 2006).



Plate 7-5: Personal meeting with Traditional Leader, Mateus Nhaca Manzini, and his Induna, James Mpocu. (Clover, 2006)

Gala community were able to resolve these issues and now have full access to the lakes for fishing. The intervention of Helvetas also resulted in the subsequent establishment of an eco-tourist venture, the Tinti Gala Community Lodge established alongside Lake Tinti and which was formerly opened in August 2006. (See Plates 7-4, 7-5, and Annexure 10 – brochure).

[85] Site visit and personal communication with Mr. Fumo (Tinti Gala) and Armando Ulera Guenha (Maputo Special Reserve official); NGO's Helvetas and Kutsemba; Secretariat de Bairro of Muhau and members of the Muhau community.

> "Recently an amount MTN47,000 – their first profit share after one year of operating – was used to purchase school furniture for the children at the local school" (Furno, personal communication, Tinti Gala).

Currently an agreement is being negotiated with a South African investor to upgrade the lodge and link it with other similar lodges. It is proposed that some 5% of the turnover will go to the community on a quarterly basis and employment opportunities are being negotiated. This is a community that draws on agriculture, cattle rearing, trade with South Africa, and extraction of palm wine from the Lalawa tree for their livelihoods. During the civil war, most people fled from this area because of the extremely high levels of insecurity, arising especially from acts of sabotage that characterised the region. The community are planning in the future to buy more cattle, and to upgrade the health centre (clinic) that is built of reeds. The successful resolution of this conflict has resulted in the Gala community having secure title to their land and the promise that livelihoods will continue to become more secure.

A lesser dispute is continuing to brew with the Maputo Special Reserve[86] and Gala residents over the invasion of elephants, most but not all from the reserve, into the community's *machambas (*agricultural plots). In the period prior to the end of the war the community had been at liberty to kill the elephants but as "this is no longer permitted" they have for the past 15 years been forced to call on the game rangers to chase them away (Manzini and Mpocu, personal communication, 2006). This is a problem that is also experienced by the communities that are resident within the reserve. Solutions are currently being sought to this by the reserve officials, but which may result in the relocation of these communities out of the reserve. While fencing the reserve will help to solve the problem for the Gala community, it will also result in a shifting, and worsening, of the problem in areas further south. For one, there are many other elephants in the area that are not part of this reserve. Secondly, to be truly effective it would require fencing along the Maputo and Futi River corridors as part of the proposed Futi Corridor, and this cannot be considered because of the negative impact it would have on the livelihoods of communities in these areas who (rightfully) enjoy full access rights to these rivers. There are also tensions developing between the authorities and the communities that are resident within

[86] There are an estimated 300 – 400 elephants in the reserve (700 sq km), an increase from the 100 that were in the area at the end of the war. It was previously known as the Elephant Reserve.

the reserve because of the threat of displacement (reserve official, personal communication, 2006).

7.5.2 Marracuene – research site, 2006[87]

The Marracuene local district is located some 70km north of Maputo, and the town and surrounding settlements are situated on the Incomati river. (See Plate 7-6 and map, Annexure 3). Land interests are strong here because of the good infrastructure, its proximity to Maputo and tourism opportunities. There are growing demands both for housing and for agricultural land.

During the war many people fled from these rural areas to Maputo. Conflicts occurred at the end of the war between those who had fled and newcomers who had moved onto their land, but most of these were resolved by the traditional structures. However, not everyone returned after the war; some people remained in the area (most usually in Maputo) to which they had relocated to during the war. However, more recently returns have gained momentum and this is both a product of growing pressure for land in Maputo and also recognition of the opportunities the area offers for tourism. Conflicts are mainly over competing claims arising from overlapping or dual entitlements – these may be between returning 'natives' of Marracuene who have been living elsewhere (usually Maputo) and are now claiming their heritage rights, and newer residents who settled on what was considered 'vacant' land. Some of these requests for land are genuine, others are from speculators. The issue of proving rights based of residence for more than 10 years comes into question – does the start date begin in 1997 with approval of the Land Law, or before? Dual entitlement issues are a reflection of two critical problems – inefficiency in the cadastre (Marone, personal communication, December 2006) and corruption with payment offered to officials to register land in the name of a claimant.

[87] Interview with Ambrosia Mafuomo





Plate 7-6: Marracuene: water collection; preparing to upgrade a homestead. (Clover, 2006)

An unsuccessful land grab: outskirts of Marracuene administrative centre[88]

Speculation is, however, not just a recent phenomenon. During the civil war Frelimo had an army base in Marracuene, so there were other people who fled **to** this area. Shortly after the peace accord in 1992 an official who had been in the area was said to have "chased many people off their land" (Masinga, personal communication, December 2006). Known to be very politically connected (his brother was the ambassador to SA and he was a top official in the Maputo municipality), he secured small plots of land from small-holder families living on

[88] Interview with Leonardo Masinga



Plate 7-7: Marracuene: Splendid views overlooking the beautiful Incomati River – on the left the property of the Masinga's, on the right neighbouring new developments. (Clover, 2006).

the edge of Marracuene town overlooking the Incomati river. One family that resisted was Leonardo Masinga and her husband. Mr Panegeni offered her and her husband, who had lived there since 1976, an alternative piece of land and money in compensation to move. (See Plate 7-7). However, the place that they were offered was also in high demand and furthermore he was unable or unwilling to pay the amount they demanded to compensate them for the infrastructure and trees on their property. The district administrator was aware of these proposals and cautioned the applicant, who then withdrew his request. The Masinga family are now well aware of their land rights, of the growing appeal of their land and are adamant that no private interests will persuade them to relocate in the future, but would do so "if the government asked us to do so" (personal communication, 2006). The family count themselves as lucky to have maintained their property, while others relocated with little obvious benefit. Drivers of conflict are just as often indirect and the outcomes are a product of complex intersecting processes and events (Peters, 2004). The poverty of powerlessness is very evident in this case.

Nevertheless, as the photographs (Plate 7-7) reveal, their property is now only some 1000 metres from a number of very upmarket and newly built houses, and the threat of being pressured to relocate is likely, but on what and whose terms is questionable. (Mrs Masinga was

clearly nervous during the interview, perhaps fearing that a white South African may have an interest in her land).

Other cases in Marracuene[89]

Conflicts also occur between communities over boundary delimitations between farming lands and most of these are solved by the Tribal Authority and the Community Court (comprising 8 officials elected by the community) in compliance of the Land Law. However, the resolution of conflicts over Traditional boundaries is seen to fall out of the ambit of the Land Law. In the case presented by Mr Abdu Faquira, two families disputed the boundary of their communal area and had appealed successfully to their Tribal Chief to be incorporated into another area. This was disputed by the community of the other communal area. Considered to be opportunistic behaviour to create a separate communal area, an appeal was lodged by the community with the (formal) District Administrator, who on the advice of the community (300: 17) ruled that they return to their original area. This case illustrates the importance of full community participation in the delimitation of boundaries.

7.5.3 Other cases

Inhambane – threat or opportunity of tourism?

The Inhambane region is a coastal area several hundred kilometres north of Maptuo that is rapidly developing as a popular tourist destination. Most especially the areas between Tofu and Jangamu have been witness to land conflicts and developments that have had a negative impact on the livelihoods of communities, the full impact of which will only be experienced more fully in the longer term (AIM, March 2006). Seventeen conflicts were reported in 2005 and the numbers have since increased (personal communication). Private investors have negotiated partnership deals with communities in these areas with offers of employment and other benefits in order gain title to the land. A number of concerns have been raised in relation to these developments that are often referred to as “dirty tourism” (Chilundo and Lopez, personal communication, 2006). One key problem reported is that of investors erecting buildings often

[89] Interview with Abu Faquira, the officially appointed Nyonogonyha Local Authority in the district of Marracuene.

on or to close to dunes and without having carried out an Environmental Impact Assessment, as well as not complying with environmental requirements. Furthermore, environmentally protected areas are being invaded or not being protected, and there have been reports of damage and destruction of the local flora and fauna. For example, numerous accusations have been made in respect to coastal areas, e.g. on 27 March 2005 a report in Domingo News, a local newspaper, denounced South African tourists for "looting natural resources….camping on the beaches, illegally extracting corals, taking large amounts of fish and shellfish…and even organizing motor-bike races across the dunes and areas reserved as nesting sites for turtles" (personal communication, 2005). Cars are driven on beaches in defiance of environmental regulations. A second problem is one that arises from the erection of fences, often electric fences, to enclose properties and fence off beaches to keep their wealthy clients from local beachgoers, thereby cutting off access to natural resources. Communities have found themselves deprived of access to coastal fishing areas, to water resources, and to the reeds along rivers used for building and crafts *(Ibid)* and when locals want to go on to the beach they are expected to pay (Blandy, 2007). A third concern, reported by Carla Serra a land and environmental lawyer who works with the country's justice ministry, is that investors are making agreements – "special deals" - with corrupt local authorities and have even paid to have locals 'kicked' off their land. In other cases bribes are offered to officials in the central administration. While the law gives local communities a lot of power, and there has according to Serra (*Ibid)* generally "been good and progressive implementation of the country's land and environmental laws" the main problem in these cases lies with the implementation of the law and the exploitative actions of greedy investors. There are many cases of investors making agreements with communities over land, but these are not upheld and communities are left with broken promises of employment opportunities and other benefits that never materialise, or do so in a much diluted form. Such cases have also occurred on Inhaca island where land disputes over "dodgy deals" with South Africans were reported in the press in 2007 (*Ibid)*. The case of an island in Cabo Delgado province, where a South African investor built a lodge in 2005 and that resulted in the displacement of an entire community, is a particularly noteworthy case (Cahen, personal communication, 2006). Following the required community consultations an agreement was made with the community for the land, which necessitated the entire community abandoning their village and moving onto the mainland, entirely at their own expense (Chris Tanner, personal communication, 2006; Chilundo, personal communication, 2006). Their loss was particularly great – it was loss not only of land, homesteads, trees, fields, but also of a way of

life, and of social capital built up over generations.

***Moamba district*[90]**

A representative of the NGO, ProPaz, reported on a case in which they had been asked to facilitate a dispute. It involved urban people exploiting natural resources from the nearby rural area to which the resident rural community took strong exception "because they were said to have no concern for the sustainability of these resources". The chiefs imposed a levy for the use of the resources (wood for charcoal), which resulted in the local administrator intervening to prevent this. In response the local chiefs then attempted to deny the urban people access to the resources. It was not clear to the NGO involved who held responsibility (administrator or chief), nor to which legislation they should refer: the Land Law or the Forestry and Wildlife Law, and so the conflict remained unresolved.

National Parks and Protected Reserves

> "The Great Limpopo Transfrontier Park (GLTP) and the Gorongosa National Park are both facing the prospect of a possible relocation of communities that are resident within their boundaries – some 10,000 for the former, 15,000 for the latter" (Tanner, personal communication, 2006).

The issue of the status and rights of people residing inside vulnerable core Protected Areas (PA) is a concern to the government and to donors, as well as the communities and there appears to be a genuine concern to find ways for tourism development to involve and benefit local people rather than displacing them (World Bank, 2005), although whether these objectives are met will only be evident in the nature and success of negotiations and the implementation of agreements that follow. A case in point is that of twelve communities living within Gorongosa that have an agreement (that came into effect in December 2006) with the park to receive a 20% share of profitable income. It is expected that the money will go directly to supporting infrastructure such as schools "to prevent it going to one of the leaders" (Guenha, personal communication, 2006).

[90] Personal communication with Mr. Salamoa Mungoi, Propaz

Disputes with the Armed Forces – Matola and Cabo Delgado

In 2005 Members of the Mozambican Armed Forces were accused of destroying houses and of the illegal sale of land in Ndlhavela, an outlying neighbourhood of the southern city of Matola. The dispute, which first broke out in 2003, is over the establishment of a military camp, in which residents accused the soldiers of seizing buildings and land for farming (Mungoi, personal communication, 2006). In some cases land within the boundaries of the military camp was being sold. A resident, who claimed to be a title-holder of some of the land, claimed it to be a protection racket because of demands for money made by the soldiers (All Africa, October 2005).

In Cabo Delgado disputes have also broken out over a military camp established in the early part of the war, subsequently vacated by the soldiers and then re-occupied by local residents during the course of the war. Some 50 families had invested in the "camp" over the years, building basic infrastructure and wells and farming the land. A more recent decision by the Defence Force to re-appropriate the camp, but without offering compensation, has resulted in the dispute *(Ibid).* Because the land was never "open land" the residents have no claim, but are considered to have a claim for compensation. The dispute has not been resolved.

The following section examines land conflicts in urban Maputo. As with the rest of Africa, Mozambique is experiencing high rates of urbanisation that are putting more pressure on urban and peri-urban areas, raising land values and increasing the vulnerability of livelihoods of informal settlers. Some of the most serious challenges to move towards some form of market in land rights are being faced in the urban areas.

7.5.4 Maputo: growing demand for urban land and the growth of opportunism

In their report, Roth *et al* (1995: xiv) note that the "massive immigration …following independence created a situation of unclear and contradictory land rights that persists to the present day." While state sponsored programmes for land allocation, including per-urban plot layouts (DW and CEHS, 2005; *Ibid*) contributed to improvements in land access for the wider population, by the late 1980s the implementation of structural adjustment, compounded by the ongoing civil war, had "significant effects on state activities in land allocation in urban areas, with a widespread upsurge in informal mechanisms for accessing land (DW and CEHS, 2005: 51). During the war (1977-1992), when many people fled to the safety of the city, people

occupied land without title and no records were kept. People were allowed to settle anywhere; the only stipulation at the time was that people could not build a permanent structure and it was said that when the war ended they must return to their areas of origin. There was an assumption that people displaced by war would in fact willingly return. Not only did most people not return, but on the contrary the numbers of urban migrants has increased since 1992:

> "The City Council has no data – and never had – on these land occupations and neither did the informal structures – the *Grupos Dinamizadoros* (Frelimo Youth Wing) and *Secretariat de Bairros*[91] – that took responsibility at the time for allocating land" (Quembo, personal communication, 2006).

Maputo is now experiencing a new wave of occupations, and Costa de Sol – prime land some 15 kilometres from the centre of Maputo along the coast – is no exception, the root of which can be traced back to the recent history of how land has been allocated, the fact that most people do not hold title to their properties and the lack of any recorded data that could facilitate the registration of titles. Having no title, the poor who have been settled here, most for well over 10 years, are highly vulnerable to the vagaries of opportunistic developers seeking to build the increasingly popular 'walled-condominiums'. Negotiated cash offers to 'purchase' land appear to poor people to be too appealing to resist. In effect the value of the offer is way below what would be fetched in an open market as it based only on the value of the house or shack and trees. Those who relocate generally find themselves within a short space of time with neither cash nor secure tenure as they move to outlying areas where again they have no title – and deprived of access to resources that they may have had before.

In other cases there are conflicts over land which has two or more owners or claimants. It is considerably more difficult in an urban setting to provide evidence of ownership based on occupation of longer than 10 years. Unable to defend their rights and with very few NGOs to turn to for help, most people turn to the *Secretariat de Bairros*, but many of these are people who may see opportunistic benefit from the uncertain and fragile situation (Quembo, personal communication, 2006) – developers claims will be given precedence over unregistered land even though the land may have been occupied for more than 10 years. In the case of an agreed

[91] At independence *Régulos* were formally excluded from participation in Frelimo's new party-state hierarchies, and they were replaced by the chieftainship system with *grupos dinamizadores* (dynamising groups) led by party secretaries (Burr and Kyed, 2002).

land transaction, if more than two offers to purchase have been made a corrupt official may, against payment, register the alternative offer as not accepted. The reality now is that very few people acquire land without actually 'buying it' as although the City Council maintains that there is almost no vacant land, an unregulated market for land on which there is no infrastructure is developing as informal structures that have no formal power continue to operate.

The peri-urban areas[92] of Maputo have also experienced dramatic changes over the past two decades. Immediately after independence in the late 1970s, demand for arable land increased sharply, mainly from urban workers or ex-farm labourers already in the city. In the 1980s a number of factors led to a sharp increase in land pressures and contributed to new groups of people from outside Maputo seeking land – i) closure of the South African mines to Mozambican labourers; ii) droughts and a severe drop in agricultural exports, and iii) the civil war which induced a massive movement of people needing employment, land and security (Roth *et al.*, 1995). This resulted in an outward expansion of settlement.

As the city of Maputo expands it is reaching communal areas where procedures for land allocation are very different. Increasingly peri-urban areas, in which most people have large parcels of land and are dependent on agriculture, are being formally subdivided. Typically a larger plot is subdivided and smaller stands allocated both to the resident family and to each of their children; whatever then remains is made available as vacant land. Left with land far smaller in size than their original land, these peri-urban dwellers face dramatically reduced livelihood options and changes in lifestyle. It is also not uncommon for the remaining vacant plots to be "sold" twice by officials. Market gardeners have found it difficult to resist the attraction of money made in negotiated offers to purchase – US$1000 seems a great deal, but they do not understand the value of their land or their rights and their needs for money are great.

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[92] The Ministry of State administration defines peri-urban areas in Mozambique as the areas in the cities that present rural characteristics of land use – plots large enough for people to practise agriculture, and the growing of fruit trees – and where rudimentary forms of sanitation are used (Ministry of Administration, 1997, in Malauene *et al.*, 2005: 4). Malauene *et al.*, (*Ibid*) note that peri-urban areas, sometimes referred to as informal settlements, are those areas that are on the periphery of cities, where the population continues to practice agriculture, and where there is a strong presence of rural houses.

They most often do not invest the money and a few months later they have neither money nor land.

Malauene *et al* (2005: 6), in their study of peri-urban areas of Maputo and Matola in 2003/4, conclude that the "laws and regulations on land published after independence have been of little help to many Mozambicans, since what is written down is often not implemented in practice, or is out of line with the reality experienced in various regions, particularly in urban areas". The areas chosen for their study reflected several characteristics: i) conflicts and usurpations arising from shortage of space in urban areas; ii) a dynamic land market where transfers and speculation are frequent; iii) irregularities in access to land; iv) different types of land disputes arising from dual authorisation for land use, illegal occupation of urban land, and land transactions without the knowledge of the municipal authorities; and v) a failure to comply with existing urbanisation plans, and deviations from the initial land use purpose. This study concluded that the current land registration process fails to serve the low income population for a number of reasons:

- Lack of specific regulations for urban land
- The prohibitive costs of land registration
- Red tape and slow pace of issuing of land use titles, which encourages corruption for those who can afford it
- Lack of knowledge of public land legislation and of the procedures

Research undertaken in 2000 by the Centre for Environment and Human Settlements, together with researchers from the Eduardo Mondlane University (DW and CEHS, 2005) also found there to be a growing need for specific urban land use regulation, along with complementary physical planning legislation. In support of this, they point to conflicting views concerning the application of the Land Law, especially as it concerns occupancy rights of a "customary" nature. In addition they note the limitations of land management capacity at central and local government levels. A particularly strongly motivating factor, however, arises from the political and economic interests reflected in the growing private sector interests for access to land title. Government interests in urban land development are centred on addressing these needs. In their report, Development Workshop and CEHS highlight:

> "…the tendency to consolidate the value of land in informal markets, especially in the peripheral expansion areas, where land conflicts tend to be greater and where this is accompanied by a higher preoccupation with land rights. Overall the study shows the tendency for better-located urban poor to be relocated, whether officially or

> through market mechanisms, to more peripheral or environmentally unsuitable locations (including densification of these). This has adverse effects on urban livelihoods as location is a key element of physical assets" (*Ibid*, 56).

Similarly, Quembo (personal communication, 2006) comments:

> "Maputo city[93] is undergoing very rapid growth and in the absence of much vacant land conflicts in both urban and peri-urban areas over land are increasing, with most poor people not having titles and unable to defend their rights, while others take opportunity from the fragility of the situation"

As the new wave of occupations and process of displacement occurs, conflicts between those who are established and those who are searching for land (individuals and developers) grow. There are different and conflicting procedures for land allocation and a growing informal market for land on which there is no infrastructure:

> "The City Council says there is no land, but the informal structures that are still operating will tell you that there is land (Quembo, personal communication, 2006)…If you know who to approach you can get land…the reality now is that very few people get land without buying it" (Cau, personal communication, 2006).

In the context of the growing inability of the state to administer urban land, the development of dual markets – the consolidation of the growing market activity, in the context of privatisation (despite being "illegal"), although informal mechanisms remain the predominant form of transaction – have come to characterise the city. The private sector market caters primarily for the urban elite, many of whom are property speculators.

The government has recently initiated a process for developing and establishing a territorial planning law that it is expected will permit clarification of the drafts of the urban land regulations that have been under discussion since 2000 (Chilundo and Cau, personal communication, 2006). It was anticipated the Draft Regulations would be approved in the first quarter of 2007 (Chilundo, personal communication, 2006). The call for these regulations to formally recognise the land market that is now establishing itself, has been gaining in strength.

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[93] The current population of Maputo (2006) is 1,244,227, up from 600,000 in 1977 (CEDH & UEM, 2006;
INE, 2006).

