

Research report

# Land and climate change: Rights and environmental displacement in Mozambique

Van Vollenhoven Institute for Law, Governance and Society (VVI)

Carolien Jacobs and Bernardo Almeida

## Colophon

This research report is one of the outcomes of a socio-legal research project titled ‘Avoiding conflict after the cyclone: Land rights and environmental displacement in Central Mozambique’, funded through a research grant by the Knowledge Management Fund of the Knowledge Platform Security & Rule of Law (grant number 19151\_2.1). In Mozambique, the Faculty of Agronomy and Forestry Engineering of the Eduardo Mondlane University provided support to the research, for which we are grateful. We would like to thank Luís Artur and Eduardo Castro Jr. for their support in this research in Mozambique. In the Netherlands we would like to thank Emine Gogus for her work on the literature review.

Contact: [b.ribeiro.de.almeida@law.leidenuniv.nl](mailto:b.ribeiro.de.almeida@law.leidenuniv.nl) | [c.i.m.jacobs@law.leidenuniv.nl](mailto:c.i.m.jacobs@law.leidenuniv.nl)  
| Van Vollenhoven Institute for Law, Governance and Society (VVI) | Leiden Law  
School | Steenschuur 25, 2311 ES Leiden | The Netherlands | | [www.vvi.leidenuniv.nl](http://www.vvi.leidenuniv.nl)

## Publisher

Van Vollenhoven Institute for Law, Governance and Society

## Design

Paul Oram

## Photography

Bernardo Almeida

© 2020 VVI/Authors. The analysis, views and opinions expressed are those of the authors and do not necessarily reflect the position of the sponsors or the institutions involved.

All rights reserved. Without limiting the rights under copyright reserved above, no part of this report may be reproduced, stored in or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise) without the written permission of both the copyright owner and the author(s) of the report.

# Research report Land and climate change: Rights and environmental displacement in Mozambique

## Executive summary

Mozambique is a country that is prone to natural disasters such as floods and cyclones. Climate change is increasing disaster risks. Resettlement is the major solution taken by the government to reduce the number of people living in high-risk areas. But how does such resettlement take place? Are people satisfied with their new places of living? Are they compensated for the loss of property and livelihoods they experience? And what about the people that were making use of resettled land before? This research report discusses these questions and shows realities on the ground. The report is based on a desk study of academic literature, grey sources, and relevant legislation, as well as empirical research carried out in Mozambique. We argue that there are some gaps that should be addressed in the legal protection frameworks, especially in relation to expropriation processes. To ensure that resettlement is a durable solution, people's longer-term needs in displacement should be addressed. For this, collaboration between humanitarian and development actors is required, as well as considerable resources. Finally, we recommend that close attention is paid to the relations between old and new settlers at resettlement sites to avoid tensions.

## 1- Introduction

In March 2019, Cyclone Idai hit the Southern African countries of Mozambique, Malawi and Zimbabwe with unprecedented strength. In the central region of Mozambique –the area most severely affected by the cyclone- the chaos was so intense that the city of Beira was disconnected from the world for weeks and on social media rumours passed that the whole city was swept away. Thousands of houses were destroyed by the strong winds, and satellite images showed vast areas of land completely flooded. As a result, thousands of people were displaced from their houses. In the city of Beira alone, more than 22 000 people had to be hosted in spontaneous accommodation sites spread throughout the city in the first few days after the disaster (IOM/INGC, 2019a). Climate experts were quick to send off warnings that, due to climate change, extreme weather events such as cyclones, high temperatures, floods, and droughts will become even more frequent in the near future. It is likely that certain areas in the world will become less hospitable places for people to live and adaptation measures, including the resettlement of people, are becoming high on states' agendas.

Extreme weather events such as Cyclone Idai result in many problems related to people's land rights, both in the areas directly affected by such storms, and in the locations where environmentally displaced persons seek shelter (Mitchell and McEvoy 2019). In the affected areas, the damage to houses and agricultural fields leads to the occupation of others' property; the salinization of pastures forces pastoralists to find new grazing areas; the destruction of land-marks and demarcations leads to boundary disputes; and the disruption of the local customary and/or state institutions for land administration leads to authority vacuums. In resettlement areas, other problems tend to arise, such as competition for land among displaced people; occupation of local owners' property; encroachment of public buildings and spaces; overload of public systems for land administration; and disruption of urban plans and policies. Besides the difficulties that these

problems create in people's lives, they also have enormous potential to ignite and fuel conflict, both in affected and resettlement areas, especially in contexts with weak and/or overloaded dispute-resolution mechanisms. These issues raise a number of questions: What do people think of displacement themselves? How are they resettled and how do members of host communities respond to them? How do they address land-related problems caused by environmental displacement, once the emergency aid organizations have left? What role do state institutions and legislation play in these problems, both in positive and negative ways, and can their performance be improved (Kolmannskog & Trebbi, 2010)? How do they deal with customary systems? And can a legal framework embrace a human rights-based approach to environmental displacement?