While many have expressed the hope that these will acknowledge the land market, the terms of the draft regulations remain unknown. By the end of March 2007 the regulations had not been approved.

ANALYSIS: violence and land as a resource in Mozambique

Having provided an overview of the (re-)emergence of violence related to land access and tenure in Mozambique, this section returns to the core questions asked in this thesis.

1. What accounts for the relationship between violence (evidenced in brutal physical acts, threats and increasing vulnerabilities) and land as a resource? (See 7.5).

2. Are there lessons to be learnt from these findings that are particular to countries emerging from protracted civil wars? (See 7.6).

Analysis is framed using a nested approach that draws on the political ecology framework as well as the SL and SAVI frameworks that add value, for example, by emphasising that vulnerability is based not only on poverty, but also on powerlessness; the concepts of social and political capital provide a nuanced understanding of the difference in power and voice, while a livelihoods framework that focus on institutions draws attention to the differential impacts on various groups and the weaknesses in tenure regime governance that influence the potential for conflict to emerge.

Under the political ecology framework, the "social relations of production as arenas of opportunity and constraint" (Peluso and Watts, 2001: 29) focus on three vectors that frame the key environmental process:

- They start with *'Entitlements'* and the *'Patterns and Regimes of Accumulation'*;
- *'Governmentality'*: the forms of access to and control over resources (modes of enforcement;
- *'The Actors'* that emerge from the social relations of production.

An important aspect in this that of the *Environmental processes* – i.e. the processes such as resource abundance and wealth, conservation or deforestation, by which violence occurs or is often occluded.

7.6 QUESTION 1: ACCOUNTING FOR THE RELATIONSHIP BETWEEN VIOLENCE AND LAND AS A RESOURCE

7.6.1 Entitlements: patterns and regimes of accumulation

Development discourse

Macro-economic policies are crucial for the successful implementation of processes to improve access to land and other key livelihood assets. Policies also influence the context for responding to multiple stressors. There is evidence that the political commitment to an equitable model of land tenure reform in Mozambique is being overridden by the national development imperative (CTC Consulting, 2003). It has been said that the government is looking for solutions to growth outside the country (Conzane, personal communication, 2006; Nhampossa, personal communication, 2006) – and being so hungry for growth there is a general openness to investors who bring increased revenues from taxes but whose interests take precedence over the protection of people's rights. This has resulted in concerns that the economic development model Mozambique is following may be threatening people's rights to land. While there may be good cause for confidence in natural rights, these may not stand up to investors. Investors carry greater weight, so while the "community in theory is free to agree or disagree to partnerships, it is hard to stand up to the added appeal of a local governor rooting for the investor because of the political weight he carries", and while there may be compensation in lieu of land, the question is one of rights – do poor communities have the "right" to refuse when political pressure is being imposed (Vas Raposa, personal communication, 2006). Pitcher (2002: 210) notes that "while the state has been slow to give individual title to smallholders, it has concessioned smaller area of prime agricultural land to former or current national and provincial government officials, Frelimo party members, returning Portuguese settlers or their descendants, and ordinary Mozambicans".

Privatisation of land: backtracking or sustaining the vision?

The new policy and legal environment has its challengers, reflecting something of a backlash against the Land Law and highly successful Land Campaign, as evidenced by calls for opening up land to private investors through a titling system. Conservative views of land still prevail in some quarters that would prefer to see a return to closed land – that is where 'community land is encircled by existing cultivated plots, and the rest declared 'free for investors'. Renewed efforts by private capital, often with close connections to top government officials, and supported by

certain foreign donors, have been made in the recent past to renegotiate the terms of the Land Law in support of privatisation of land rights (Norfolk and Liversage, 2002; Lahiff, 2003).

The growing interest in the land market was first evidenced in 2001 with an alliance of local and outside forces that sought to undermine the law that led to a new debate on privatisation. The then Minister of Agriculture and Rural Development told the newspaper, Domingo, "The time has come to begin the discussion about a land market compatible with our reality. Our Land Law protects the peasants… but I think we have arrived at a time to start selling land" (Hanlon, 2002 cited in Ikdahl *et al.*, 2005: 57). Donor organisations have also encouraged the growth of a land market, although such sentiments are inconsistent and often a reflection of individual beliefs: in the same year a representative of the World Bank called for land rights to be "clarified and monetised, so that land can be used as collateral and…be used by the most productive users" (Mans, 2001 cited in Ikdahl *et al.*, 2005: 57). USAID took umbrage because Mozambique did not adopt privatisation as the fundamental guiding principle, arguing that it blocked the creation of land markets and that the lengthy consultations required with communities in order to reach agreements would make it impossible to implement. Some senior Mozambican elite figures complained that it challenged the power and interests of the state and complicated their accumulation of land. This was a view that found sympathy with some Western donors (Palmer (2006).

Hanlon (2002) argues that such debates on land are actually a proxy for a debate about rural development – with four groups proposed to be possible vehicles for rural development – foreign investors, the urban elite, advanced peasants and family farmers:

> "In the end, the land debate is really a proxy debate, to replace a debate about development policy that remains tabu. Development policy is still a catechism set in Washington and recited by senior figures in the Mozambique government and at the headquarters of donor agencies. Arguing about land privatisation and land policy is a coded way of talking about development strategies. And it would make more sense if Mozambicans could be encouraged to have that debate in public" (Hanlon, 2002: 37).

He has maintained that different groups are being prioritised by different Mozambican and foreign actors, "[d]ebate over which groups are prioritised helps to shape the debate over land. It is noted that there are sharp divisions within government, within the World Bank, within donor agencies, and within Mozambican civil society. The land debate is also linked to one over rural credit and support for farmers" (2002: 1). The arguments from government have, however,

shifted, since the ambiguous statement in 2003 Agriculture Minister Muteia (AIM, June, 2003) that land tenure "is an area where courageous decisions have been and are still being taken on a basis of reflection and mutual consultation about the approach that will best serve the country", confirming the cautious approach from several quarters to a law that in fact calls for the overcoming of deeply held convictions. In his visit in April 2002 to Mozambique, Binswanger, World Bank land expert, praised Mozambique's land law as one of the best in Africa and rejected calls for freehold and privatisation of land (Hanlon, 2002). A few months later at Frelimo's 8th Party Congress, the party reaffirmed the principle that land remains the property of the state (Hanlon 2002) and in 2005 President Guebuza said that the government would fight to defend the land rights of Mozambicans in the face of usurpations by foreigners. Guebuza was speaking in Chokwe, the heart of the huge irrigation scheme in Limpopo Valley (All Africa, May 2005). In May 2006 the Minister of Public Works and Housing stated very explicitly that debates for the privatisation of land would not be considered by the government as it "would not solve the problems either of housing or of agriculture (AIM, May 2006).

Much of the debate around privatisation has hinged on the question of what comes first, equity or growth or can there be a harmonious relationship between the two. The tension between attracting investors and securing people's rights is most evident in how competition for local resources between "outsiders" – investors – and local people unfold. These are keen and especially evident in those areas where there are good soils, unspoilt beaches, and an improving road network as the use and management of land and other natural resources such as forests, water, prime tourist sites, are the main targets for partnerships. While the 'open border' model promotes partnerships between the community and outside investors, to date communities appear to be in a rather weak position in terms of negotiating as equal partners (De Wit, 2000/1; Tanner, 2005). There are many contributing factors, one being that implementation of this vision of partnership is in many instances adversely affected by perceptions/beliefs and power imbalances. Consultations, as currently conducted, reveal that public agents consider "implementing the law to achieve specific policy objectives handed down to them by their superiors" – and that implies fast tracking land claims as part of a wider belief that new private investment will bring growth and jobs, and thus contribute to ending poverty (Tanner *et al.*, 2006: 24). Local people are left feeling pressurized to accept new land claims, rather than empowered to negotiate partnership deals that bring new resources and opportunities. Hanlon (2002) poses the question – "Should more emphasis be put on improving conditions for would-

be investors (particularly large foreign investors) or should the stress being on delimiting and protecting peasant land, and capacitating communities to deal with investors". Lahiff (2003: 57) in turn questions whether Mozambique is now witnessing a "partial retreat" from early achievements as evidenced in the allocation of minimal resources for implementation. Likewise, Tanner (2005) notes that practically all funding and public sector attention has gone to fast tracking private sector requests for new land rights – aiming for a rapid 90 day turnaround. While consensus on the land policy remains in place, it is increasingly facing challenges to move towards some form of market in land rights (Tanner, personal communication, 2006).

Equity or growth? Agrarian Policies

A dualistic view of agriculture, which see the agrarian economy split into two quite separate 'modern' and 'traditional' sectors, is still to be found in many institutions and private sector interests:

> "Rural households have always contributed substantially to the national product, but are considered as having subsistence-oriented livelihood strategies, not making investments and not being integrated into a market economy. It has been claimed that such livelihood strategies are not compatible with private entrepreneurship principles and that, therefore, rural community development must be considered parallel to, and not integrated with the private sector" (De Wit, 2001/1: 44).

This is the view that prevailed throughout the colonial era and in the post-independence period. This is shifting as there is growing consensus regarding the need to see the two sides as complementary and engaged in a dynamic interaction based on partnership and shared resources. The Land Policy and Land Law follow this reasoning, promoting a model of economic development that relies heavily on the rural household sector as an engine for growth. This is reflected in:

- the recognised need to involve and integrate all sectors in land issues;
- most appositely in the "open border" development model which can best be described as an integrative model in which the community and other land users exists side by side in an extensive area, managed by the community in collaboration with recognised state institutions (De Wit, 2000/1); and
- in recognition of different kinds of rights, often overlapping on the ground (De Wit, 2001).

The Agrarian Policy, approved by the government at the end of 1995, gave priority to the "development of agrarian activities in view of achieving food security, considering the sustainable utilisation of natural resources and social equity" as one its pillars (De Wit, 2000/1:

43). It focused on both the private and the rural household sectors, highlighting the involvement of rural communities in natural resource management through direct benefits and incentives, and was compatible with the Land Law and Land Policy which seek to ensure better access to land resources with greater security.

The Poverty Reduction Strategy Plan (PRSP), the *Programa de Acção para a Redução da Probreza Absoluta* (PARPA), points out six fundamental areas of action. 'Agriculture and rural development' is one of these programme areas, with 'management of agricultural land' singled out as one component. The Mozambique Agricultural Sector Public Expenditure Programme is a project to support the Ministry of Agriculture and Rural Development (MADER) in implementing a 15-year National Agricultural Development Programme (PROAGRI). More than 20 donors are playing a role in supporting PROAGRI, the objectives of which are:

- to improve institutional arrangements in the Ministry of Agriculture and Rural Development (MADER) for financing and delivery of interventions in support of the agricultural sector;
- to increase agricultural production and productivity in order to improve income and food security for rural households; and
- to protect, conserve, develop and ensure public access to natural resources on a sustainable basis.

Changing economic dynamics with the introduction of the smallholder model and stimulation on agricultural activities has greatly influenced rural development in general, and stimulated new investments in agriculture. As a result the land demand in rural areas has increased and this has resulted in changes in the dynamics of the land market in the country (de Estevão Baloi, 2001). In effect, Mozambique's agrarian policy seems to be biased towards commercial agriculture (Nhampossa and Marone, personal communication, 2006). Official attention has focused on the potential of the law to promote private investment and this is reflected in key development initiatives such as the agricultural sector investment programme (PROAGRI) which promotes a neo-liberal approach. Nhantumbo and Pereira (Lahiff, 2003: 10) point out that PROAGRI and MADER both tend to stress the neo-liberal elements of the development approach in rural areas, encouraging public-private partnerships, economic growth, the creation of rural employment opportunities and other aspects of 'trickle down' development. This view is echoed by Norfolk and Liversage (2002: 6) who believe that "the PARPA does not recognise that the issue of tenure (as opposed to access to land) is of central importance, but tends to do so from the perspective of the need to guarantee private sector concession rights rather than the tenure rights of the poor". Such thinking is rooted in a commitment to fighting poverty through

policies that support rapid and broad-based economic growth. This is significantly different in approach to that of the land policy which aims to recognise the inherent rights of customary tenure holders and to enable these to contribute to poverty alleviation. MADER likewise gives little attention to the registration of community use rights as means to improve the capacity to 'negotiate' out of poverty – and, in fact, Norfolk and Liversage (2002: 6) note a growing resistance to this aspect as provisions of the Land Law that are designed to protect community tenure may even be considered to be obstacles to the objective of attracting capital investment and land development in the rural areas.

Diamantino Nhampossa of UNAC, (*União Nacional de Camponeses* – the National Peasants Union) (personal communication, 2006) believes that international agencies and other bi-lateral donors play a significant role in shaping government's national agrarian policy, which he sees as biased towards support for commercial agriculture, especially large agricultural projects, while inputs to support the small-scale farming sector are very limited. External influence is exerted through the imposition of conditionalities, while within Mozambique there is a strong tendency to look for solutions outside the country. Tanner (in Hanlon, 2002: 31) also comments on 'a singular lack of confidence in the ability of ordinary Mozambicans to undertake their own development'. Hanlon (2002: 1) appositely states that "people's views of land use are directly related to how they see Mozambique developing. And there is little agreement either within Mozambique or within the international community. Is the stress to be on foreign or domestic investment? Is the priority to be bigger projects or peasant farmers?"

The power of perceptions and discourse

Tanner (2002b) notes the prevalence of official beliefs about the family sector being subsistence oriented and that development therefore has to rely upon other, better endowed and more capable elements of society. There is a general view, held by some central government poverty programme planners and some donors, that land is not a limiting factor – that in fact Mozambique has an abundance of rich areas of arable land (Norfolk and Liversage, 2002: 6), and the limitations come from capacity problems of the poor. Lopez (personal communication, 2006) comments: "communities are not seen to be using the land efficiently and so from the perspective of an official an investor brings much more value. In return, people are seen to be getting something more valuable – jobs and social benefits such as roads and schools". These are a reflection of the political and social framings of the environment (Kidner, 2001; Forsyth,

2003).

The notion of 'delimiting' as a means of quickly and cost-effectively protecting local rights that are obtained through customary land systems places the focus on land management systems (as opposed to seeing the units as some kind of basic public administration unit). This approach, De Wit says, is quick, cost effective, and reflects the reality and practice of land occupation and use for the vast majority of Mozambicans. This is an important value shift in that it views the Land Law and the Technical Annex as instruments for identifying and protecting the land of the communities, and not the land for the communities:

> "In this context, community land use rights equate to areas of jurisdiction, and combined with the 'open border' model, do not exclude new investors from occupying and using unused land over which communities have rights… [what this effectively does is] to recognise and value the role of customary systems and those who manage them, without institutionalising them and removing their inherent flexibility and legitimacy in the eyes of local people" (De Wit, 2001).

Implementation of this vision of partnership is in many instances adversely affected by perceptions/beliefs and power imbalances. There have been expressions of doubt about how the partnerships between communities and investors can work, the consultation process seen to be an impediment to investment. If communities are seen to be not using the land gainfully then the alternative of an investment is seen to hold much greater value and pressure is put to bear on the communities in the interests of development (Vas Raposa, personal communication, 2006). The apparent bias of many government officials in favour of investors is reflected in the position taken towards communities in the course of the consultation process: "they are often seen to be 'objectionable' and are resented for attempts to secure a fair agreement (Marone, personal communication, 2006). Likewise the capacity of illiterate communities to manage land and natural resources is often questioned (Mabunda, personal communication, 2006).

Distinctions that should be made between community-based development and resource-based development are not always noted. For example, when community territory is identified in terms of management territory (access to land), its delimitation on the basis of ecological characteristics (such as watersheds) or resource endowments (such as forests), is not necessarily appropriate. De Wit sites the case the Tchuma Tchato project (2000/1) in which the target area was delineated on the basis of a wildlife survey, yet the boundaries of the ecological territory did not automatically match with those of the management areas of the local communities. This resulted in serious problems in the distribution of benefits derived from ecotourism to the

selected communities.

Consultation and participation

Norfolk, (2004: 10) notes that "since the disbanding of the Inter-Ministerial Commission there has been a considerable reduction in the extent to which further important aspects of policy development and implementation are subjected to consultative and participatory processes." He cites as an example the case of the National Directorate of Mapping and Land Registry – DINAGECA[94], which was not subjected to the same level of consultation with and examination by stakeholders, especially those outside of government, as well the format of community land certificates that are issued after a land delimitation and the structure and nature of the official land register. The passing of the new Forestry and Wildlife Law in 1999 is seen (*Ibid*, 12) to have created the "illusion of inclusion", whereas there was little consultation during its drafting. The development of a policy in respect to community rights within national reserve areas is not as clear other designated land and this is considered to be an issue which has the potential to have a massive impact upon the livelihoods of many thousands of people who are resident in areas that are, or are currently being declared as conservation areas (*Ibid*, 13).[95]

7.6.2 Governmentality: Forms of access to and control over resources

A political economy form of research incorporates investigation of administrative issues such as policy context, legal, institutional and procedural framework for land management. It is concerned not only with efficiency, but more so with equity (Jenkins, 2001). For the development of sustainable land administration infrastructures, sound land administration institutions and good governance are essential components.

Governmentality is about the disciplining of forms of life, the modes of enforcement, so in this section various elements of the institutional issues and processes of production are examined: land policy and legislation, administration and institutions (such as the judiciary, conflict

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[94] *Direcção Nacional de Geografia e Cadastro* – National Directorate of Geography and Cadastre

[95] The Limpopo National Park, the Bazaruto Archipelago, the Elephant Coast Park, Derre Forest Reserve, the Gorongosa National Park, the Quirimbas and several other areas all have resident populations (Norfolk, 2004: 13).

resolution mechanisms and institutional fragmentation). Examples are given of the ways in which these affect environmental security, often as deliberate actions on the part of government or other institutions.

Policy and Legislation

The 1997 Land Law, which was approved after a two-year national debate in what is probably the most broadly democratic process in Mozambique in the 1990s, has been praised for the way it protects peasant rights and for the innovative way it deals with collective and community tenure (Hanlon, 2002). As Tanner (2002) states, "'The new law and its instruments are an excellent example not only of making new laws to regulate and achieve socially just objectives, but also of using new legislation as a powerful new development tool". Some of the key positive points are (Tanner):

- The new Land Law offers real opportunities for local communities to unlock the capital value of their land and its natural resource base;
- delimitations already carried out are showing that the new legal framework can work and are raising awareness of the resources a community controls and what can be done with them;
- the reality of customary land management systems has been integrated into the formal national legislative and administrative frameworks;
- the basic legal requirement to carry out consultations is helping to resolve potential conflict, is engendering a belief that real local rights do exist and giving communities a new sense of self-worth, and it is making investors aware of the need to respect local rights;
- the consultation process, when successfully carried out, does potentially offer new and improved livelihood choices to local people; and
- "The process leading to community land registration is seen to be an excellent tool for strengthening local empowerment. Inherent to the methodology is information sharing and sensitisation to land and natural resource management, which results in increased local accountability for land management options" (De Wit, 2000/1: 50)

Nevertheless, there is still land tenure and land access insecurity and one of the reasons for this is seen to result from the fact that the legal tools of the legal-political framework and the authorities responsible for implementing the laws are more reactive than proactive, (ROSA, 2006) the policy allowing for registration on demand, but not requiring it. Not only is there no

legal requirement for communities to register their customarily acquired DUATs[96], but the public sector land administration has shown a weak commitment to community land rights identification and registration (Tanner, 2005). The issue is not the lack of registration per se, but the structure of the administration, type of training, and basic administrative attitudes towards customary rights. Conventional surveyors, for example, question customary rights as being 'backward' (Tanner, personal communication). This means that in effect rights are invisible, and with growing demands from investors, local people are left exposed to *de facto* expropriation and this makes negotiations more difficult as it not always clear to whom land belongs. The voluntary provision results from the recognition that most communities do not have the resources or the knowledge to immediately register their newly recognised land rights[97]. However, not having to register their land has meant that the vast majority of them still do not exist on the official cadastral maps. This omission constitutes a significant gap in the newly digitalized official land database (Tanner, 2005: 6). Nevertheless, not having to register is a positive and preferable to the situation that presents in Angola, where the three year time limit translates into a *de facto* loss of rights.

In the case of a change of land use – for example to build a tourist lodge – new permission must be obtained from the public body responsible. Legislation provides for the holding of an inquiry and compensation for the original user. However, as has been shown, the rules are often not obeyed, and numerous tourist facilities have been built without the required licensing and people not compensated. Measurements must be taken, maps produced and zoning carried out. The problems seem to lies with the public bodies that have neither the staff nor equipment to combat infringement, and there is often a lack of land use planning. These issues point to administrative capacity problems as well as issues of corruption.

Knowledge of land rights remains limited. People know a lot about their rights in the customary context of day-to-day life, but know very little about the rights they have under the new natural

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[96] *Direito de uso e aproveitamento da terra* – right to use and improve land (which is privately held, inheritable and transferable between third parties) provided for by the Land Law of 1997.