Using the aftermath of the Cyclone Idai in Mozambique as a case study, this socio-legal research report aims to provide a better understanding of how the dynamics of environmental displacement impact land rights and conflict, and the role of international and national legal frameworks in addressing land-related problems caused by this displacement. This report aims to: (1) increase the knowledge of lawmakers, policymakers, practitioners, and academics about the (in)adequacy of the Mozambican legal framework to address the dynamics of environmental displacement on the ground; (2) contribute to future improvement of the legal framework and to the decrease of land-related conflict; (3) provide the literature with a new case-study and findings about climate-induced displacement and conflict.

The report is structured as follows: The next paragraphs provide more information on the methodology that we used in the research. Section two deals with the nexus between climate change, environmental displacement, and land rights. Our review of relevant literature showed us that these fields of study are often treated separately, whereas the problems arising in the interface need to be analysed through different lenses at the same time. The following section provides more specific background on the Mozambican context. Section four sets out the relevant international and national legal and policy frameworks regarding climate change, environmental displacement and land rights. From there, we move to the empirical findings of our research in section five, structured around different phases of post-disaster recovery; emergency response, return/recovery, and resettlement. Section six provides further analysis of the findings and shows the polemics that surround climate-induced displacement. Section seven consists of the conclusion and some reflections and recommendations for different stakeholders.

## **Methodology**

This report is based on a six-month research project supported by the Knowledge Platform Security & Rule of Law. As part of the research we carried out a literature review of academic and grey literature as well as relevant legislation. Documentation was annotated and shared between the researchers in a Mendeley library.<sup>1</sup> This literature review provided the basis for a two-week field work trip to Mozambique in November 2019. The field work was divided into interviews with stakeholders and people affected by the cyclone and the response process that followed.

We interviewed 15 relevant stakeholders in Maputo and in Beira representing government agencies and national and international organizations working in the fields of climate change, disaster and/or land rights. Next to this, we carried out 39 interviews in Central Mozambique with people affected by the cyclone: The central Mozambican city of Beira has been described as the country's 'most

---

<sup>1</sup> We are very grateful for the assistance of Emine Gogus, as she carried out a large part of the literature review and set up a database in Mendeley.

climate vulnerable city' (Shannon, 2019: 4) and therefore was a good starting point for our empirical inquiries. In the city of Beira we interviewed 10 respondents living in Praia Nova, an informal settlement at the shore line that was severely affected by the cyclone and for many years classified by the municipality as a high-risk zone (expert interview 08). Others were living in Goto and Munhava neighbourhoods, two informal settlements also affected by the cyclone, but with less intensity. In addition we visited the Mutua Resettlement Site, located at about 60km from Beira, where people from amongst others Praia Nova have been resettled. At this site we carried out 15 interviews (11 individual interviews, 4 group interviews) with people coming from three different sites: Praia Nova; the area around the Pungue River Valley; and Mafambisse. Two other respondents had been living or cultivating in the area of Mutua prior to the resettlement; one of them was the local chief of the neighbourhood and the other was a resident who had to give away part of his lands to the resettlement site.

At the end of our trip we organised a roundtable meeting with 25 key experts and other stakeholders with experience in the fields of disaster and land rights. This meeting took place at the Faculty of Agronomy and Forestry Engineering of the Eduardo Mondlane University in Maputo. In February 2020 we organised a similar event in the Netherlands, where we discussed the issue of land rights and environmental displacement in more general terms, but with reference to Mozambique as a case in point.

Obviously, this report and the research on which it is based has a number of shortcomings. We were not able to thoroughly triangulate and cross-check all information that we obtained, given the short time spent in the field, at only two research sites. It is therefore difficult to assess to what extent our findings are representative for other cyclone responses in other parts of the country. We also had limited time to interview many representatives of government organizations and get a deeper knowledge of institutional arrangements and responsibilities. Therefore, we want to stress that the report should be read as an exploratory study, which at times raises more questions than it answers. We nevertheless believe there is value in sharing our findings to trigger further discussions, debates, and research.