[97] Community consultation is expensive for most people: per diems must be paid to the technicians and representatives of the State authorities and, there are travel expenses. Costs of registration are around US$8,000 and these are borne by the community.

resource laws and know even less about how to defend these rights. Knowledge of the Land Law is strongest where NGOs have carried on where the Land Campaign of the late 1990s left off (Tanner *et al.*, 2006: 64). The activities of NGOs are having an impact and helping local people to become more aware of their rights under the law, and the need for well-prepared arguments in defence of these rights when they are threatened. The legal framework is complex and still needs to be disseminated and the systematic application of the legislation needs to be enforced (Tanner *et al.*, p. 58). In an interview with Tanner he argued that:

> "government is failing to monitor and assess systematically the use and abuse of the laws, to learn from successes and failures, and to use that learning to make better laws and processes" (personal communication, 2006).

Harmonisation of legislation

Land and natural resources: Land rights cannot be dissociated from rights to other natural resources, so there is a clear need to ensure that legislation dealing with those resources is harmonized with Land Laws. "Effective participatory natural resource management requires an integrated application of the existing laws" (Tanner *et al.*, 58). This is especially true of Mozambique where livelihoods are highly natural resource dependent, but not narrowly focused on agricultural land.

The principle difficulties – that relate to one of 'scaling up'[98] (Young, 2000) – described by Norfolk (2004) are: i) the failures to devolve effective property rights over natural resources to local communities. Communities are only allowed to use natural resources for subsistence purposes. If they wish to use natural resources for commercial purposes then they require a license to do so "and it is very difficult to obtain license to access for commercial reasons without the support of FAO or an NGO" (Cau, personal communication, 2006); ii) a lack of clarity and consistency in defining the institutional arrangements for the management and control of natural resource utilisation at local level. Laws dealing with land and other resources (forest, wildlife, minerals, water) need to be streamlined and made compatible. It is not clear

[98]The concept of scale has to do with the levels at which phenomena occur in dimension of space and time, for example, the propositions derived from small-scale systems apply also to common pool resources. Problems centre on whether we can scale up and down (Young, 2000).

that this is the case between the Land Law and the Forestry and Wildlife Law: the former confirms the existing rights of local communities to use and manage their lands and natural resources, while the latter gives rights to communities to use the forest for own consumption only (De Wit, 200/1). Norfolk (2004: 3) believes that "initial gains made from policy developments in the land sector, which were cognisant of livelihood diversity among the rural poor in Mozambique, may now be being rolled back by more narrowly constructed policy narratives in respect to the forms of access and rights frameworks of other natural resources and other sector legislation." By way of example, he too points to the Forestry and Wildlife Law that imports the Land Law's definition of a local community, but then treats the community as a form of public body that has a legitimate interest in resource management, rather than a private body that holds actual private use rights to a resource. (See case study Moamba district). While it recognises customary rights to forestry and wildlife resources, it is only for subsistence purposes, and not more fully as an inherent right to the resources. "Outcomes of natural resource benefit sharing are highly subject to local politics, and external interventions by NGOs or the private sector and vulnerable to elite capture" (Quan, 2006: 33), and licensed monopolies are common (Jamal, personal communication, 2006). A third issue, iii) is that the Regulations to the Framework Environmental Law, Act No. 97 of 1997 adopts a different definition of community as a "group of people situated in the area of influence of a proposed activity and that is not confined necessarily to a village or to a district" (Norfolk, 2004: 16).

Dual subordination: Another important constraint within the administrative system is that of "dual subordination" (Norfolk, 2004: 19). There are three role players in respect to the regulation of natural resource use, DINAGECA and DNFFB (Directorate of Forestry and Wildlife), both within the MADER, and MITUR which has been responsible since 2000 for all conservation areas and national parks. This is an important constraint within the administrative system as in cases of disagreement it is not clear who holds the greater authority and appears to depend on personalities. Coordination between the provincial units of these bodies – SPGC[99] and SPFFB[100] – is still lacking in many areas, and there is considerable inter-institutional

[99] SPGC – *Serviço Provincial de Geografia e Cadastro* – Provincial Service of Geography and Cadastre

[100] SPFFB – *Serviços Provinciais de Florestas e Fauna Brava* - Provincial Services of Forests and Wildlife

confusion created with SPFFBs especially. (See case study Marracuene.) Problems of dual subordination also occur between provincial and district level authorities, investors sometimes by-passing district authorities (Palalane, personal communication, December 2006).

The rights of women: Tanner (2002a: 49: 2005) and others believe that the tenure rights of women are also still far from being fully addressed: "men are the ones who deal with the outside world in most parts of rural Mozambique". Senior women may get involved, but their influence is defined by their marriage or other factors defining their social status. It has been argued that the recent granting of increased powers to customary authorities automatically undermines women's rights, but article (x) in the Land Law on customary practices states that they must abide by the constitution (De Wit, 2000/1), i.e. that "men and women are equal before the law in all aspects of political, economic, social and cultural life." Ikdahl *et al* (2005) point out that women's land rights are explicitly not mentioned in relation to land management in the PARPA and neither are women's productive activities brought up under the general programme area of 'agriculture and rural development'. In contrast to the general recognition of the existence of gender inequalities in Mozambican society, minimal attention is paid to women's land rights and roles in agricultural production. Waterhouse (2001: 49) notes that "local justice is usually meted out according to a "mixture of formal law and custom, by male leaders, traditional leaders, Frelimo party secretaries or religious leaders, all of whom are exclusively male." Structural, cultural and material constraints are still likely to limit women's access and control of land and other resources (Ikdahl *et al.*, 2005; Pitcher, 2002). Lack of awareness of how the Constitution and the Land Law protect women against the discriminatory aspects of customary norms and practice when land rights are threatened by divorce or by the death of the husband, remains a critical concern.

Administration and Institutions

Social disaffection and disillusionment with government in general is a growing trend (Grobbelaar and Lala, 2003: 19) as evidenced in the widespread crisis of confidence in public service institutions, parliament and the courts. While the Land Policy and Law is widely acclaimed for being innovative and has won praise for protecting peasant rights while creating space for outside investment, there is widespread criticism of implementation which has been weak across the board for several reasons. These concerns take on added significance as the government puts in place new strategies for rural development in which resource management

and local participation (through the agenda to decentralise local government) are central areas of concern. The primary concern is around weaknesses in the capacities of a wide diversity of stakeholders to understand, use and/or administer the new laws. Tanner *et al.,* (2006: 2) note:

> "…even those charged with implanting these laws and who are key to their working in practice, *also* have only vague and frequently wrong understandings of how they should be handled in practice. Judges, administrators, technical staff, extension workers and even civil society organisations, all frequently demonstrate that they do not understand the underlying principles of the new laws, and fall back on conservative approaches when problems arise and conflicts need to be resolved."

The co-existence of marginalised customary land systems with a very weak public land administration has created a situation of great institutional weakness in relation to natural resource management (Tanner, 2005: 1). The land administration and cadastral system is not yet sufficiently complete or operational to facilitate clear and transparent decision making for the allocation of land and natural resource concessions, and the process has not been integrated with decentralised district based or territorial planning (Norfolk, 2004). This is what Young refers to as a problem of institutional fit – the "problem of fit deals with the congruence between ecosystems and the institutional arrangements created to manage human activities affecting these systems" (Berkes and Folke, 1997 cited in Young, 2000: 23). The closer the fit, the better the performance of institutions.

Government capacity is generally weak as a result of the poor educational and skills infrastructure, bureaucratic procedures and poor incentives in the public sector. At a middle management this is particularly evident, and also in front-line personnel at local level, many of whom have little training or support and no resources (Baden, 1997). There are also concerns over the apparent inability "(incompetence") of district level government officials when it comes to integrating investor interests with the development plans of a region, if these exist (vas Raposa, Personal communication 2006). Tanner raises the serious concern that the old colonial land map is still in place, and this creates much unrest and conflict between local people who have in effect claimed their rights, and the State and its chosen investors who are given full rights over these old units of land. "This includes not just old private properties, but the large area that were once plantation turned into State Farms, and the National Parks and official hunting reserves" (Tanner, 2005: 22).

Monitoring and evaluation of the implementation process has been practically non-existent (Tanner Personal communication 2006; Chilundo, personal communication 2006). This is

evident in both the rural and the urban areas. The strong and active illegal land market in the urban areas needs to be regulated, but the capacity to do so does not exist, particularly in the absence of regulations *(Ibid).* One of the main causes of the current conflicts in the urban areas is considered to be rooted in the historical problem of how land was occupied and occupations 'recorded' – or not recorded – by the informal structures (*Grupos Dinamizadoros* – the Frelimo Youth Wing, and *Secretariat de Bairros* – Frelimo Chiefdoms) that operated during the war (Quembo, personal communication, 2006).

Judiciary: Governance institutions in Mozambique in general suffer from a lack of skilled personnel[101], the judiciary is short on skills, understaffed, under-funded and corruptible, and there are growing concerns around the centralisation of power based on clientelism. Vas Raposa (personal communication, December 2006) comments: "In the case of a typical confrontation between a (wealthy) investor, local or external, and a (poor) community over overlapping rights and the former wants the land for an investment, and the latter for livelihood agricultural purposes, then these things influence the efficiency of the judiciary system and the equity of treatment afforded the two. The losers are the poor. It is not so much a question of having rights, but of having the confidence that these rights hold up in the face of the judiciary. There is little confidence, or cause for confidence, in Mozambique's judiciary". According to the Economist Intelligence Unit (2005: 12) "The judicial system in Mozambique is close to paralysis. There is a severe shortage of qualified legal personnel and a substantial backlog of cases. Enforcement of contracts and legal redress cannot be assured through the court system….most commercial disputes are settled privately because of the judicial system's inefficiency". Even the PARPA recognises the fragility of the justice system: "…the justice, court, and public order systems are seen as extremely fragile" (Norfolk *et al.*, 2004: 11). Not only is the judiciary not exercising much of a role in the resolution of conflicts or in a position to adequately defend rights that are being put at risk, but the formal judicial system lacks legitimacy among large parts of the population (and is in fact perceived as the most corrupt). Tanner and Baleira (2006: 20) note the general belief that the courts are not independent:

[101] The country has only 190 judges an 160 prosecutors – and is estimated to need 500 judges and 500 prosecutors (AIM, September 2006).

> "Judges and local public prosecutors are identified with "the State", which in this case means "the government" – the separation of powers and the independence of the judiciary is simply not part of the picture. They are friends with the local administrator and sector officials who in turn are frequently seen as being on the side of the investor in consultations."

The consultation process: One of the most important aspects introduced by the new policies (both the Land Law and the Forestry and Wildlife Law) is that of the mandatory consultation processes with local community groups. Well implemented, the consultation process is one of the key strengths of the Land Law, its objectives being to find out if the land is occupied and to allow people to negotiate terms for giving up their rights. The inclusion of such mandatory process means that prima facie opportunities are created for negotiating agreements, and the community has a veto (Norfolk, 2004). The rights of the community are explained and the proposal presented, and the meeting selects between 3 and 9 people. Those representatives meet a second time with the administrator, applicant and the SPGC (Provincial Geographic and Cadastral Services) who are responsible for processing land concession applications and community land registrations, and all must sign the minutes of the meeting and any final agreement. The report of the consultation must be 'signed by at least three and not more than nine representatives of the community' as dictated by the *Diploma Ministerial no 29-A/2000 art 27*.

Consultations, however, are not all being carried out as they should be. Research conducted by Tanner and Baleira (2006: 25) on the impact of new legal rights and community consultations on local livelihoods, reveals "a process that is too quick, involves too few people, and does not allow for any process of internal consultation between community members. The level of real participation is very low". Reports on the weak implementation of community consultations are widespread, especially from the NGO sector (Norfolk and Liversage, 2002; Norfolk *et al.*, 2003; Hanlon, 2002; Chilundo *et al.*, 2005; ROSA, 2006; Tanner *et al.*, 2006). Personal interviews confirmed this – see, for example, the case study in Matutuine district.

In some instances consultations do not take place, are incomplete or are not procedurally correct. Hanlon for example (2003: 22) notes that "Although consultations are supposed to involve two separate meetings, most seem to have been cursory and just a single meeting, with some as short as 20 minutes, and poorly recorded…Cases have been recorded where cadastral teams go to the district in question, quickly inform the community, and gather together the 3-9 signatures needed. In just a few hours the future of significant land resources is decided for the

next 50 or 100 years". ROSA (2006: 12) also raises concerns over inappropriate legal proceedings by the authorities and poorly conducted community consultations.

The process of the selection of representatives is not always transparent and this undermines legitimacy of process. The principle of an elected local resource management council (9-14) is sound, but the way these are constituted can be problematic if the community leader (traditional authority chief) invites his friends, thereby constituting a "puppet board" which is easily bribed. Greater transparency is essential to ensure that a spectrum of interests is represented.

The nature of agreements during the course of consultations and subsequent problems of non-compliance reveal that these are not living up to their promise of producing an agreement that bring benefits to both sides as stakeholders. There is little or no documentary evidence of so-called formal agreements, making it difficult to enforce these (Norfolk *et al.,* 2003; Tanner *et al.,* 2006; Lopez Personal communication, 2006; Nhampossa, personal communication, 2006). Not only are minutes not provided, so they are procedurally questionable, many are not substantive in content. The predominant form of agreements is for opportunities for local employment, but in the majority of cases specifics are not provided – how many jobs, are these full or part time, the nature of employment, whether training will be provided or not, and remuneration policies. Research shows that poor people do not know how to use the capital assets gained or to become partners in the business. Communities are not well informed or prepared and do not have the legal or financial / business knowledge to negotiate on equal terms with investors. There is provision in the Forestry and Wildlife Law that communities are to receive 20% share of license fees, but the "mechanisms for its delivery is still being formulated, and the total amount any one community would received is, anyway small (MacKenzie, 2006: viii). Furthermore, there are many tricks or impracticalities to implementing this which make it difficult for communities to see the profits (Tanner, personal communication 2006; Tanner *et al.,* 2006). The are numerous challenges of a practical nature: having the knowledge of how to open and manage a bank account; having to be a registered community organisation; the almost complete absence of rural banking and locally based legal institutions to support the process (AIM, January 2007, and the difficulty in managing the collection of monies. There is also the issue of what recourse is open to communities should the investor fail to deliver on the agreement. The nature of these 'Agreements' (*Actas*) does not provide any real basis for grievances to be pursued if these are not adhered to as they are not framed as legally binding contracts between two parties and there are no public institutions mandated to follow-up on

consultation agreements. De Wit raises another, more nuanced concern, that the process of consultation with private investors benefits the larger private farmers often at the expense of communities and thereby leads to a process of social differentiation among rural producers. (This is what is referred to by Peters (2004) in her research on the 'negotiability' in access to land, in which she calls attention to the fact while focus has been on conflict and competition, behind the negotiable and adaptive customary systems of landholding and land use are processes of exclusion, deepening social divisions and class formation.)

Conflict resolution mechanisms: One of the key roles of local resource Management Councils established in terms of the Forest and Wildlife Law (Article 24) is to solve conflicts. Although explicitly calling for community participation in conflict resolution, findings (Tanner *et al.,* 2006: 10) reveal that they are really only participating in their own conflicts; a very different set of institutions come into play when disputes are between ordinary rural citizens and the outside world:

> "Local level conflicts are much more easily resolved…but as soon as there is an external agent the local leaders are not able to resolve conflicts…in fact they are not even able to discuss at the same level as equal partners" (Mungoi, personal communication, 2006).
>
> "The most secure conflict resolution is at the local level because all key stakeholders are involved and the process is participative. It becomes less so the higher up you have to go – then it becomes more political and bureaucratic and less consultative" (Harido and Mabunda, personal communication, 2006).

Rather, most of these are resolved following administrative channels, which increasingly take on a quasi-judicial role "and ultimately take decisions without adequate reference to the laws or basic legal principles". There is a low level of involvement of the formal judiciary and in more complex cases the community courts and other traditional conflict mechanisms are marginalised (Baleira *et al.,* 2005). People monitor their agreements themselves, but it is important that they then know how to use the courts to defend their case if agreements are broken. At the local level there is a need for an effective judicial system especially when it comes to partnerships between communities and the private sector. This calls for the proper functioning of local-level community tribunals and paralegal officers. In terms of monitoring, the Attorney General (PGR) and the Public Ministry, which is part of the PGR has a legal oversight function.

Institutional fragmentation: Institutional fragmentation and the overlapping of functions with several institutions still dealing with land in one way or another is a concern. There is a need for

more clarity on the respective roles of the various state entities (at the provincial, district and locality level) and the private sector in the provision of core services. The hierarchy of decision-making for private land rights allocation starts with the provincial governor (a political appointee) who has power to approve areas for private use up to 1,000 hectares; areas larger than this require the approval of the Minister of Agriculture and Rural Development, and in cases involving more than 10,000 hectares the Council of Ministers. There are no powers allocated to district, administrative post or local levels of government, but they are involved. This creates some confusion with different points of access – "and opens the space for political opportunism" (vas Raposa, personal communication, 2006). With regard to the registration of community group rights there is confusion as to the decision-making hierarchy. In the policy document it says that the district administrator must approve the process, but this is not stipulated in the legislation (Norfolk *et al.*, 2003).

While the TS/Land Commission mechanism provided an excellent forum for bringing interest groups together around the task of legislative development, in 2003 it closed down and it is now set within the PROAGRI Land Component after going into their funding framework. It is now political weaker *viz a viz* DINAGECA, and has since seen its coordinating and consensus building role curtailed by the actions of larger institutional partners. Key agencies such as the National Institute of Geography and Cadastre Institute (*Direccão Nacional de Geografia e Cadastro* – DINEGECA) are grouped with the 'land component' of the PROAGRI Agricultural Programme. The TS remains a weak institution in real terms – few personnel, a small operational budget and a restricted time constrained mandate. Some institutions remain outside PROAGRI, notably the Ministries of State Administration, Environmental Coordination, and Planning and Finance, all of which have distinct roles in land management. This highlights the need for including non-PROAGRI actors within the wider view of what is needed for effective implementation (Quadros, 2001). These arrangements should be viewed in the context of actors devising clusters of institutional arrangements for strategic purposes, that is, to gain advantages with regard to the pursuit of interests (Young, 2000).

Political interests also play a role: there are distinct differences in approach and understanding of basic principles between key institutions, notably the TS of the Land Commission and important implementing partners such as DINEGECA. This has complicated efforts to secure the full support of provincial cadastral services for implementing key aspects of the law, notably the delimitation of local community borders. The administration of the cadastre takes place at

provincial level through the SPGC offices. Improvements and greater efficiency in technical servicing systems at the provincial levels are necessary (De Wit, 2001). DINAGECA are responsible for the implementation of the national land policies, for disseminating the Land Law and the regulations, and for putting into practice the established mechanisms for delimiting land and issuing titles. Their capacity to do so has been questioned and is generally considered to be weak, inaccurate and opaque, and to cause many conflicts. The cadastre is not up to date and is still in a chaotic state, and information is not coordinated between national, provincial and local government levels (Norfolk *et al.*, 2003; Tanner *et al.*, 2006). This creates a wide open space for political opportunism and corruption. In general, the capacity of officials that manage, supervise and monitor the process of land registration are seen to be weak, though these concerns are reducing (Tanner *et al.*, 2006). This results in the local poor easily losing out to those who submit their claim and register at provincial or national level. An investor's first call is usually at the investment promotion office; he in turn will refer the investor to the relevant directory at provincial level which draws the map from the Cadastre. Problems arise at this level when land is identified as vacant but this is not a true reflection of the situation on the ground. The investors then arrive at the locality to claim their land, only to find that a local community has an existing claim to it, which probably will not have been registered. Cadastral services fail local people in not urging them to register their lands. "In practice land rights remain invisible", (Tanner, personal communication, 2006). Thus, while not having to register land rights is a good thing, with growing demand it is becoming more and more advisable to do so.

At a more serious level, there are indications of either gross incompetence or mal-intent when the Cadastre (often knowingly) grants larger piece of land than agreed – stretching boundaries – and this results in conflicts between the community and the investor over the boundary limit. It is questionable whether these are a genuine error or a case of corruption. Whenever conflicts arise, or whenever there is outside interest in land, this should be a call for the community to register their lands. However, this does not happen and the state officials most often pay no attention to this.

Another issue is the need for clarity on how community land committees or the representatives on local resource Management Councils intersect with those of state-recognised representatives (Norfolk and Liversage, 2004: 5). Local resource Management Councils were established in terms of the Land Law (Article 24) to be responsible for the allocation of land, consultations with investors, resolving of land conflicts, to oversee management of local resources/rangers,

and to form part of development councils. Management Councils are comprised of between 9 – 14 elected members, with an equal balance of men and women. Norfolk (2004) describes the principal difficulties as failures to devolve effective property rights over natural resources to local communities, and a lack of clarity and consistency in defining the institutional arrangements for the management and control of natural resource utilization at local level. The legislation decreeing recognition of traditional leaders as having authority over natural resources has also led to confusion.

Capacity problems are particularly evident in the Ministry of the Environmental (MICOA). Legal requirement for Environmental Impact Assessments (EIAs) are frequently overlooked, the desire to secure investment opportunities as a way of ensuring economic growth seemingly overriding environmental concerns. In September 2005 the National Director of Environmental Management acknowledged that the factors contributing to environmental degradation are "ignorance of environmental rules and sheer greed" (AIM, September 2005) and in December 2006 the Minister of Tourism spoke out against "serious abuses committed by tourism operators" (AIM, December 2006). The Ministry of Tourism (MITUR) and MICOA are both involved in the development of policy that has a direct bearing on natural resource access and regulation of conservation areas; both have relatively weak provincial structures (Norfolk, 2004). (See case studies in Inhambane and Maputo Elephant Reserve.)

Cost of registration: Titling and registration of community delimited land area is not necessary in order for a community to transact these acquired rights – rights unregistered cannot be transmitted, so the costs of registration remain an important constraining factor in realising rights. Neither the government nor the private sector has been willing to support these in situations where investment projects contain the potential to impact upon existing use rights. To date most of the costs of registration have been carried by NGOs that are supporting communities (CTC Consulting, 2003). While procedures have been introduced to allow communities to at least delimit[102] areas they do not want to be interfered with, this is in practice only undertaken where NGO or other external facilitation or funds are available because

[102] Delimitations are simpler than "demarcations' which are of a higher level, more expensive and more precise as they require a cement marker every 500 metres. Demarcations are required for formal titling.

community groups requesting a delimitation must carry the high costs of formal survey and demarcation still required for such delimitation themselves that amount to around US$8,000 (personal communication). The result by end of 2004 was some 10,000 or more approved investor applications over sometimes vast expanse of communal property, while only 180 communities had managed to demarcate their claimed areas (Alden Wily, 2006).

7.6.3 Environmental processes

Most examples of violence occur over, i) prime locations within the urban areas, or ii) in the most fertile rural areas which are close to water and transport routes, or in areas characterised by the very wealth that the environment offers – the potential value it offers to make resources valuable.

The renewal of the urban areas, which is gaining momentum with the growth of the economy, has resulted in the rapid development of housing projects and with that the search for prime land. As Peluso and Watts note (2001: 34) "violence is more likely when resources are in great abundance or have great economic and strategic value". In the rural areas conflicts have occurred in areas rich in biodiversity and valuable for tourism, in conservation areas, in those areas where there is access to water for irrigation and transport routes, and in areas rich in timber resources. Land also often embodies a set of meanings that transcend its basic productive utility – as in the case of Siagri where conflicts have occurred over land for cattle grazing but people are claiming more land than is necessary. There are also instances where elites acquire rights to land– as a foundation for a particular way of life (the "landed elite") – but do not live on it, remaining in the urban areas and visiting their lands on occasion.

The practice of state-directed wildlife conservation in Africa has been linked to violence (Neumann, 2001) and Mozambique is no exception. Global and regional demand for wildlife tourism and tourism linked to areas rich in biodiversity (especially in the coastal areas) is growing and Mozambique becoming an increasingly attractive destination – see the case studies on Matutuine district in southern Maputo and the National Parks and Protected Reserves. Acts of violence against populations have involved displacement to make way for these areas and this has also involved the loss of vital rural livelihoods, while vulnerability has been increased in a number of ways including the denial of access to water sources, pasture reserves and wild meat. For agrarian populations adjacent to protected areas, the implementation of wildlife conservation policies has often resulted in loss of control over their environment and a greater

exposure and vulnerability to natural hazards, particularly wild animals, tourism takes precedence over crop protection in bordering communities. A common factor in all these cases is how violence is normalised in the interests of growing the economy and increasing foreign exchange.

7.6.4 The actors – the central role of interest groups and politics in environmental management

The state and other actors and actor networks all play various roles in land access and management, sometimes causing, or mitigating, conflicts. This next section looks at the role of elites, whose role across Africa in land conflicts are increasingly being noted (see Chapter Three); at the role of Community Authorities (otherwise known in the past as Chefe de terra) and whose status has recently changed, and the key (positive) contribution that NGOs have been able to make in land issues.

Mozambique has a long history of centralised political power that goes back to colonial times, continued through Independence up to the mid-1990s, and to a lesser degree persists today. The effects of hierarchical and non-participatory government continue to impact on the governance choices people make and in particular the way they implement policies. This is evident in the many cases of state officials in rural areas being easily pressurised into obliging more senior political superiors rather than responding to calls for participatory development and ensuring that the needs and rights of the poor are met. There are numerous examples of the way that this opens the way in all sectors and at all levels for political and economic interests to impede the implementation of pro-poor policies. At one end of the scale it can be seen in conservative and cautious approaches that block participatory approaches, being fearful of processes that devolve power to lower levels, and which results in top-down decision making. At the other extreme there is blatant opportunism and corruption that paves the way for land grabs by the elite. Accusations that land services have been set up to serve the interests of the elite, and are geared towards the market sector, abound. Examples of this are seen in the enthusiasm of government officials in punting investor interests and making sure that every new land claim is processed within 90 days (Tanner, personal communication, 2006). Commenting on governance indicators in Mozambique, the African Development Bank notes the following:

> "Governance indicators relating to accountability, transparency, stakeholder participation, legal reform and the fight against corruption have been improving in recent years but are generally worse that the average of SADC countries.

> Accountability and transparency is insufficient and ineffective, and corruption remains a major constraint, namely to private sector development….Good governance remains a major challenge in Mozambique" (ADB/ADF 2006: 9).

Political interests and the elite – opportunism and corruption

Problems of corruption, which exists at national, provincial and district levels in Mozambique, are spoken of frequently by the international community, Africa Watch calling it 'democratic minimalism' (Ostheimer in Vaux *et al.*, 2006) with political and economic power highly centralised within a group that has "substantial predatory interests in relation to the state". A USAID report release in December 2005 expressed alarm at the scale and scope of corruption in Mozambique – from that encountered at a daily level by citizens to grand corruption at higher levels of government (All Africa, June 2006). External development inputs as well as foreign investment tend to benefit this group both in terms of economic wealth and political power" (*Ibid*: 25). Much of the blame is seen to lie in the rapid process of privatisation:

> "…which has enabled an elite group to acquire extraordinary wealth and to use this wealth to reinforce and consolidate political power…Corruption also opens the way for illegal exploitation of natural resources such as timber. This occurs on a wide scale and contributes to a general sense of exploitation of remote rural areas by a greedy central authority" (*Ibid*: 12-13).

The basis of elite social power has long been a sense of 'distinction', Frelimo widely thought to see themselves as the best qualified sector of the population to bring development. Concerns about widespread corruption in many areas of Mozambican life are to be found at all levels, and while not spoken about openly in the course of the field research interviews, they were inferred by many respondents.

Hanlon (2002: 14) states that:

> "Corruption at all levels remains a serious problem and the land grab continues. Senior people in government, the military and party obtain land and either bypass the consultation procedures completely, or use the district administrator to force through a token consultation. Often they consider it a right attached to the post, to ensure themselves something for their retirement. District administrators have extensive power and have used it to obtain land for themselves, or to force outside investors to take local partners…There is also corruption in the Provincial Mapping and Land Registry Services (SPGCs); many of the development plans on which titles were granted have simply disappeared, which makes them impossible to enforce, and there seems at least one example of a falsified consultation report. One knowledgeable person told me: 'The problem is not foreigners stealing Mozambican land, it is the new Mozambican elite stealing land from peasants. In some places a serious foreign investor can only get land through a dodgy Mozambican'."

The consultation process is open to corruption, or at best undue pressure may be exerted on communities to comply. As Marone (personal communication, 2006) comments, "The *Secretariat de Bairros* may be paid to sign off consultation process as adequate. Private investors, remember, have funds for employing lawyers, while the community have nothing". There are also more subtle – though crass – methods such as the use of alcohol used by investors in meetings.

The technical staff of DINAGECA at district level often show little concern for their job of delimitation, and prefer to play the role of pseudo business people, eager to demarcate land for private investors (Mutemba, personal communication, 2006). Vas Raposa explains, "the local poor easily lose out to those who are in a position to submit and register their land claim at provincial or national level. Investors are enticing and carry greater weight. It is hard for an official to stand up to the appeal of a local governor because of the political weight he carries. The question is whether they have the 'right' to refuse" (personal communication, 2006). Helvetas (personal communication November 2006) reported the case of DINAGECA staff incorrectly demarcating a property to include a lake; this was done with approval of the provincial administrator. Following the subsequent fencing off of the lake, a formal complaint was lodged at parliamentary level. This resulted in the dismissal of the administrator – however, such cases are rarely resolved and this case was seen to be particular because the administrator was a member of Renamo, so the implied blame was on the organisation, not the individual.

In Maputo, the elite are grabbing land in inner suburbs on which to build grand houses. Junior officials take it upon themselves to parcel out land in response to requests for land – a lawful land parcelling but unlawful process of allocation because "if you know who to approach you can get land" (vas Rapoza, personal communication, 2006). There are very few people who get land without actually 'buying it'. As a result, conflicts are resulting from "unlawful land parcelling conducted by dishonest individuals (local leaders, administrative authorities at various levels, cadastre technicians etc.)…(and) from disagreements related to the process of delimitation of land plots" (ROSA, 2006: 5). The administrative structures are very often compromised between responding to higher level orders to find land or facilitate an investment, while provincial Governors wield enormous political power. Cases of corruption within the judiciary render formal complaints unsuccessful. People may have the rights, but the question is one of lack of confidence that these will hold up in the face of the judiciary.

Decentralisation and Community Authorities: the politics and tensions

In the late-90s Mozambique embarked on a country-wide programme of decentralised public administration and community involvement in local district planning, transferring certain powers and limited resources down to district level. Although widely acknowledged and embraced (Mungoi, Chilundo, Nhampossa, Tanner, vas Raposa, personal communications, 2006) this was done without the organisational and managerial base or the skills and capacities to execute it, and the strategy is "more of a deconcentration than a decentralisation at this stage" (LeBlanc and Beaulieu, 2006: 28). This process is closely tied into measures[103] that officially recognise the function and status of local leaders as legitimate go-betweens, representing their communities on one side, and assisting the implementation of public programmes on the other. The recognition by the government of *régulos*[104] (traditional authorities) within the 'deconcentration' process is an indicator of their importance as traditional conflict resolution institutions at a local level. In general, traditional authorities are still the main influential actors with regard to natural resource allocation and control (Norfolk, 2004). In a research paper, the Sussex University unit, the Institute for Natural Resource Management, notes the following:

> "The role of 'traditional' leadership has been in flux in rural Mozambique since the colonial era. After independence, the formal abolition of the system of traditional leadership was a major plank of government policy, yet came to be resented by many rural communities. By the end of the civil war, the government expressed renewed interest in working with, rather than against tradition leaders. This has been particularly true in the field of natural resource management (NRM), as conservation actors have sought to identify and work alongside legitimate representatives of the 'community' at a local level. Traditional leaders in Mozambique often command respect, and may be more legitimate sources of authority that the government at local level… Yet, the complex history of Chieftaincies, and the past and current alliances

[103] "One of the political concerns in post-war Mozambique has been how to proceed with the decentralisation process in the rural areas. In accordance with post-war constitutional commitments to democratic decentralisation, a system of elected local governments in the form of municipalities was approved in 1997" (Buur and Kyed, 2002). The other decentralisation initiative was the decree of the Council of Ministers (Decree 15/2000), in which the State formally recognised the role of 'community authorities' as both local leaders, and a kind of administrative auxiliary for state functions such as tax collection and informing people about public programmes (Tanner *et al.*, 2006).

[104] A Régulo is 'traditional leader' or 'chief'. This person serves as the leader of a traditional community and succession is determined through lineage. The colonial era to a large extent distorted this role and it became a post designed by the colonial administration to ensure control of communities in rural areas (Grobelaar and Lala, 2003, p 44).

> sought by particular leaders can weaken this authority, bringing difficulties for NRM policy based around traditional structures. In particular, working through traditional structures cannot wish away a history of conflict between rural people and government of the differences between these actors. Cooperation on the part of Chiefs may be as much to consolidate their own positions, as to accept a community-based NRM policy" (INRM, n.d.: 1).

The reinstatement of the *régulos* – viewed by many as a way for Frelimo to spread its political power – resulted in the redrawing of some local chiefdom boundaries that caused some local level conflicts, but most of which have been resolved. It must be noted, however, that these conflicts were also affected by political antagonisms between Renamo-Frelimo (Marone, personal communication, 2006). However, with their reinstatement in 2000 the problem of "dual subordination" has arisen as there are now parallel structures operating, the *Secretariat de Bairros* and the *régulo* (or the *Chefe de Terra*) both playing a role in land allocation and administration, although the Government does not recognise their right to allocate land (but it does recognise the right to allocate DUATs inside local communities). This reinstatement of the *régulos* (recognised by the formal erection of the Mozambican flag outside their homes, and sometimes also by the wearing of uniforms and badges), often results in disputes between the different role-players (Faquira, personal communication, 2006). This calls for joint consultation between the institutional body, the *Secretariat de Bairros* and the TAs, who generally have years of knowledge of community land tenure patterns. Concern was expressed in Matutuine that the newly invigorated position of the Traditional Chief (*régulo*) has aggravated tensions as they see themselves as *Chefe de Terra* and in the absence of an income use land to secure their financial position (Vianna and Faurio, personal communication, 2006). Faurio highlights with a degree of concern arising from the institutionalisation of the *régulos*:

> "A major problem is that the *régulos* were sworn in without understanding the Land Law and the paralegals were not brought in to explain to them their responsibilities. They used to be called the *Chefe de terra* and many think this is again the case. Because the government has told them that they should generate their own income, many do this by selling the land" (personal communication, 2006).

These issues can become more serious and threatening when the *régulos* either side-line the land management councils or bring in their own relatives to fill the positions, in order to secure 'private' deals with investors. The intervention of NGOs at the request of communities in response to *régulos* abusing their positions in such instances has resulted in some parts of Matutuine of NGO staff being physically threatened by the TAs not to intervene – to the point that they have become afraid for their own personal safety and question whether they can

continue with their work (Faurio, personal communication, 2006).

Research conducted by Mafumo (personal communication, 2006) in Marracuene reports on cases of 'dual entitlement' arising from land allocation by both parties. Since the revitalisation of TAs in 2000 these conflicts have increased (Faquira, personal communication, 2006) with TAs "interested in ensuring that their powers are real and not just superficial so they are increasingly asserting themselves" (Mafumo, personal communication, 2006; *Ibid*). Although the government does not recognise them as having rights to allocate land, the knowledge they have of their own communities that makes it possible to testify to long-term occupations, is acknowledged. The fact that the Cadastre is in such a disorganised state has also contributed to the confusion. Concerted efforts to address such problems are being made with varying degrees of success. In Matutuine the 'competition' between the two is being reduced through joint consultations.

While most people believe that local chiefs have a role in local governance, even if it is a limited one, there are also contradictions and paradoxes: in general they have been found not to consult with their communities, yet many believe they should be given more comprehensive powers".[105] The Land Law stipulates that community members should participate actively in the consultation processes through the local resource Management Councils, but they are in many cases being sidelined (Faurio, personal communication, 2006). Many land applications are reviewed and approved solely through formally recognised traditional leadership structures, while the government seems to give precedence to the state recognised representatives, rather than those appointed by communities themselves (Norfolk and Liversage, 2002). After Decree 15/2000 was passed, DINAGECA opted to consult with 'community authorities' as it was easier to do a consultation that way. This has caused man internal disputes between régulos and community members. In the words of Norfolk:

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[105] The decision of the first post-independence government to exclude traditional authorities from decision-making processes created a sense of marginalisation that has resonated into the present. The main reason for their exclusion was their connection and involvement with the colonial administrative apparatus. Frelimo believe that new state could only be created with their exclusion. This however, eventually led to an increasing loss of legitimacy of Frelimo's nation-building project. In the south of the country they play a less prominent role regarding special duties in local governance, in contrast to their growing prominence in the north. (Grobbelaar and Lala, 2003: 49).

> "…confusion between public and private representative roles has arisen as result of the implementation of state decentralisation processes combined with a parallel devolution of rights to community groups in terms of, in particular, the Land Law. This confusion has arisen as a result of the contents of the legal instrument (*Decreto* 15/2000) that created a community-level tier of publicly appointed representatives, whose powers now overlap with those that have been devolved to community groups as private land-holding entities. This has marginalised the role of those that represent the community as a private entity" (2004: 49).

Development planning is especially weak in urban areas. District level government officials lack the capacity to appreciate how the role of investors can support local development needs and are unable to integrate big investments into development plans, assuming there is one. There is little supervision to ensure that land development plans, which are presented as part of the registration process, are implemented (Chilundo *et al.*, 2005). In the rural areas, the administration of land rights is being undertaken in isolation from other district level planning processes (Norfolk and Liversage, 2002: 18). The roles of Management Councils are considered to be complimentary to the decentralisation process (Helvetas, personal communication) but this is dependent on their being included and not side-lined, as does happen.

Role of NGO's

NGOs play a critically important role in supporting communities around land issues. They have a short history in Mozambique given the dominance of the centralised state until the late 1980s and the many years of war (Kanji *et al.,* 2002). Since the early 1990s there has been a gradual opening up of the political space that has brought greater acceptance by the state of the role of NGOs – prior to 1990 there were only three notable Mozambican service organisations, and these with social welfare roles. Since then the number has grown enormously as internal and external factors continue to favour their emergence.

NGOs played an enormously important advocacy role in the development of the land policy in the mid-1990s and in dissemination of the new land legislation after 1997 throughout the country. They are still the major 'pro-community' agent in Mozambique. Many continue to assume important roles in different parts of the country in assisting communities to know and understand their rights, with land registrations, to resolve conflicts, in facilitating community consultation processes and assisting with negotiating agreements. They also support civil society and local boards over obtaining licenses to harvest natural resources. NGOs play a key role in building social capital – establishing, training and supporting Community

Councils/Boards in their duties regarding natural resource management (water, sanitation, forestry etc). Chilundo *et al* (2005: p. 12) argue that "the role of the NGOs is fundamental for community land registration". Lopez (personal communication, 2006) reiterates this: "the communities that are most at risk are those where there are no NGO's present"; Cau (personal communication, 2006) likewise notes "if communities do not have support from NGOs they are unable to respond to and take advantage of what is in theory very good legislation". Most of the communities that have registered land have made their applications after learning about the Land Law through NGO information campaigns. Delimitation of land, however, is "a means not an end….building partnerships with investors to secure livelihood opportunities depends on negotiating a fair and opportunistic agreement: only organized communities can do this" (Marone, personal communication, 2006). Successful agreements are the result of awareness and creativity on the part of both parties – herein lies a critical role for NGOs in informing and supporting communities to negotiate as an 'equal' partner.

An indication of the value of their role is that knowledge of the Land Law is much greater where NGOs have been very active over a period of several years. As representatives of the NGO, Abiodes, stated, "the situation would worsen without NGOs as the state's capacity and resources are limited to deliver on all services or to build capacity at grassroots level and they play a critical role in mitigating conflicts" (personal communication, 2006); and ORAM (personal communication, 2006), "the role of NGOs is absolutely fundamental to the future successful implementation of the Land Law". Communities need legal support to help them defend their interests, to negotiate contracts and to be informed about their rights. "If communities do not have the support of NGOs they are unable to respond to what is, in theory, very good legislation", (Cau, personal communication, 2006). It is commonly believed that NGOs need to continue their facilitating role after land registration has been completed to educate community about other benefits that can arise from partnerships.

The role that Helvetas plays is a very good example of the significant role that can be played by NGOs. They are involved in education and awareness campaigns, assist communities with delimitations to secure their community rights over land, with demarcations, registration and securing titles (this includes covering costs), and help to identify opportunities for livelihood diversification. They are currently facilitating business negotiations to upgrade and link the two eco-tourism ventures which they helped to establish, Tinti Gala and Covane Lodges, with other (internationally owned) lodges in the region. The proposal is that the community will get 5% of

turnover on a quarterly basis, as well as jobs and opportunities for local enterprises. Helvetas is also providing input and advice to the stakeholders[106] involved in the re-establishment of the Gorongosa reserve.

The most prominent NGOs are ORAM, the Association for Rural Mutual Help (*Associação Rural de Ajuda Mútua*), UNAC, the National Peasants Union (*Uniao Nacional de Camponeses*) and Helvetas (Ikdahl *et al.*, 2005: Kanji *et al.*, 2002). Nevertheless, most local NGOs are widely considered not to be very strong, and to still face government constraints, while international NGOs are constrained by restrictions on being involved in what are seen to be "political issues". Promoting citizenship and doing advocacy work fall into this category; likewise, because many land disputes are of a political nature, support in this area is constrained by the government (Mutemba, personal communication, 2006).

On the negative side, many feel that NGOs have not managed to empower local people sufficiently so that they benefit from the policies. "Criticisms have also been made about the sporadic nature of the delimitation process, and the failure to integrate it with directly productive activities that contribute to improved income for the community" (CTC Consulting, 2003: 5). Others have questioned whether NGOs are "doing enough to pressurise the government into addressing some of the impracticalities evident in implementation of for example the Forestry and Wildlife Law (Cau, personal communication, 2006).

7.7 QUESTION 2: ARE THERE LESSONS TO BE LEARNT FROM THESE FINDINGS THAT ARE PARTICULAR TO COUNTRIES EMERGING FROM PROTRACTED VIOLENT CIVIL WARS?

7.7.1 Poverty and vulnerability

Understanding vulnerability is far more than just denoting a simple compilation of threats, of understanding the hazards themselves; it calls for understanding how the specific dimensions of social, economic and political vulnerability are also related to inequalities. These are, in turn, often related to economic patterns and ethnic or regional divisions.

Mozambique's human development index indicators (HDI) have improved steadily since the

[106] Greg Carr

1990s (ADB/ADF, 2006), but are still the lowest in the SADC region, and it is one of the poorest countries in the world with 54% of the population living under poverty (*Ibid*). In the past 30 years, Mozambique has suffered civil war, natural hazards, and most recently, the devastating impact of HIV/AIDS. It is an agriculturally based economy in which land and natural resources occupy a central position in the livelihoods of the majority of population. Rapid urbanisation, much of it during the war, has resulted in an expanding belt of squatter housing and mass poverty in the main urban areas. Chapters Five and Six examine in depth the dimensions and extent of livelihoods, poverty and vulnerabilities in Mozambique. The extreme vulnerabilities that have been experienced as a result of the war, continue to be felt at all levels and by all sectors, many as long-term creeping vulnerabilities. These are evidenced, *inter alia,* in the high levels of poverty and inequity, poor infrastructure and weak delivery of services, weak institutional capacity, regional differences, undeveloped economy, poor education and loss of political capital.

7.7.2 Emphasis on growth – opening the door for opportunism

Mozambique has over the last decade been one of the world's fastest growing economies, but this has been off a very low base for even before the war it was among the world's poorest and least developed countries. Emerging from decades of war and facing enormous development needs, the country has put great emphasis on both poverty reduction and on growing the economy. A major and persistent challenge has been to ensure a more even distribution of the economic gains made. As discussed under the topic 'Development discourse' (7.5.1), there is evidence that neo-liberal policies and the national imperative for growth frequently override calls for equity and rights of the poor. The ongoing tensions around the question of privatisation (see previous section) of land reflects a growing interest in the land market that is developing now in a stable and peaceful Mozambique, but the checks and balances to ensure that everyone can be party to the opportunities that present are not in place, so the beneficiaries remain those who are educated, well informed and politically well connected (see for example the case studies of Marracuene and Maputo, as well Inhambane and the resort on an island off Cabo Delgado, and Moamba district).

7.7.3 Weak implementation capacity

Institutions influence access to assets and vulnerability shocks either enabling access to assets, capital, and information or setting up a disabling environment that discriminates and frustrates

some people. Mozambique has made considerable progress in its efforts to establish institutions that are accessible and have both legal backing of local land rights and social legitimacy, but historical problems linked to years of war continue to affect the urban areas in particular. Informal institutions and organizations that continue to govern land use and management in urban areas may have social legitimacy but not having the legal backing they sow confusion and this opens the door for corruption and opportunism.

Problems of dual subordination and institutional fragmentation (discussed under the section on 'Governmentality') remain problematic, while inadequate capacity to administer the new Land Law is a fundamental constraint – these issues were referred to in the case studies on Marracuene and Maputo. There are many cases of conflicts, social disruptions, threatened or even destroyed livelihoods that are a product of the way in which the law is being implemented. Examples are to be found in the cursory manner in which local consultations are conducted, the absence of official resources for community land delimitations and the uneven implementation of the National Land Policy is undermining its potential for promoting development. The political momentum supporting community aspects of the Land Law has slowed, and pro-poor policy implementation falls almost entirely to NGOs. Legal reform has yet to be accompanied by the development of an efficient, effective and transparent system of land administration that protects the rights of all DUAT holders, resolves disputes and oversees and registers transactions. Land administration is over centralised in the national land service DINAGECA, although a programme of decentralisation is under way. Other problems include a narrow view of land administration that is out of step with the progressive new legislation.

Environmental concerns

Institutional weakness within the government's environmental sector is a significant factor in a country such as Mozambique, which has little in the way of mineral resources, and much of its wealth is associated with natural resources for nature tourism – as was discussed in Chapter Five: Mozambique's economy, and under Environmental Processes. Concerns about environmental issues range from the negative impact on the environmental of large investment projects such as Mozal (water pollution), the impact of mining projects in Manica, deforestation, the flouting of environmental regulations in building operations (along the coast and in urban areas), the damage caused to sensitive ecosystems by tourism, to the widespread failure of projects to comply with regulations to carry out EIAs (Chilundo; Harido; Vas Raposa;

Cau; Palalane; Tanner, personal communication, 2006). These are compulsory but are often overlooked, "especially in the smaller to medium sized projects that are out for a quick buck", although the investors in the bigger projects, however, are considered more likely to meet the requirements of an EIA because their financial backers demand compliance (Tanner, personal communication 2006). This has been most noteworthy in Inhambane where environmental norms and standards are not being implemented nor is there monitoring – recognised environmentally protected areas are not being protected and buildings are being erected in defiance of environmental standards (Lopez, personal communication, 2006; Cau, personal communication, 2006). This is also the case in the urban areas where condominiums are being built that do not comply with environmental standards (Quembo, personal communication, 2006). The fact that many buildings – especially tourist lodges – are being built without an EIA is considered to be evident of either the involvement of corrupt officials involved or weak capacity at provincial level. Political pressure in such cases is a reflection of priority given to securing investments in the interest of economic growth that override environmental concerns.

Agreements between investors and communities also require an EIA, but as Tanner (personal communication, 2006) notes:

> "Up to 50% of 'purchases' for investment projects may in fact be illegal because they have not carried out an EIA or gained approval for their proposed economic activity in which they ensure protection of the environment."

The overall lack of monitoring and evaluation in government institutions is held as evidence that the country is so hungry for investment that it 'bends over to please investors at whatever cost. Chilundo (personal communication, December 2006) says what this call for is "the need for cleaner and more honest government". It is also a case of lack of capacity within MICOA and lack of institutional coordination. The following report from the Mozambican news agency (AIM, 2006) in December 2006 sums up some of the problems:

> "In December 2006 during the debate on the government's plan and budget for 2007, Tourism Minister Fernando Sumbana, said that from January to November, a multi-sector government team had inspected 160 tourism establishments in six provinces. It had found that some projects had gone ahead without the legally required environmental impact study, and that unauthorised institutions had issued licences for tourist companies in areas that are defined as "totally or partially protected zones". In particular, there were cases of buildings erected less than 100 metres from the marine shoreline, or less than 50 metres from a lake shoreline. This led the authorities to cancel land titles that had been issued in violation of Mozambican law. 50,000 hectares thus reverted to the state – rather more than half the 94,500 hectares

> occupied by the tourist establishments inspected. "These spaces will be put at the disposal of new investors, in terms of the law", said Sumbana. Some tourist operators had built fences preventing access to public places. In this way they had, in effect, privatised roads, lagoons and beaches. These fences, Sumbana said, had been removed restoring access to beaches for local communities." (*Under Mozambican law, there is no such thing as a private beach.)*

7.7.4 Social and political capital

Participation of the poor who depend on natural resource is crucial at the sub-national and local level, and in Mozambique there have been impressive efforts to include the poor at all levels of the development of the Land Law and in management of land and natural resources – see the case study on Moamba district. Nevertheless, the lack of training and knowledge to enable people to participate in decision-making that affects their livelihoods is severely impaired by levels of poverty, inequity and general underdevelopment of certain regions. This is evident in the cases studies in Matutuine district and in Inhambane province. An examination of civil society in Mozambique illuminates the problems inherent in countries that have experienced protracted violent conflict.

Civil society in Mozambique

Civil society plays a fundamental role in achieving greater, more secure land and resource access by the poor, most usually through practical engagement by civil society organisations and NGOs. These are poorly developed in Mozambique. It was in the rural areas of Mozambique that the early expressions of civil society organisation (CSO) – in the form of religious bodies – took shape (*Casimiro*, 2006). Today churches remain the strongest and most durable form of organisation, other civil society organisations having a sporadic presence and most are not well integrated into the local economy, culture or religion of communities. Although the constitution fully recognises and encourages the role of CSOs, the specific law that governs their activity dates back to 1946 *(Ibid).* Nevertheless, the construction of a democratic culture in Mozambique is developing slowly, largely through growing participation in around the Poverty Observatory (PO)[107], PARPA, and Land use committees *(Ibid).*

[107] The Poverty Observatory is an institution that places together representatives from government, the donor community and a range of representative civil society bodies (NGOs, churches, sporting bodies,

Initial efforts to inform Mozambican society about the processes of the Land Law have not been as country-wide as anticipated, so understanding of their rights and responsibilities is weak amongst large sections of the rural population. Awareness of how to use the courts is virtually non-existent, and the assumption that the State should look after things prevails. Tanner *et al.*, (2006: 64) note "there is almost no capacity at all amongst communities to use exiting legal structures to defend their rights, either against communities to use existing legal structures to defend their rights, either against private sector interests or state bodies that are misapplying the laws or taking sides with outside interests". The representative of a local NGO noted, "Local level conflicts are easily resolved, but as soon as there is an external agent the local leaders are unable to resolve these, and in fact they are not even able to discuss the issues as equal partners" (Mungoi, personal communication 2006).

It is in community consultation that the weakness of grassroots civil society is most evident, as characterised by lack of, or poor knowledge, of legal issues, of basic accounting, or of constitutional rights (Mungoi, personal communication, 2006; De Wit, 2001: 5): "There is also still considerable difference between knowing about a tool and using that tool in an efficient way for development". Structures are not always democratically elected. Many people are illiterate so they do not understand agreements and do not have the capacity to negotiate with investors around matters such as land rights, compensation agreements, legal agreements and profit sharing. They find it difficult to conceive of, identify or secure ways to be a part of the investment, and have no capital to offer. Weak communities are more likely to be conned, willingly 'selling' their land for (vague) offers of employment and social benefits such a roads and schools, while evidence of these "agreements" may never be produced. On the other hand, while some investors may see opportunity in the weakness within communities, there are many genuine investors who wish to work collaboratively with communities and "they are not interested in coming into areas that are not organised" (Marone – ORAM, personal communication, 2006). In similar vein, an investor in the tourism industry (Friedman, personal communication, 2007) indicated his knowledge of several potential investors in the nature tourism sector that have "chosen to stay away" because of the experience of 'uncertainty in

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CSOs etc). It meets annually to debate and contribute to the Government National Plan to Reduce Poverty (PARPA).

consultations'. Tanner affirms that the weakness of civil society is acting to undermine land rights (personal communication 2006).

Local resource Management Councils should be beneficiaries and part of management of forestry partnerships, overseeing profit sharing with investors and active members of local management boards. This, however, is not happening. The strong leadership that Mozambique has shown in community based natural resource management (CBNRM) and eco-tourism through the establishment of these Management Councils is in danger of being undermined by the revival of Traditional Authorities, especially because the councils that they are putting in place are generally selected personally by the Chief and not elected (Chilundo, personal communication 2006). This has led to calls for greater transparency.

7.8 A SUMMARY OF THE FINDINGS

In this chapter, the tensions around land have been explored. Application of complementary frameworks has enabled identification of the following key issues.

A political ecology model moves away from the heavily Malthusian cast of examining the nexus of environmental scarcity and violence. In Mozambique it has been shown how the specific land resources – such as agricultural lands and prime tourism locations – that engender violence are those that have strategic or economic value. In the urban and coastal areas it is because of their spatial locations; in the rural areas because of the richness of resources (fertile soils, water, rich in biodiversity, infrastructure). Environmental processes such as conservation also play a key role in constituting the political economy of accesses to and control over resources.

Explanations for the patterns and regimes of accumulation are to be found in the convergences of culture, power and political economy. Some of these have historical roots, such as colonialism and the social inequities established at the time which today are the basis of elite social power and the sense of distinction that Frelimo is seen to assume. It is in unpacking development discourse (and who has the power to impose particular languages of valuation) that entitlement issues become most apparent. The role of different actors and actor networks – the elite, donor agencies, international development agencies, and foreign investors – all have a stake in promoting specific development agendas. This is evident in a growing interest in the land market, with an alliance of local and outside forces that seek to promote privatisation.

Much of this debate hinges on the questions of equity and growth – which comes first and can there be a harmonious relationship between the two. Much of official attention has focussed on the potential of the Land Law to promote private investment, justifications drawing on doubts about the capacity of (illiterate) communities to manage land and natural resources. Such thinking is rooted in a commitment to fighting poverty through policies that support rapid economic growth, but also a belief that growth comes from outside the country. It has also been shown that exclusionary practises take different forms – people are excluded by geographical location, by gender, by lack of access to resources, poor skills and knowledge (also of land rights), by differential access to political and economic power which serves to reinforce benefits, and knowledge production and management.

Governmentality accounts for the processes by which violence occurs, and is often occluded. The legal and institutional components of the tenure regime play an important role in framing and reinforcing the patterns of accumulation. While the new law and its instruments are to be commended for regulating and achieving socially just objectives and of using legislation as powerful development tool, analysis reveals that a central issue in Mozambique is that the blockages to the realization of the Land Law's pro-poor policy objectives arise from issues of implementation – most particularly inadequate capacity to administer the law. Authorities are more reactive than proactive, the public sector land administration has shown a weak commitment to community land rights and administration and with growing demands form investors, local people are often left exposed to expropriation. Uneven implementation of the Land Law and problems around the consultation process reveal that while capacity problems are an issue, these are also a reflection of governance issues and the political and economic interests of various actors who make use of specific legal and institutional techniques. This is most evident in the judiciary which suffers from a lack of skilled personnel but the greatest concerns are around the centralisation of power based on clientelism.

With Mozambique's long history of centralised political power, hierarchal and non-participatory government, it is not surprising to find that the state is associated with substantial predatory interests. These elite interests also benefit (in terms of economic wealth and political power) from external development inputs as well as foreign investments. An institutional analysis reveals the competing roles that are developing between local resources Management Councils, and the recently re-instated traditional authorities. NGO's have been key role players in supporting communities around land issues, but they face many constraints some of which are

imposed by government.

As with Angola, there are lessons that can be drawn from Mozambique about the difficulties that countries emerging from years of violent conflict face. These are evident in the high levels of poverty and vulnerability, the lack of broad-based development, institutional weakness, and civil society weaknesses in terms of illiteracy, lack of knowledge and a lack of confidence in their abilities to manage their own development potential. After so many years of restrained development and destruction caused by war, national development imperatives show an unrestrained hunger for rapid growth and the adoption of a neo-liberal economic model that appears to be threatening people's rights to land and even to reversing the gains made in the new Land Law. High demands for economic growth often strongly influences issues of land access, tenure and management, taking precedence over issues of equity or poverty reduction, and at the cost of the environment. A review of the 'winners' and 'losers' confirms that increasingly the political elite are driving contestations for entitlements and control over land resources, and that wilful expropriation for private purpose and opportunistic behaviour, justified as supporting the national economy, are commonplace.

Concluding thoughts – backtracking on progress?

Despite the successes of Mozambique's Land Law, there are trends towards land concentration that are likely to fuel conflicts over resources in the future, there are blockages to the pro-poor policy objectives and there is a real threat that some of the successes could be reversed if current trends for the development of a land market provide the excuse for further land grabs by the elite. The patterns of distribution that are rooted in Mozambique's history are reinforced by the continuation of differential impacts on the various groups. Those who are most at risk are the poor in the peri-urban areas, and people who do not have the knowledge, finances, skills or access to resources to ensure that their land rights are being protected. Gender, class and ethnicity are factors that play a role. The challenges posed to livelihoods in terms of equity, efficiency, environmental sustainability and political stability do not, in the short to medium term anyhow, pose any challenge to overall peace and stability in Mozambique, but they certainly do undermine attempts at broad-based development and building sustainable security.

CHAPTER 8: CONCLUSION

THE ROLE OF LAND ACCESS, TENURE AND MANAGEMENT IN ANGOLA AND MOZAMBIQUE: MAKING SECURITY MORE HUMAN AND MORE SUSTAINABLE

INTRODUCTION

This thesis has focussed on two "post-conflict" environments (Angola and Mozambique), exploring the relationship between violence, land as a resource, and the environment. As this research has shown, it is important not to conflate the concepts of violence and insecurity. A more inclusive concept of violence and non-violence recognises that non-violent conflict may be as significant as violent strife in undermining livelihoods and social and economic sustainability.

The key questions addressed are:

1. What accounts for the relationship between violence (evidenced in brutal physical acts, threats and increasing vulnerabilities) and land as a resource?

2. Are there lessons to be learned from these findings that are particular to countries emerging from protracted civil wars?

In this concluding chapter, findings from the research are synthesised and distilled using a nested framework approach. The central ideas explored illuminate the value of an approach that emphasises a more interdisciplinary and integrative perspective, which sees environmental security as a crucial component of the broader concept of 'Human Security', which identifies the individual and, by extension, the collectivity as the referent object of security.

The value of a nested framework

Although frameworks are useful for organising perplexing and detailed analysis, they can become straitjackets, in this case awkwardly confining and distorting the complexities of the linkages between violence, resources and the environment. This thesis engages with a variety of theoretical insights, acknowledging that all frameworks have their strengths and weaknesses. A

study of the nexus of land, conflict and livelihoods shows it to be highly complex – there is no

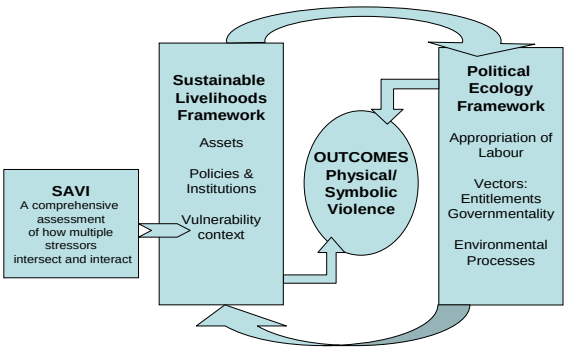


Figure 8-1: Nested framework showing the interaction of SAVI, SLF and the Political Ecology Framework

single land issue, but many, and these may be linked in various ways. By the same token, **there can be no single remedy or instrument to deal with land conflict: the indirect and direct drivers of conflict all need to be better understood.** As Lund *et al* (2006: 4) note, "All the interrelated social, institutional and political factors involved in land make it an asset different from all others." The theoretical and methodological basis for the investigation in this thesis has been situated in an approach that recognises the importance of the social and political context, and how this interacts with economics factors in determining land issues of access, distribution, security of tenure, management (Figure 8-1). *The political ecology framework used seeks to account for the ways that specific resource environments (land in this case), environmental processes (such as resource wealth, abundance, conservation) and cultural politics are constituted by, and in part constitute, the political economy of access to and control over resources.* It analyses the vectors that shape the environmental process: how entitlements are possessed or gained, distributed, reproduced and fought over; the forms of access to and control over resources; and the actors.

This thesis is also underpinned by the acknowledgement that many behaviours fall within the rubric of violence (Peluso and Watts, 2001) and that non-violent conflict is as important as violent strife in undermining livelihoods and social and economic sustainability. This is further motivation for drawing on a livelihoods approach – *the Sustainable Livelihoods framework and SAVI framework serve as tools for analysis of livelihood opportunities and vulnerabilities, and*

a model of change that adopts a comprehensive assessment of how multiple stressors intersect and interact, of differential impacts, and the role of external interventions. A combination of these frameworks (See Figure 8-1), able to connect with the social value of land and the larger networks of power relations, are compatible with the political ecology framework.

As noted by Unruh (2004a: 5):

> "…the people centred priority of the SL approach, focussing on what people do have and are doing, is a particularly good fit with an examination of what people are actually doing on the ground with regard to change in land access in post-conflict situations."

But the political ecology framework tends to neglect the local social embeddeness of institutions, while a SL/SAVI approach is more refined in this respect and does not downplay social institutions, giving attention to local diversity and social differentiation. A wider livelihoods approach also involves a comprehensive conception of the resources that people need to access as they build their livelihoods, is sensitive to differing contexts where different combinations of stressors interact, and provides a way of thinking about the objectives, scope and priorities of development issues in which the livelihoods of poor people are put at the forefront of analysis and action. Both a political ecology framework and SL/SAVI approach give attention to the role of actors (local, national and global) and institutions, allowing also for closer examination of the role of civil society in land issues.

Before turning to the questions this thesis sought to answer, a brief comparative overview is presented of land issues in Angola and Mozambique, and how violence is being expressed.

8.1 ANGOLA AND MOZAMBIQUE – A COMPARATIVE OVERVIEW

Emerging from many years of war, both Angola and Mozambique face the challenge of accumulated needs arising from protracted underdevelopment: levels of poverty and inequity are high and socio-economic and environmental difficulties abound. Land issues play a fundamental role in post-war reconciliation and economic rehabilitation, and both these countries require a land policy that deals with wealth creation and poverty alleviation simultaneously – one that provides a sound basis for secure property rights for investment and the generation of economic opportunities while also ensuring that the benefits of such growth, and by extension access to and tenure of land as the basis for improved livelihoods and food security, be distributed equitably. In Chapter Three we saw that land in a post-war environment

acquires a value it lacked during times of war, and quickly becomes a potential source of tension and renewed conflict as countries open up to market forces (Unruh, 2004b; Daudelin, 2003). Lucrative and rising values of pasture and commercial farming land, of territory for nature tourism (coastal and wildlife areas), and of prime urban land are being captured by elites, depriving poor communities of a crucial capital base that could help them escape poverty. Angola has known peace now for almost five years and Mozambique for some 16 years. The two countries present very different development potentials (Jenkins, 2003) although GDP growth in both has been consistently well above the regional average over the past couple of years.[108] Continued growth and broad-based development are essential for both Angola and Mozambique if essential poverty reduction strategies are to have a significantly greater impact.

Angola and Mozambique have developed new land and planning legislation since the ending of their wars (see Chapter Five); this reflects an opening to market forces and also to post-war democracy (Jenkins and Smith, 2003). In both countries there is an improvement in the legal status and protection of customary rights: in Mozambique customary rights may now be directly registered without conversion into introduced forms and customary rights have unequivocal equivalency with imported tenure forms. Mozambique's Land Law affirms that all land ultimately belongs to the state, it is democratic in scope and guided by principles of equity and sustainability. It recognises and protects land use acquired through occupation in accordance with customary law or through good faith occupation for more than ten years. Angola's Land Law (Chapter Five) in principle also affirms that all land ultimately belongs to the state, but fails adequately to address the reality of the majority (80 – 90%) of Angola's poor who occupy land informally and have no title to land. In practice, most urban and some non-urban land will effectively become privately owned through long-term renewable leases and there is a general feeling that land rights are insecure and unclear. McAuslan (cited in Lindsay, 2002: 1) comments appositely that Angola's "Land laws….have been first and foremost the products of politics, not of 'objective' considerations of what is best for economic or social or sustainable development." In Angola the process of legislation is ongoing and incomplete, and in fact appears to have stalled; in Mozambique the process has moved very rapidly, although some

[108] According to a report of the UN Economic Commission for Africa, in 2006 Angola had a growth rate of 17,6% the second highest in southern Africa; it was followed by Mozambique at 7,9% (APA, 7 June 2007).

adjustments to urban regulations are still being made.

In the urban areas of Angola and Mozambique the lack of any clear pre-independence policy and urban development resulted in *laissez-faire* attitudes to urban settlement with large informal sectors. These grew rapidly as war intensified inward rural-urban migration (see Chapter Five – 5.3.1 and 5.3.2; Chapter Six – 6.2.2 and Chapter Seven – 7.2.2). The result in both countries is informally occupied peri-urban areas with extremely basic services, high poverty, a virtual lack of any formal land management, and informal structures that have filled the gap (Jenkins and Smith, 2003). These urban problems are aggravated by a *de facto* illegal land market. Angola and Mozambique need to ensure land access and security of tenure for the poor, and equity, as well as efficiency in land management, to attract investment and manage the growing urban land market. Their responses to these challenges have been somewhat different – and telling of their development agenda and whose interests are of greatest priority. In Angola there have been numerous cases of alienation of the urban poor from lands they have lived on for many years, producing serious civic conflict (Amnesty International, 2005, 2006, 2007).

The forms of violence witnessed in both countries range from open conflicts (violent conflict in the case of urban areas in Angola) to social tensions, to loss of home, livelihoods and productivity. It is noteworthy that in many instances violence becomes a state sanctioned part of local strategies for maintaining control of resources. The role the elite play (and often also the state) in these, is a growing concern in both countries.

8.2 QUESTION 1: ACCOUNTING FOR THE RELATIONSHIP BETWEEN VIOLENCE AND LAND AS A RESOURCE

1. Much of the research on land as a resource has focussed on those clear cases of violent conflict. What has emerged in this thesis is ***the need to acknowledge the various forms of violence*** *evident in both countries – that non-violent conflict is as important as violent strife in undermining livelihoods and social and economic sustainability.*[109] In both countries land conflicts do not generally find expression as violent, physical conflicts (see Chapters Six and Seven). Rather most arise from land issues between communities and investors, the elite, or

[109] The use of italics throughout this chapter is used to denote 'findings' that have emerged in this research.

government officials, and are experienced as the loss of home, livelihoods and productivity. Such long-term 'creeping vulnerabilities' are characterised by their complexity and non-linear unpredictability. *These are non-traditional security issues which have potentially profound implications for a changing security environment.*

2. While early policy debates for the main associated land-related conflicts with scarcity, this thesis finds that in the case of Angola and Mozambique *there are close linkages between violence and resource value and wealth.*

3. The relationship between violence and land as a resource is *more likely to be related to the governance of land.*

4. This thesis has noted that while insidious and 'creeping vulnerabilities' often go unnoticed, people's human security is being further compromised as a result of the *normalisation and political sustainability of such violence.* In many instances violence becomes a state sanctioned part of local strategies for maintaining control of resources. The *role the elite play (and often also the state)* in these, is a growing concern in both countries.

The key findings to emerge and which were substantiated in the 'Results' Chapters, Six and Seven, are synthesised and distilled in the following sections.

8.2.1 A more inclusive concept of violence and non-violence that focuses on both threats and vulnerabilities

Researching land as an element of a wider livelihoods approach brings into sharp focus that there are both threats and vulnerabilities and that it is necessary to focus on both hard and soft (non-traditional) security. Land conflict is a natural phenomenon (see Chapter Two) and most instances of conflict involving different community groups are regulated by socially accepted norms or custom. In both countries during the immediate post-conflict period (Chapters Six and Seven), returning IDPs and refugees were able to resolve land disputes relatively peacefully, most often through the mediation efforts of traditional authorities. The more recent case study of Marracuene in Mozambique, presented in Chapter Seven, of the successful local resolution of a conflict between communities over boundary delimitation, is another case in point. Conflict can be a necessary and even positive part of social change (Wisner, 1988), unless it becomes violent and involves the use of physical force. Such is the case of the forced evictions in Luanda, examined in Chapter Six, where there is both physical violence and the threat of such

violence exercised by the state. This thesis has also shown evidence of structural violence in which social, political, economic and political systems can institutionalise harm: many elements coalesce in Angola to marginalise and disempower large sections of the society. (These are examined further in the remainder of this chapter).

Violence is also experienced in both rural and urban areas as "destruction of home and humanity, of hope and future, of valued traditions and the integrity of community" (Nordstrom, 1997, cited in Peluso and Watts, 2001: 29), arising for example, from the opportunism of land grabs, enclosures and exclusionary practises. Violence also finds expression in the social and economic implications for the well-being of the poor in the urban areas of both Maputo and Luanda, arising from the peripheralisation of communities as market forces take root in an environment characterised by poor governance (limited capacity and widespread inefficiency). *These issues combine with other stressors to produce outcomes that are the product of complex and intersecting processes and events.*

Acknowledging the various forms of violence based on a reformulation of environmental security, which does not prioritise security and the issues of conflict above the needs of those who are most environmentally insecure, brings an understanding of the insidious and creeping vulnerabilities that underpins environmental security, as opposed to a clear case of large conflicts. This point has been argued by other analysts such as Elliot (1998), Barnett (2002), Peluso and Watts (2001), Martinez-Alier (2002), Khagram *et al.,* (2003), Liotta (2005) and Amouyel (2006). (See Chapter Two). An examination of the forms of violence, who engages in them and their dynamics, reveals local processes of social, economic and political differentiation, such as seen in the patronage networks and exclusionary practices that do not necessarily impoverish all, but the effects filter down to marginalise those who are least able to overcome their poverty – those who cannot read and write, women, pastoralists, those marginalised by ethnicity or regional differences.

8.2.2 The close linkages between violence and resource value and wealth

In both countries it has been seen that *conflicts are less likely to be generated by resource poverty and bankruptcy than by resource value and wealth and more extensive and destructive violence is likely when the resources are either in great abundance or have great economic or strategic value.*

In Angola (see Chapter Six) land conflicts have predominated in resource rich areas: during the privatisation era in the 10 years preceding the end of the civil war, land with real and potential commercial value fell prey to powerful economic and military interests that were linked to the government. Ordinary people's rights to land use were reduced. This set the precedent for the land-grabs that increased in the few years preceding the end of the war in 2002 – in the Gambos (Huíla Province), the fertile Central Planalto and along the coast, as well as the privatisation of government owned real estate in the urban areas (and associated forced evictions). Since the end of the war there have been many cases of growing opportunism involving land grabs and land enclosures as well as the granting of land concessions and the rise of former and new *fazendas* in areas such as the coffee growing producing areas of the Central Planalto, the agro-pastoral and transhumance of the South-Western areas, and in mineral rich areas (granite mining in Huíla, diamond mining). While there is increasing pressure on land in those areas where the population is highly concentrated (such as the Central Planalto in Angola), the primary scarcity is a capacity to make the most of productive land because of lack of inputs and resources – in other words, *the real scarcity is a politically and economically induced one*. Land is an asset of substantial value and control over this resource is often central to national and local political power. (This is expounded on in the next section). As Peluso and Watts (2001: 35) note, the issue is not so much about "scarcity or abundance per se, but about the ways in which particular entitlements are shaped by specific regimes of accumulation and by particular social forces". Peters (2004: 270-1) also call for analysis to be situated in broader political and economic and social changes taking place.

In Mozambique (Chapter Seven), as in Angola, land conflicts have occurred where commercial interests are strongest. While local level conflicts between communities occurred in the aftermath of civil war as IDPs and refugees returned, these were for the most part resolved peacefully. But with peace and the shift towards capitalism, the competition for land grew. Most conflicts were between smallholders and commercial interests, spurred by the economic reforms. The state continued to grant land concessions to private foreign and domestic commercial interests, while few were made to smallholders, and this gave rise to conflicts especially in primate agricultural producing and traditional grazing areas. Since the passing of the Land Law in 1997, land conflicts have continued to occur, although there has been a strengthening of land tenure security for family sector producers. The specific land resources that engender violence are lands that have strategic or economic value – resource rich (fertile

soils, water, rich in biodiversity, infrastructure) rural areas highly valued for commercial agriculture, tourism or forestry (see the case studies on SIAGRI, Marracuene, Inhambane, Maputo Special Reserve and the National Parks).

Land conflicts in both Angola (Chapter Six – 6.5.4) and Mozambique (Chapter Seven – 7.5.4) have been concentrated in urban areas – and there is considerable evidence showing that *the growth of markets and commodification of land, especially in urban and coastal areas, can threaten livelihoods as poor people are being pushed into the peri-urban periphery.* In Luanda evictions have become a constant threat as urban land values increase. Commoditisation increases land accumulation by small numbers of elite and carries incipient negative effects for the poor, intensifying inequities.

8.2.3 The centrality of governance: the role that forms of access to and control over land play in determining entitlements

> "…better governance of land and natural resources is central to all hopes of peace, growth, poverty reduction and development across the continent" (AU/ECA/ADB, 2006: 1).
>
> The fact that social and ecological systems are strongly connected poses a serious test for existing governance systems (Galaz, 2007: 11).

Political ecology recognises the importance of governance, but not merely in a technical sense. Governmentality (examined in Chapter Three – the 'Governance of Land') is about the disciplining of forms of life, the modes of enforcement, (Young, 2000; Peluso and Watts, 2001; OECD, 2002) so in this section the institutional issues and processes of production are examined: land policy and legislation, administration and institutions. Examples are given of the ways in which these affect environmental security, often as deliberate actions on the part of government or other institutions, for they are effectively political constructs, reflecting rather than forming underlying and more fundamental orders (Underdal, 2007). A key political issue is where and with whom the institutions for the management of land are found (national government, district, local etc.) and the degree of control which different groups are able to exert on them (Lund *et al.*, 2005). *The role that the institutional dimension plays in the ways that violence is expressed is a recurring theme in this research.*

Policy and legislation

One of the key ways of determining how entitlements to resources are distributed is through the policy and the legislative mechanisms (Fortin, 2005). Land policies should reflect the

importance of well-thought-out economic and development considerations and should also act as catalysts for social and economic change (Hanlon, 2002; Peters, 2004; AU/ECA/ADB, 2006). It is in exploring who the stakeholders are – who benefits, who decides, who will be affected by what tradeoffs – and what hidden agendas there may be, that the real intent of the law on land becomes apparent.

Mozambique's well-conceived 1995 Land Policy and the 1997 Land Law that are based on an analysis of the actual situation on the ground, are democratic and very progressive in scope and guided by principles of equity and sustainability, they provide a progressive and innovative framework for decentralised rural development and poverty alleviation. The legislation has been widely commended for the way it protects peasant rights and for the innovative way it deals with collective and communal tenure. This and the innovative Forestry and Wildlife Law and the Environmental Framework Law, have all been designed to enhance rural livelihoods by strengthening rights of people – especially the rural poor – to natural resources. Nevertheless, *conservative discourses continue to undermine and challenge the values enshrined in the policy and law.* Attitudes and values are expressed in the commitment – or lack of – to interpret and implement the Land Law in a way that is consistent with the spirit of the law. This is often seen in narrow, conservative interpretations that fail to look for simple ways to resolve problems.

Angola, on the other hand, has failed to introduce a land policy on which the law can be based (Palmer, 2003), and the Land Law, which has to a large degree been developed by foreign consultants, is failing to protect the rights of and address the needs of the poor, and being difficult to access and understand it does not seem to have the rights of the rural poor in focus. The process is still incomplete in the absence of a Land Policy and there are many grey areas which are open to interpretation, creating confusion and insecurity, not least because the Regulations have not yet been published or promulgated. Together these present many opportunities for bending the new laws one way or another in practise, not least because elite interests prevail. With ownership unclear, ordinary people's rights to use land have been dramatically reduced. Other *legislative shortcomings that reduce land rights and tenure security* and results in competing claims are the inadequate and unrealistic stipulated time frame of three years given for everyone to acquire official title to the land they occupy, and that government tools for expropriating confiscated land have increased. Mozambique has no time period for registration, and which is positive, but with increasing demands it does mean that local rights are largely invisible and do not, therefore, necessarily have the necessary protection.

Administrative and institutional weakness

Even when laws and policies are on paper good, they are of little use if authorities ignore them or if implementation is weak. Sound land administration institutions and good governance are essential components for the development of sustainable land administration infrastructures, the forms of access to and control over resources being highly significant in determining issues of equity. These need to be accessible and accountable and have both legal backing of local land rights and social legitimacy (Deininger *et al.,* 2003). *Weak institutions of governance are often the more immediate triggers of insecurity and conflict.* The centrality of weak institutions is a point raised by a number of the most prominent researchers examining land issues, such as Jenkins (2001), Cotula *et al.,* (2006), Alden Wily (2006) and Meinzen-Dick (2006).

Both Angola and Mozambique are facing difficulties in establishing the institutional framework for effective land administration. Both countries present with concerns around the capacity of state structures to perform the devolved responsibilities that are envisaged by the new Land Law – juridical, regulatory, fiscal, cadastral – to fulfil their judicial and administrative responsibility at all levels of government to resolve the huge number of land disputes. Some explanation for this lies in their history of protracted conflict, for one of the effects of war is that it increases the likelihood of a collapse of existing governance structures and failure to enforce the rule of law.

Mozambique presents an interesting paradox of sincere commitments to a vision of securing the rights of people, yet an analysis of the political, cultural and economic forces represented in the power relations reveals how it is that implementation of this remarkable Land Law is not always meeting expectations. While commended for regulating and achieving socially just objectives and of using legislation as a powerful development tool, in effect land rights are often 'invisible' as people are left exposed to expropriation and land grabs. A recurring land issue in Mozambique is that the blockages to the realization of the Land Law's pro-poor policy objectives arise from issues of implementation, which has been weak across the board for several reasons. Wide-spread corruption that operates at various levels, poor capacity of government officials and weak and inefficient government institutions, weak civil society especially at grassroots level and increasing competition between customary law and formal law, are the predominant implementation issues that have been identified.

The primary concern is around weaknesses in the capacities of a wide diversity of stakeholders to understand, use and/or administer the new laws. *Government capacity is generally weak as a*

result of the poor educational and skills infrastructure, bureaucratic procedures and poor incentives in the public sector. At a middle management this is particularly evident, and also in front-line personnel at local level, many of whom have little training or support and no resources (Baden, 1997). There is little confidence, or cause for confidence, in Mozambique's judiciary which is close to paralysis because of a severe shortage of qualified legal personnel[110] that are under-funded and corruptible and growing concerns around the centralisation of power based on clientelism. *Institutional fragmentation and the overlapping of functions with several institutions still dealing with land in one way or another is a concern.* There are several instances in which decentralisation structures that involve the newly reinstated Community Authorities have become vulnerable to capture by local elites and have made local land rights more vulnerable to pressures from external investors or wealthier nationals seeking land (see Matutuine case study). The cadastre is not up to date and is still in a chaotic state, and *information is not coordinated between national, provincial and local government levels (Norfolk et al., 2003; Tanner et al., 2006). This creates a wide open space for political opportunism and corruption.* Lack of attention to community rights means that official cadastral records only have private sector DUATs (Norfolk, 2004; Tanner, 2005). Authorities are more reactive than proactive, the public sector land administration has shown a *weak commitment to community land rights and administration* and with growing demands form investors, local people are often left exposed to expropriation. *Uneven implementation of the Land Law and problems around the consultation process* that undermine the value of a highly regarded Land Law, reveal that while capacity problems are an issue, these are also a reflection of governance issues and the political and economic interests of various actors who make use of specific legal and institutional techniques. There are many cases in Mozambique of promises (arising from vague agreements with investors) of support for physical capital such as upgrading access roads, establishing trade outlets or building a clinic) not materialising, partly because of poor agreements and partly because of a lack of coordination with local government authorities, and which has left some new facilities unstaffed and unused – effectively "white elephants". If there is no documentary evidence, broken agreements are difficult to uphold. The practice of one-off

[110] The country has only 190 judges an 160 prosecutors – and is estimated to need 500 judges and 500 prosecutors (AIM, September 2006).

compensatory payments is common and leaves community members with a short term flush of money but the long-term loss of their land (Norfolk, 2004). No one single factor can be isolated – rather there are a *number of problems in implementation and these are mixed up with issues of political influence and economic interests that overlap and compete with people's rights in an environment of increased demands for land consistent with growth, pressure for inward investment, and a growing market for land* (Tanner, personal communication). Land rights cannot be dissociated from rights to other natural resources, so there is a clear need to ensure that legislation dealing with those resources is harmonized with Land Laws. There is, however, *a lack of clarity and consistency in defining the institutional arrangements for the management and control of natural resources* (see Moamba district case study). The co-existence of marginalised customary land systems with a very weak public land administration has created a situation of great institutional weakness in relation to natural resource management.

Angola also faces a range of institutional and administrative weaknesses. Provincial weaknesses has led to the continued *centralisation of functions but with tense and poorly defined relationships between them*. The cadastre in provincial governments has not been updated since 1975. Conflict resolution mechanisms are inadequate and the mandates of central ministries overlap. There is a *lack of human and technical resources within the justice system* itself, but reforming institutions and establishing democratic accountability is extremely difficult in settings with centralised power. Angola's justice system is out of reach to an estimated 80% of the population: the functioning courts are located in the capital Luanda, where the elite are centred, thus making the urban-rural divide very deep. The *political linkages that actors forge with each other and institutions in the interests of pursuing their particular goals is most evident in the workings of the judicial system, which leaves citizens with few opportunities for legal redress.* The justice system has been complicit in making it possible for the police and the army to have been used in the forcible removal of urban populations.

8.2.4 Systems of power and the shaping of entitlements

Examining the connections between the environment and violence does not only search for 'environmental triggers' of violent conflicts, but looks also at the reciprocal relationship between nature and humans (Peluso and Watts, 2001). Alternative ways of understanding the connection between violence and the environment serve to illuminate that *the issue is more about the ways in which particular entitlements are shaped by systems of power that*

marginalise certain group – the specific regimes of accumulation and by particular social forces (rather than abundance or scarcity). Other researchers such as Forsyth (2003), Peters (2004) and Homewood (2005) also illuminate this point in their work and it is embraced by analytical frameworks such as SAVI and the SL approach.

This section examined the way in which socio-political and historical forces, which give rise to systems of power, interact with economic forces in the supply of land and its distribution, and lead to the marginalisation of certain groups. Competition over access to land is often at its core about power, both socio-economic and political and in this thesis *findings highlight the power relations inherent in the governing structures and the tensions faced in achieving greater efficiency and equity in access to resources*.

The role of development discourse

> "Environment/development debates are essentially political issues of who should have access to and control over resources, of whose views should count in identifying and prioritising issues and problems, and in deciding desirable management goals. These debates polarise, and are reinforced by splits, between natural as against social sciences approaches, western versus local perceptions, and national government against village level interests" (Homewood, 2005: 198).

Macro-economic policy sets the framework for sectoral policies, and the way in which these policies are implemented determines how natural resources are used. *Controversy around issues of equity (or poverty focus) versus productivity have become competing objectives, antagonistic in practice,* in both Angola and Mozambique. In Angola (and to a lesser degree in Mozambique) the governments are failing to translate growth into broad-based development, there being an emphasis on narrow-based growth that outweighs concern for the vulnerable poor (Addison, 2001; Addison, 2003). This is made evident in Mozambique's case, for example, by the problems around the consultation process, which so often ends up favouring the investors at the expense of the local communities – as was illuminated in the Matutuine and Inhambane case studies (see Chapter Seven). The macro-economic agenda and political interests that serve these interests take priority: *pressure for economic growth and priority to attracting inward investment strongly influence political and economic interests, while less significance is accorded to issues of equity, poverty reduction or environmental concerns.* Justification has often been based on the putative economic efficiency of "privatised" resources, providing a pretext for the powerful, politically well-connected to exclude marginal groups of the population as they use arguments for increasing efficiency and productivity that ignore other

important goals such as social justice, eradication of poverty or environmental sustainability. Such choices are entrenched deeper by that fact that the means of exploiting land is becoming "more sophisticated and more dependent on money" (Gore, 1994: 1). *Weak attention to environmental legislation* and a flawed consultation process witnessed in Mozambique's growing nature tourism sector (Inhambane and Maputo Elephant Reserve case studies) is linked to a desire for quick economic returns, and has led to concerns that the result could be increased vulnerability, not only because of loss of livelihood opportunities, but also to disasters by encouraging unregulated construction or the inappropriate siting of facilities. The country is hungry for growth and there is a general openness to investors whose interests take precedence over the protection of people's rights. This has resulted in concerns that the economic development model Mozambique is following may be threatening people's rights to land. *The growing market around land (as noted in the case studies on Luanda and Maputo) has raised debate around privatisation that ultimately hinge on the question of what comes first, equity or growth or can there be a harmonious relationship between the two. The tension between attracting investors and securing people's rights is most evident in how competition for local resources between "outsiders" – investors – and local people unfold.*

Global processes are a factor affecting national economies and development strategies (see the SAVI framework, Chapter Four, and also Mittleman and Tambe, 2002; Patnaik, 2003; Peters, 2004; Cotula *et al.,* 2006). These are evident in the strong bias against small rural producers, while medium and large (export-oriented) producers are favoured, often the very same people who have economic and political ties to national political elites and international markets. In Angola, for example, it was noted that there was considerable infrastructural investment going into the coffee growing areas, while the government relies on the FAO for basic agricultural inputs to peasant farmers. Structural adjustment and market liberalisation, imposed through aid conditionalities since the 1980s, and exacerbated by the increased exposure to unequal international markets, have aggravated problems in the agricultural sector in Mozambique. *Intensified commercialisation and reduced ability to acquire inputs are also factors at play in the increasing competition over land, especially in resource rich areas.* The overall effect has been to undermine the viability of smallholder agriculture, as evidenced by the falls in production and increasing food insecurity. *In Mozambique and Angola a dualistic view of agriculture prevails with an emphasis on the commercial sector.* The Angolan leadership (see Chapter Six – 6.6.4) has shown a disinterest in rural populations, their socio-economic

organisation and their ways of life because agriculture and rural areas do not have sufficient relevance for the country's economy. The urban-industrial interests of the elite, most of whom are the former *assimilado*, (many of whom are *mestiço – mulatto*) dominate to the exclusion of any concerns for the interior – and in particular those of the 'inferior', black Ovimbundu, the *camponese* (peasants). Evidence has been presented of how those with vested interests justify and/or mask their actions. At one end of the scale it can be seen in conservative and cautious approaches that block participatory approaches, being fearful of processes that devolve power to lower levels, and which results in top-down decision making. At the other extreme there is blatant opportunism and corruption that paves the way for land grabs by the elite or the state – such as the granting of concessions for *fazendas* in Angola and evidenced in the case studies in this country on Humpata and the Gambos (Chapter Seven – 6.5.3). Local elites in both countries have made use of *discourse that purports the irrelevance of the family farming sector* to make any significant contribution to the formal economy because of peasants lack of ability to make productive use of the land – in this way they can assert control over natural resources as the basis for wealth accumulation – and even competition for political office dominate. A political ecology framework illuminates how such social and political framings (the role of language in the construction of social reality) "are woven into both the formulation of scientific explanations of environmental problems, and the solutions proposed to reduce them" (Forsyth, 2003: 1).

Need for integrated rural development strategies

Land access is not being mainstreamed and integrated into development strategies. Who gets to participate in and benefit from the anticipated growth depends very much on a set of policies and support programmes that are based on an understanding of the vulnerability context of livelihoods. Agricultural growth can and does reduce poverty and inequality providing the agrarian structure plays a positive role. In a post-conflict environment agricultural development is urgently needed to protect vulnerable groups – to provide food security and the opportunity to secure incomes to meet basic needs.

Angola and Mozambique (to a lesser degree) are both faulted for not mainstreaming land access into wider development goals by linking, for example, into more comprehensive development of social and physical infrastructure, credit, technical and marketing support programmes. The *institutionalisation of violence is evident in the way that livelihoods are threatened not only by the loss of land but also through the channelling – or withholding of state resources – that*

would support land-based livelihoods. These are shaped, in turn, by unequal power relations. Mozambique's new Land Law (see Chapter Five), for example, opens up many opportunities for family producers in the rural areas (Chapter Six), but it cannot be assumed that everyone is able to take advantage of these. For one, *land access and tenure problems are part of complex of a range of impediments* such as lack of access to agricultural inputs, collapse of infrastructure and markets. Low productivity by the 'traditional' sector in turn feeds into government discourse which, in perpetuating a dualistic view of agriculture, gives most of its support to the 'modern' sector of agriculture. As was shown in both Chapters Five and Seven, vulnerability is based not only on poverty, but also on powerlessness – lack of knowledge, illiteracy, poor education, lack of infrastructure, gender – all combine to reveal the disparities in access and entitlement to resources that exist between households and individuals.

In neither country is there evidence that the necessary linkages between land access and other programmes to deliver basic infrastructure (based on a thorough understanding of livelihood strategies) have been put in place: support for agriculture in terms of capital and equipment, agricultural extension services plus technical and marketing support are inadequate or absent, coupled with inadequate rural infrastructure (roads, markets, banks), frustrate attempts to optimise the promise of building secure livelihoods and reducing poverty. In Angola there are, furthermore, very real fears that the lack of inputs form government (such as no extension services, no experimental stations or support to bring in necessary inputs) or access to loans to develop land, could translate into a lack of cultivation by communities, and this in turn could provide justification for government to take over 'unutilised' land – in other words, an excuse for land grabs.

Actor networks – the central role of interest groups and politics

A more precise analysis of how land tenure is embedded in social, cultural and political relations is one that is situated with reference to relations of inequality. When examining "the type of social and political relations in which land is situated, particularly with reference to relations of inequality – of class, ethnicity, gender and age" (Peters, 2004: 278) it is evident in both countries that *it is the wealthy and powerful who are able to make the necessary investments in 'social networks'*. These are usually military personnel (as evidenced in Angola, most notably the case study on Humpata, and the Mozambican case studies of Matola and Cabo Delgado) or the politically well-connected elite (Marracuene case study in Mozambique; Huíla

study in Angola). The losers are the poor – those who do not have the education, knowledge or political connections to negotiate and secure their rights, women (who are often doubly disadvantaged by both formal and customary systems), and the regionally marginalised (for example, rural peasant farmers in the interior in Angola, or those in the central and northern provinces in Mozambique).

There are *several historical factors that have acted to influence how power and resources have been allocated in Mozambique and Angola* – such as pre-colonial and colonial histories and the role of external agents (Fandrych, 2005). In both countries the basis of elite social power has long been a sense of 'distinction', these groups presenting themselves as the best qualified sector of the population to bring development. This opens the way in all sectors and at all levels for political and economic interests to impede the implementation of pro-poor policies and for elite interests to prevail in access to and control over resources. *These entrenched patterns of power continue to influence how entitlements to resources are distributed – reflecting and masking other forms of struggle* (Peluso and Watts, 2001). Collelo, (1991: 3) explains how the colonial system in Angola "created a dichotomy among the African population that corresponded to that of the Portuguese social structure – the elite versus the masses. Within the context of the burgeoning nationalist struggle, competition developed between the small, multiracial class of educated and semi-educated town inhabitants and the rural, uneducated black peasantry that formed the majority of Angola's population". As is the case also in Mozambique, the strata of society established by the Portuguese colonisers has repercussions today for these societies (Chabal, 1998). In both countries, today's elite are mainly the former *assimilado* (some of whom are the *mestiço*s) and who formed the new nationalist leadership in the post-independence period (see Chapter Five – 5.1.1). *In Angolan society it is evident today that points of cleavage are regional, rather than ethnic, and the roots for this are located in the stratified concept of society imposed by the Portuguese, who remained for the most part in the coastal areas. This ideology has been incorporated into, and continues in current Angolan society.* Lines of cleavage that were created during colonialism have been incorporated into and continue in current Angolan society, further entrenched through various forms of access to and control over resources – most notably oil and diamonds, but also land. *Similarly, in Mozambique explanations for the patterns and regimes of accumulation are to be found in the convergences of culture, power and political economy. Some of these have historical roots, such as colonialism and the social inequities established at the time which today are the basis of elite*

social power and the sense of distinction that Frelimo is seen to assume. (See Chapter Seven – 7.6.4). "In Angola and Mozambique, the resentment of the rural people toward an urban elite of partly mixed-race that controlled economic and political power contributed to the emergence of conflict in the two countries" (Draman, 2003: 11) – a viewpoint echoed by Porto (personal communication: 2005): "…many of the reasons for the Angolan civil war can be found in the type of social structures created by colonialism". Today the cleavages between the elite – the *assimilado* – sitting in Maputo or Luanda and their rural constituencies are still strongly evident.

A trend across the region is the development in the last few decades of *alternatives forms of governance in which patronage systems are linked into extensive transnational networks resulting in a greater reliance on foreign firms and intermediaries.* This was illuminated in the Angolan case study (Chapter Six) with reference to the rise of former and new fazendas (large farms or plantations) in the coffee growing areas of the Central Planalto. *External development inputs as well as foreign investment tend to benefit elite networks, both in terms of economic wealth and political power, often paving the way for corrupt exploitation of valuable natural resources.* Angola's elite has a huge patronage system linked back into the oil industry. In both countries there is growing evidence of the role that Chinese companies are playing (for example in the 'raping' of Mozambique's forests), and often with the complicit support of the local elite. South Africans, and other international investors, have played a role in the growth of Mozambique's tourism industry (Inhambane, Cabo Delgado, and Maputo Elephant Reserve case studies) – and in so doing have been a party to many of the land conflicts. In the case of the American, Blanchard, it has been noted that his close links to (former) President Chissano played a role in securing his dealings in southern Mozambique – as was illuminated in the Matutuine case study.

Mozambique and Angola both have a long history of *highly directive top-down governance and of patronage networks* – where a small, select few benefit, and enormously in Angola's case. In Angola, corruption and inefficiency of poorly functioning government institutions characterise a political network that expands outward (from the presidential centre) into society in concentric clientelistic circles; an economic network, financed by oil revenues, that ensures that some grow enormously rich while others barely survive; and a military/security network linking the commander-in-chief to the soldiers and security officers that have ensured the survival of the regime. In Mozambique the basis of elite social power has long been a sense of 'distinction', Frelimo widely thought to see themselves as the best qualified sector of the population to bring

development. *The rapid process of privatisation has further enabled an elite group to acquire extraordinary wealth and to use this wealth to reinforce and consolidate political power*. The effects of hierarchical and non-participatory government in Mozambique continue to impact on the governance choices people make and in particular the way they implement policies (Spector *et al.,* 2005). Africa Watch calls it 'democratic minimalism' (Ostheimer in Vaux *et al.,* 2006) with political and economic power highly centralised within a group that has substantial predatory interests in relation to the state. Patronage networks are widely endorsed in Mozambique, mainly because they do not necessarily impoverish all, working their way through a network of beneficiaries that may go all the way from the provincial director to the local chief. What they do, however, is to marginalise some, and in most cases it is those who cannot read and write. The recent reinstatement of Community Authorities also serves to strengthen the power base of the state among pivotal rural communities, reinforcing patronage networks.

8.2.4 Environmental processes

Understanding the environmental processes by which some factors become causes of violence is a key element in the political ecology framework applied in this thesis. It looks to the causal powers inherent in nature itself – not only at environmental scarcity, but also abundance and resource wealth, environmental change associated with the human transformation of renewable resources, environmental enclosure and forms of conservation and preservation (Peluso and Watts, 2001: 26).

Conservation and nature tourism

> "Ecology is of direct concern to the world's poor, in a way that it isn't to the world's rich" (Dasgupta, 2006: 5).

Conflicts are often more than just a struggle for land – they are over the means to exploit resources – forests, minerals, wildlife – and these are indicative of the close links between nature and capital and the application of discourse that call for the sustainable management of 'capitalised nature' (Escobar, 1996). Environmental processes such as conservation also play a key role in constituting the political economy of access to and control over resources. The findings of Peters (2004), which elucidates the *influence of environmentalism in development and the resulting renewed efforts to demarcate conservation areas*, is evident in Mozambique where there is a growing interest in game-based tourism and eco-tourism, many as public-private or community-private ventures, but not all of which have positive outcomes because,

inter alia, of a poor consultation process. A lack of clarity over local rights is also a major issue here.

Interest in land for commercial purposes is growing in both Angola and Mozambique – land in urban areas for housing developments (see Chapters Three – 3.1.6; Six – 6.5.4; and Seven – 7.5.4), and in rural areas for commercial agriculture and cattle grazing (Chapter Six – 6.5.2-3; Chapter Seven – 7.3.1 and 7.5), but also in Mozambique for conservation of wildlife, forestry, and for ecotourism (Chapter Seven – 7.5.1-3). While environmental protection is an integral part of the development process and cannot be considered in isolation of it (Elliot, 1998), a post-structural political ecology approach has served in this research to show how *the discourse of sustainable development brings out its mediation between nature and capital: of how to make the most out of nature and 'resources', but with little understanding of how development can damage*. Examples have been presented of the limited respect for the environmental damage that can result from unchecked development, that is, from the use of resources in a way that creates wealth for a few, but in so doing greed and overuse destroy the value of that resource. Less well understood and appreciated are the social, economic, and cultural costs to poor communities from the loss of access to natural resources. These are not clearly perceived and generally not well understood, as is the case along the resource rich coast of Mozambique which is experiencing many threats to its flora and fauna (Chapter Seven – 7.5.3).

There is growing awareness of the economic value of nature tourism in Mozambique, the benefits of which are not always shared, too often accruing to those who are politically connected while poorer communities experience an erosion of natural-resource based livelihoods. Furthermore, long-term environmental damage threatens to erode the economic value of land and landed resources. Such actions are indicative of a failure to consider security of the environment as valuable in its own right and not merely as a set of risks, and as a crucial component of human security, with interest in promoting the tourism industry outweighing concerns over the vulnerability of the poor. Land is only valuable if the environment is protected and people benefit, its value rooted in a belief that land other natural resources cannot be seen in isolation of each other and of society but land is often viewed as a resource that carries a valuable long-term return because of its inherent financial value. This viewpoint, often framed in a discourse of 'sustainable development' that is about economic growth and the preservation of the environment, is really about making the most out of nature and 'resources' – "nature is reinvented as environment so that capital, not nature and culture, may be sustained"

(Escobar, 1996: 49). This is rooted in a notion that nature can be managed. Many of the tourist ventures (such as Cabo Delgado, Inhambane, and Ponto de Ouro) in Mozambique (Chapter Seven) reflect such attitudes – capitalising on the environmentally rich biodiverse regions in the south and all along the coast, while attention to protection of the environment is secondary. Environmental problems abound with deliberate and careless exploitation of the natural environment taking place, in forestry areas and in rich marine reserves, undermined by economic interests that predominate. All along Mozambique's coast where tourists are beginning to flock there are examples of over-fishing and of marine reserves being severely damaged. The processes by which this happens can be identified in both institutional weaknesses and also in deliberate acts of government officials, in which case it is often not a matter of lack technical capacity or resources, or even of political will, but a conflict between public responsibilities and private interests. *A deeper analysis reveals how the environment is viewed – as a resource to aid development, as something out there, separate from humans and as just another special interest, a "supposed thing" out there which requires protection and for which technical fixes are promoted.* If one understands the notion of the environment to include humans, then the way we define problems alters and we arise at a reformulation of environmental security in terms of human security, and one which draws on the insights of ecological security.

Corrupting power of oil

The findings on Angola (Chapter Six – 6.6.3) have also shown how *specific resource environments such as oil and minerals are constituted by and constitute the political economy of access to and control over resources. The corruptive role of oil and diamonds is a significant factor in Angola* – a small elite in government has control over these resources, has no will to ensure broad-based development – focussing on their own urban-industrial interests – and is able to act with impunity to ensure that patterns and regimes of accumulation are not only maintained, but strengthened.

Angola is an enormously rich country with an enclave economy centred on oil and diamonds, but its wealth has contributed to problems which are inhibiting broad-based economic

development. Land and resources, in the eyes of the elite, are but another route to riches. There is a strong emphasis on growth, adoption of neo-liberal policies, and strong linkages to transnational capital[111], but what distinguishes this country is the degree to which growth and greed are pervasive in all areas. It is most especially evident in Luanda, in the mining areas and in resource rich agricultural (coffee growing or cattle grazing) areas (see Chapter Six). Growing inequity is the price for a technocratic vision of development and the apparent lack of political will to bring a balance between equity and growth. Part of the explanation for this is to be found in *the corrupting – "socially polluting" – property of oil, of how "Violence in and around the environment is profoundly wrapped up with the properties of that which is exploited" (Bobrow-Strain; 2001: 212).* This is what Peluso and Watts refer to as *the transformative power of the resources.* The problem is most appositely stated by Munslow (in Marques, 2002: 14): "[the] country's wealth is so vast as to make it impossible to create a strong enough commitment on the part of the international community to encourage the adoption of a macroeconomic stabilisation programme which would restore the economy to the eventual benefits of its people. Mineral wealth has corrupted the decision makers".

The Angolan context is very different to that of Mozambique's where the budget is heavily financed by the international community and for whom compliance with 'international concerns and policy recommendations' are their only means of survival. Not having the resource wealth of Angola, Mozambique cannot afford to ignore the wishes of the international community or of its electorate. It has made remarkable progress in the last 16 years, although its new wealth and progress seems primarily to be concentrated in and around the capital Maputo and much of the growth is linked to the development of highly intensive 'mega' projects.

[111] A welter of multi-billion dollar projects to rebuild Angola's devastated roads, airports and administrative buildings are part of a post-war reconstruction boom that is changing the face of the country. Much of the development has been dependent on oil-backed commercial credit agreements from countries such as China. But these loans tend to be larger, more expensive and less restrictive than money Angola could potentially receive from the International Monetary Fund (IMF) or other donors. Analysts say that Angola's windfall oil profits have strengthened its hand (UNIrin, March 2007). The Angolan government is once again making the most of exploiting to full advantage the current geopolitics at play.

8.3 QUESTION 2: THE LESSONS FOR COUNTRIES EMERGING FROM PROTRACTED CIVIL WAR

Drawing on the preceding section, as well as the issues presented in Chapter Three that illuminate the centrality of land in a post-conflict environment, the key points emerging from this thesis are summarised below. Countries emerging from war face particular problems as regards land-related conflicts. In both Angola and Mozambique, the challenges of meeting the needs of millions during the initial period of return, resettlement and integration, were enormous. Land issues between communities proved not to be as contentious as many had assumed. Peacebuilding (see Chapter Three), rooted in broad-based development, has proved to be a great deal more challenging. It means moving beyond saving lives to saving and building livelihoods while at the same time building a durable peace in which the causes of conflict are diminished and incentives for peace are strengthened. Furthermore, it requires establishing 'positive peace', which is "more than the absence of violence; it is the presence of social justice through equal opportunity, a fair distribution of power and resources, equal protection and impartial enforcement of law" (Miller, 1994: 2). The following are issues that this thesis has identified from the case studies of Angola and Mozambique, as lessons that would be particular to countries emerging from such protracted civil war.

Vulnerability is compounded by conflict making it difficult to respond to opportunities

The application of a modified SL framework has illuminated how vulnerability is determined by the interplay of a combination of several factors and how cumulative and interacting stresses intersect and interact to influence both outcomes and responses to change, undermining the ability to respond to current and future change, thereby perpetuating vulnerability. Furthermore, the crucial concepts of social and political capital, and of differentiation, applied in a livelihood framework, provide a nuanced understanding of the differences in power and voice.

Poverty – endemic, extreme and long-term (see Box 8-1) – and vulnerability are critical elements in the relationship between violence and land as a resource. It has been shown in Chapters Five, Six and Seven that vulnerability is determined by the dynamic interplay of a combination of several factors. Angola and Mozambique have both experienced protracted and violent civil war, which have severely impacted levels of vulnerability. *Conflict (see Chapter Three) undermines development strategies, erodes the capacity of state institutions and deters private investment, domestic and foreign. It also has devastating effects for communities that*

are displaced and who lose control over their lives and livelihoods. **Displacement of large numbers of people leads to new forms of vulnerability such as hazards in new urban environments.** Among those who suffer most are, for example, returning IDPs who are extremely vulnerable, having lost most of their financial and physical assets and have few options other than use of natural resources; the poor in urban areas who have no security of tenure because of the rapid levels of urbanisation and lack of formal planning that took place during the war; and women, the incidence of poverty in female headed-households being much higher than in male-headed households (Addison, 2003).

With the ending of war, opportunities for growth and development open up. For the poor in Angola and Mozambique land access and security of tenure are a safety net and critical to building sustainable livelihoods. However, it has been shown how *cumulative and interacting stresses undermine the ability of the poorest and most vulnerable sectors of the population to respond to current and future change, thereby perpetuating vulnerability.*

Box 8-1: Livelihoods and vulnerability

Livelihoods are determined to a large degree by contextual factors (vulnerabilities/conditions/trends) operating at different levels, from local to global, that are either enabling or create vulnerabilities depending on the dynamic interplay between these various factors: economic, institutional, political, social, natural and the built environment. There are many factors taken into consideration that include both 'root' causes and more recent processes. Vulnerabilities are endemic among the poor; there are also extreme vulnerabilities, for example to natural disasters and to those caught in war or internal conflicts, and there are cases of long-term vulnerability – 'creeping vulnerabilities' (Liotta, 2005).

While land issues sometimes take the form of violent conflict or threats, **it is the insidious and creeping vulnerabilities that underpin environmental security as opposed to a clear case of conflicts.** The negative impacts on livelihoods are not always immediately obvious, but are experienced as 'creeping vulnerabilities' characterised by their complexity and non-linear unpredictability (Liotta, 2005). **Causes and effects of tensions and vulnerabilities are multi-dimensional.** Both Angola and Mozambique are extremely poor countries characterised by deep structural poverty. The endemic and chronic vulnerability seen in these countries are the consequence of many factors, among them their colonial history and war of independence, of protracted and very destructive civil war, of poor governance and corruption, environmental hazards, institutional factors and of globalisation – that operate at different levels from local to

global.

In Angola multiple livelihood pressures have presented over the years and conditions remain extremely harsh, a number of factors hampering recovery and development. Subsistence farming remains the main livelihood strategy for the majority of rural Angolans, and food insecurity is widespread. Approximately 40% of the population live in urban areas, most in the peri-urban *musseques* where they suffer many aspects of extreme poverty, health risks, and poverty of powerlessness. Recent flooding and associated outbreaks of cholera have accentuated levels of poverty and vulnerability.

Mozambique, one of the poorest countries in the world with 54% of the population living under poverty, has over the past 30 years suffered violent conflict during the fight for independence and the civil war, natural hazards, and most recently, the devastating impact of HIV/AIDS. Mozambique is an agriculturally based economy in which land and natural resources occupy a central position in the livelihoods of the majority of population. Rapid urbanisation, much of it during the war, resulted in an expanding belt of squatter housing and mass poverty in the main urban areas. Such high levels of poverty and vulnerability illuminate the importance of land as an asset for building secure livelihoods, of the importance of security of tenure and of effective land management. When land laws, policy and the institutions that implement these fail to address the needs of the poor, then the likelihood of deepening poverty and long-term vulnerability are much greater.

Poverty and hazard vulnerability are integrally linked and mutually reinforcing, the poor far more vulnerable to negative environmental changes (UN/ISDR, 2002). In both countries environmental hazards such as flooding in Angola (see Plate 6-3, page 177) and cyclones in Mozambique (see Plate 5-4, page 134) are presented as examples of the levels of vulnerability in urban and rural areas (respectively). Poverty and social and economic pressures, such as migration, unemployment and the informal land tenure practices that developed during the war, “make people more vulnerable by forcing them to live in dangerous locations, often on unsafe land and in unsafe shelters or low-cost dwellings, because there is no other land available at a reasonable cost sufficiently close to employment opportunities” (*Ibid:* 9).

The rise of opportunism in a dynamic and fluid situation.

Land quickly attains a value it did not have as access to land plays an important role in recovery and as countries open up to market forces. In Mozambique (Chapter Seven), post-war land acquired value as a productive capital asset, becoming available to national urban elite and other investors at virtually no real cost (Tanner, 2001). The state was liberal in its response to perceptions of 'free land', and quickly began to privatise the state farms with multinational corporations. As demands for land rose from new investors, the number of conflicts began to grow. This process of some of the best land being occupied or claimed continued for some years, threatening livelihoods in many areas (Ibid).

In Angola, land grabs began to increase in the last few years of the war and have continued since 2002 with increasing frequency (Chapter Six). Illicit land seizures by member of the armed forces and government officials have occurred amidst disturbing levels of impunity. The process of approving the new Land Law (see Chapter Five) was marked by accusations that there was a strong sense of urgency on the part of government to secure by law its past illegal land grabbings (Palmer, 2003).

Dealing simultaneously with equity and efficiency

Strong private investment is critical to recovery, but the "relationship between the post-war private sector and the state must be set within a framework that protects the public interest and defends the poor" (Addison, 2003: 3). However, *balancing equity and growth is a problem that is particularly difficult in a post-war environment* because of factors – evident in both countries – such as the rush to spend significant resources in a short period of time, often at the cost of prudent administrative procedures; the focus of investment in public works and construction (the sector most prone to high-level extortion and bribery), and the absence of transparency and accountability, that characterises post-war environments (Galtung, 2003). With peace large amounts of fungible money has been pumped into both countries by the donor community and transnational capital seeking new investment opportunities, and in so doing it has created massive opportunities for embezzlement and theft. There are also pressures for economic investment and government reconstruction programmes, especially in the urban areas.

The push towards markets in urban areas of Angola and Mozambique has been shown (Chapters Six and Seven) to have serious and detrimental effects on the livelihood opportunities of the

most vulnerable segments of urban populations (Jenkins, 2001; Jenkins, 2003). In a post-war urban setting rapid growth and development follows closely on the heels of peace agreements and results in the natural process of increasing demand for land, sharply rising values of land and growing pressure for an active land market. It is the market forces and the growing commodification of land in the urban areas that is the main area in which the tensions between equity and efficiency are playing out. In Luanda, the poor are being pushed out to the peri-urban areas to make way for huge new developments, the beneficiaries of which are the elite and their partners forged through joint venture, state-private partnerships, where foreign capital is invested to upgrade services that significantly increase the value of the land. There seems to be no interest in ensuring fairness in the implementation of policies: the marginalisation and further impoverishment of the poor in all these processes appears to be an acceptable consequence of "growth and development", while provision of shelter and livelihoods for the majority, and reconstruction and upgrading of peri-urban areas, is all but ignored. Conflicts have become increasingly common and no less ugly, occurring between state officials and the communities that have been forcibly removed. People have been physically abused, but also seen their homes and possessions destroyed; the more long-term effects are felt as they have been pushed into the peripheral areas, with no compensation for their loss of home and land, and often into areas where vulnerabilities increase. In Maputo, having no title (as in Luanda), the poor who have been settled here, most for well over 10 years, are highly vulnerable to the vagaries of opportunistic developers seeking to build the increasingly popular 'walled-condominiums' that are becoming so popular as the city experiences massive growth. While there are the 'good faith' provisions of the Land Law (occupation of ten years or more), these are difficult to apply and defend in the case of the poor (who may not know their rights or be able to defend them) and are not 'recognised' by elites.

Civil conflict results in much reduced administrative and institutional capacity

These issues are examined in more detail under the section on Governance (8.2.3), (and also in Chapters Six and Severn) so are only summarised here. In Angola the ability of the state to function effectively during war was significantly weakened, and its power and penetration reduced in areas beyond the capital, Luanda. There is now little confidence in the capacity of Angolan state structures – juridical, regulatory, fiscal, cadastral – to perform the devolved responsibilities that are envisaged by the new Land Law or to resolve land disputes. Outside of Luanda, central government is represented through provincial delegations, but their institutional

weakness leads to the continued centralisation of functions in central government (Jenkins and Smith, 2003). The mandates of certain ministries overlap, and there have also been tense and poorly defined relationships between provincial and central level institutions.

Mozambique has made considerable progress in its efforts to establish institutions that are accessible and have both legal backing of local land rights and social legitimacy, but historical problems linked to years of war continue to affect the urban areas in particular. Informal institutions and organizations that continue to govern land use and management in urban areas may have social legitimacy but, not having the legal backing, they sow confusion and this opens the door for corruption and opportunism. Problems of dual subordination and institutional fragmentation remain problematic, while inadequate capacity to administer the new Land Law is a fundamental constraint.

Tenure security is often compromised because of loss of social and political capital

There are many indications in both countries, but Angola in particular, of *the politics of producing violence through exclusionary practices, evident in how differential access to power and resources remains obscured.* While the legislation presents as being equitable, it is the lack of access to information, to knowledge and even basic education/literacy, documentation, to the justice system, that so often act to reinforce unequal distribution.

Mozambique and Angola present examples of the power of knowledge. On the one hand there may be exclusion of specific groups from the information dissemination environment, while on the other those who are informed and knowledgeable about changes that are underway in tenure systems in a post-conflict environment are well-positioned to pursue opportunities presented by the changed circumstances. This is particularly true for those who are more educated or with state connections, or in leadership positions within customary systems (Unruh, 2004b). The politically well-connected and those in military positions in Angola have been able to use their positions to access valuable resources – even before the end of the war, in the immediate aftermath of peace negotiations, and subsequently (see Chapter Six). In both countries, holding public office allows incumbents to position themselves to use state bureaucracies and procedures for their own benefit, and to capitalise on transnational networks. Such neo-patrimonialism, which views patronage and corruption as ‘par for the course’, serves to marginalise, but also to silence resistance (Klopp, 2000 cited in Peters, 2004).

An important consideration is that protracted war dramatically reduces levels of education and literacy, and in both countries popular participation in decision-making processes is limited by high rates of illiteracy – some 66% in Angola and 48% in Mozambique. Most Angolans have little or no knowledge of the law and their legal rights to property and access to information is still limited and they therefore stand little chance of standing up to powerful public representatives. An example was given in the case of Angola (see Chapter Six) in which people are taken advantage of because they do not know their rights: IDPs were being used to clear land for generals without any remuneration, and while there are many employment opportunities stemming from the *fazendas*, (commercial farms) there are no frameworks in terms of labour legislation, and no trade unions. Such was the case during the colonial period when labour and land legislation acted in concert to deprive people of their livelihoods – a trend that seems now to be re-emerging. There continues to be considerable confusion about what constitutes a legal title capable of standing up in a court of law. Under Angola's civil code, even if the owners of the land are without title, they are believed to occupy it in good faith and have rights, but, as evidenced by the evictions in Luanda, these basic rights have been ignored because the Land Law does not take into account *usufructus* or traditional property. While the new law seems to make it easier for the relatively well-off to secure urban housing property rights, it increases the vulnerability of disadvantaged communities as it does little to address the issue of land held informally, and the 3-year time frame for registering title is considered unrealistic given the widespread lack of knowledge and access to resources.

In Mozambique the new law and its instruments are considered an excellent example not only of making new laws to regulate and achieve socially just objectives, but also of using new legislation as a powerful new development tool. Nevertheless, and in spite of the highly successful information campaign, knowledge of land rights remains limited. People know a lot about their rights in the customary context of day-to-day life, but know very little about the rights they have under the new natural resource laws and know even less about how to defend these rights. As in Angola, knowledge is far greater where there is, or has been, a strong presence of NGOs.

The high costs of litigation and ineffectiveness of the judicial system in serving the poor is not only exclusionary in effect, but contributes to silencing corruption. It is in these areas where we see that land legislation and the processes of implementation act to accentuate wealth disparities, capitalising on poverty. It begs the question of whether the real intent of the law and

the economic agendas behind land issues are designed to favour a narrow elite, and not, as is usually claimed, to reduce disparities.

Political sustainability of inequity

This thesis has identified the very positive and constructive role that NGOs and civil society organisations have played in Angola and Mozambique, informing and assisting communities about their land rights (see Chapter Five – 5.7.1, 5.10.2, 5.11.2; Chapter Six – 6.7.3 and Chapter Seven – 7.6.4). In Mozambique locally based organisations and international NGOs assisted in increasing people's knowledge of land rights, the legislation and consultations with external investors. In Angola, a few activist civil society organisations have come from a rights-based position fighting for land rights and against forced evictions, with varying degrees of success. The violent confrontations that have occurred in Luanda are as a direct result of civil society actions and the support they have garnered support from (international) NGOs. Without their actions, and the responses to these events by the international NGO community, the behaviour of the authorities in Angola may well have gone largely unnoticed. Nevertheless, coming out of a period of protracted conflict during which there is typically a shrinking of civil society and the resurgence of primordial, rather than more inclusive, conceptions of nationhood and citizenship (see Chapter Three), it is evident in both countries that civil society organisations are still weak (see Chapter Six and Seven). Most civil society organisations are poorly developed in Mozambique although the construction of a democratic culture in Mozambique is slowly developing; in Angola, popular participation in the conduct of public affairs (and Government accountability to the public in turn) is generally very weak , inhibited by the country's high illiteracy levels, and the climate of prohibition and control that has prevailed. The effectiveness of civil society in assisting poor people to pursue their land claims and gain access to and make effective use of land is strongly mediated by the broader political environment – most especially in Angola. Many constraints are imposed on the activities of these bodies by powerful state officials, curtailing the supportive and advocacy positions that they could potentially play in the broadening of environmental issues into claims for livelihoods, entitlements and social justice. This is most evident in the case of SOS-Habitat in Angola (see Chapter Six) and is factor contributing to the sustainability of inequities and injustices. *The political sustainability of inequities* is an issue that comes out strongly and it adds another dimension to concerns around long-term vulnerability. That the elite are able to act with impunity in the name of growth and with the "blessing" – or apparent indifference – of the international community suggests a

number of explanations that are rooted in local-national-global connections. Theoretical premises made about the role of civil society and social norms concerning the environment as a security concern deserve more attention.

8.4 THE VALUE OF THIS RESEARCH

This research does not pretend to be politically "neutral". Rather it is contented that the value of a contextually embedded approach, which permits a realistic analysis of the political, economic, institutional, social and cultural factors, has more appropriate results than one that professes objectivity. The findings in this thesis for the main mirror those that have been identified by other researchers adopting a politically nuanced approach that focuses on the relations between nature and its users, which show how *environmental processes constitute and are constituted by the political economy of access to and control over this resource. Institutional transparency and accountability, which is crucial for equitable land allocation and management* (Dohrn, 2006), *is lacking in both Angola and Mozambique, contributing to many of the land problems.* The relative autonomy of institutions should not be assumed for "they are political constructs *reflecting* rather than *forming* underlying and more fundamental orders" (Underdal, 2007: 4).

This thesis has demonstrated the *complexity of the linkages between land, livelihoods and conflicts.* It establishes that *violence takes many forms*, and that more attention should be paid to vulnerability arising from the day to day insecurities that are so evident in these two countries. There are also cases of long-term *creeping vulnerabilities* – especially as they so easily go unnoticed, unlike threats that are identifiable, often immediate and require an understandable response. These are evident, for example, in increasing urbanisation and the peripheralisation that accompanies it; in environmental damage arising from insufficient attention to those environmental concerns related to development projects. Investments are needed and are to be welcomed, but properly managed these need not translate into uneven development with unequal distribution of benefits and losses.

It is acknowledged that the potential for land-related conflicts and disputes is a product of the ways in which access to land and uncertainty and inequity over land tenure and ownership support or threaten livelihoods, but how tensions manifest themselves depends on the intervening roles of ethnicity, class and gender – the differential impacts – coupled with political opportunism when groups mobilise. While it is acknowledged that poverty and inequity are linked to violent conflict, there is neither an immediacy of conflict nor can

inevitability be assumed. The linkages can only be understood by looking through a much larger framework – integrating economic, social, and cultural issues – and also by recognising the role of civil society (and individuals sometimes) in overcoming the potential for violence through constructive engagement. The crucial concepts of social and political capital, and of differentiation, applied in a livelihood framework, provide a nuanced understanding of the differences in power and voice, and the disparities in access and entitlement to resources that exist between households and individuals. It doing so it "sheds light both on the complexities in society and livelihood strategies, and on the dynamic interactions of conflict and cooperation, bargaining and negotiation, relative power and powerlessness that define social relations" (de Satgé, 2004: 24). It also emphasises the role of external interventions, whether they are organised by the international community, regional or national governments, NGOs, or the private sector.

The central ideas that are explored illuminate the value of an approach that emphasises a more interdisciplinary and integrative approach that sees environmental security as a crucial component of the broader concept of 'Human Security' – it identifies the individual and, by extension, the collectivity as the referent object of security. This includes an analysis of how entitlements are possessed or gained, distributed, reproduced and fought over in the course of shaping, and being shaped by, patterns of accumulation; of the vectors that shape the environmental process; of the erosion of natural resource-based livelihoods, lack of incentives for sustainable development, global trends and excessive resource dependence, weak governance, corruption, and lack of economic opportunities. It also calls for an attempt to understand how social and political framings are woven into both the formulation of scientific explanations of environmental problems, what drives and sustains environmentally related conflicts, and the solutions proposed to reduce these (Forsyth, 2003; Longergan, 2002).

8.5 AREAS FOR FURTHER RESEARCH

What this research his highlighted is that:

i) conflicts are at times an integral part of the transformation of land tenure systems and not necessarily to be viewed negatively; that ii) land issues have risen rapidly up the political agendas of governments and we need to understand the strategies of the shifting, recombining and constantly negotiated practices that various actors play to ensure that inequity and violence are politically sustainable, and iii) the need for analysis to include under what conditions

effective mobilisation is able to challenge inequitable access to land and growth opportunities stemming from land resources.

This research topic could be enriched by exploring some of the following issues:

- Violence takes many forms: vulnerabilities, unlike threats, are not clearly perceived, often not well understood, and often camouflaged. Research is needed to understand the environmental processes and the roles that various actors play to that ensure that inequities are politically sustainable, and what makes them so.
- Cotula *et al* (2005) note that in many areas the processes which cause disputes over land to turn into violent clashes are not fully understood. Future research, they suggest, should look at the circumstances under which competition descends into conflict and what tools are most effective at reducing conflict. Local initiatives have often proved successful, but a larger scale approach is required to tackle the root causes of the problem. It is proposed that research on the dynamics leading to conflicts – and which are not necessarily bad – could be taken a step further. As this research has shown, not all security issues need be directly linked to violence: the notion of creeping vulnerabilities is as serious to more peoples and some regions. The linkage of vulnerabilities to violent outcomes is not at all clear at present. Research is needed to explore the 'tipping point' at which these become exposed and more specifically to look at what role civil society plays in this.
- Research showing the linkages within a country between different resource environments, for example the corrupting impact of oil and how this in turn affects access to and control of land and other natural resources.

Final reflections

Countries emerging from protracted and violent civil conflicts face enormous challenges of peacebuilding, but also "opportunities to recast social, political and economic bases of power" (UNCHS, 2003: 57-8). There is no 'technical fix' for poverty: implementing strategies to address poverty and inequity necessitate looking 'at the politics of it all'. If they create a world in which all that matters is profit, in which there is separate development for separate economies and the most poor and most marginalised are excluded, then what is created is a world that is harsher and more dangerous for all – a world devoid of human security. Everyone needs to work towards an inclusive economic order; securing rights in clear and inclusive ways will lay the foundation for ensuring broad-based development. The issue goes beyond this, however. Implicit in the term "human security" is that it prioritises the urgency of achieving freedom from fear and freedom from want; it also implies moving beyond a needs-based focus, to a rights-based focus. The potential for building human security exists in Mozambique. In Angola where the new Land Law has introduced quasi-constitutional rights, security is neither more human nor more sustainable and although levels of social exclusion are high and there remains

an incipient threat of (localised) violent conflicts, these remain politically sustainable. Collective action by civil society remains an important strategy.

> "…strong local capacity, and open and broadly based policy dialogue, carefully chosen and evaluated pilots, and sharing of experience across countries will be essential, and can also help build capacity for policy formulation (Deininger 2003, cited in Daley and Hobley, 2005: 43). [However,]...*the fundamentally political nature of any transformation of land rights means that engaging with processes of land policy formulation and implementation in developing countries must also be a political process. It must therefore also be part of broader thinking about how to engage with issues of poverty and power*" (Daley and Hobley, 2005: 46). (Emphasis added).

Angola may have the most economic potential for future growth, but it also has the most serious obstacles to progress. Mozambique is still one of the poorest in the world, but has made impressive strides. Perhaps the most telling comparative observation that can be made is the following: "Given a choice between being a poor peasant smallholder in Angola or in Mozambique, it is very likely that the latter would prove more attractive" (Kyle, 2003: 11).

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