## **2- The nexus between climate change, environmental displacement and land tenure**

The impact of human activities in the current progressive warming of the Earth's climate system in the last century is unequivocal (IPCC, 2014: 2; Wong, 2016: 31). The exponential growth of the emissions of green-house gasses since the pre-industrial era is pointed by scientists as extremely likely to be responsible for the progressive warming of the Earth's surface, and other effects such as the acidification of oceans (IPCC, 2014: 4; Wong, 2016: 42). As a result of climate change, natural systems are profoundly affected, which is manifested in current rising sea levels; glacier melting; desertification; and more frequent extreme weather events such as droughts, cyclones, and storms. The result is an increasing vulnerability of people to climate-related hazards, and lower adaptation to climate.

As a result of climate change, the number of environmentally displaced persons (EDPs) worldwide is rapidly increasing (Falstrom, 2002: 4).<sup>2</sup> In itself, population movement due to changes in climate

---

<sup>2</sup> It is arguable that there is difference between those displaced by climate change and those displaced by natural disasters that are not necessarily a consequence of climate change (Kolmannskog, 2012: 1071). However, this distinction is in practice difficult to disentangle, and for the purpose of this report – and most importantly for those affected by these events - it does not make much difference. Therefore, this report refers to environmentally displaced persons (EDPs) without making a clear distinction between these two possible causes of displacement.

is not a new phenomenon: it has happened since mankind. Yet, as argued by Warner *et al.* (2010), its scale, speed, and impact is growing and will be unprecedented. Although the relation between migration and climate change is at times difficult to pinpoint, and although the ways of quantifying environmental displacement are debated by migration researchers (Naser, 2012: 716), it is clear that environmental factors contribute to and exacerbate migration (Podesta, 2019; Walicki, 2008). Since 2008, the Internal Displacement Monitoring Centre keeps track of disaster-induced displacements. Their figures consistently show that the annual number of new internal displacements caused by disasters is much higher than the number of new displacements caused by conflict and violence.<sup>3</sup> In 2018 alone around 17.2 million people were newly displaced within their own country as a result of a disaster (IDMC & NRC, 2019: 6). Although predictions vary significantly, many more are expected to be displaced throughout the world in the following decades due to climate change, and this is likely to pose global governance challenges that need to be addressed internationally in a coordinated manner (Podesta, 2019).

The typologies of environmental displacement vary; displacement can be caused by slow and progressive climate changes, or sudden disasters; it can also be temporary or permanent, when the displaced persons have no possibility of return; it can be inside or across the boundaries of a country (Naser, 2012: 732).<sup>4</sup> Moreover, although climate change is a global problem, the impacts of climate change are not evenly distributed. The poorest and most vulnerable people are disproportionately affected and displaced by these environmental events, as they tend to live in more disaster-prone areas (Hellmuth *et al.*, 2007; IPCC, 2014: 13; Hallegatte *et al.*, 2016: 7, 93). Poor people tend to lose relatively more than richer ones when affected by a disaster, as precarious housing and a few easily perishable assets represent most of their savings and are easily destroyed by an extreme weather event (Hallegatte *et al.*, 2016: 9, 93). They are also more exposed to other consequences such as diseases, health issues, and have less coping capacities (Hellmuth *et al.*, 2007; Hallegatte *et al.*, 2016: 9). They might have less formalised rights over their properties, making it more difficult to claim compensation, and their limited tenure security might make people more reluctant to temporarily or seasonally move as they are less certain that they will be able to reclaim their land upon return (Hilton Prize Coalition, 2017). At the same time, poor people have less resources to enable their mobility (Borderon *et al.*, 2019).

One of the impacts of environmental displacement is an increase in land tenure issues, both in the areas from where displaced people flee and the areas where they seek shelter (Quan & Dyer, 2008; Mitchell & McEvoy, 2019). The examples are many: in the affected areas, the damage to houses and agricultural fields leads to the occupation of others' property; the salinization of pastures forces pastoralists to find new grazing areas; the destruction of land-marks and demarcations leads to boundary disputes; and the disruption of the local customary and/or state institutions for land administration leads to authority vacuums. In resettlement areas, other problems tend to arise, such as competition for land among displaced people; occupation of local owners' property; encroachment of public buildings and spaces; overload of public systems for land administration; and disruption of urban plans and policies. Moreover, even measures to avert the impact of climate change and natural disasters have an impact on land rights. For instance, the construction of protective seawalls, drainage channels or the resettlement of people from high-risk areas is often dependent on the acquisition of land, therefore impacting those who have to be moved and those receiving the newcomers. Therefore, land rights are twice a problem in climate change response.

---

<sup>3</sup> See <https://www.internal-displacement.org/database/displacement-data>, viewed on 23.02.2020

<sup>4</sup> Although these typologies of displacement are the more relevant for this report's analysis, Naser lists many others (Naser, 2012: 733).

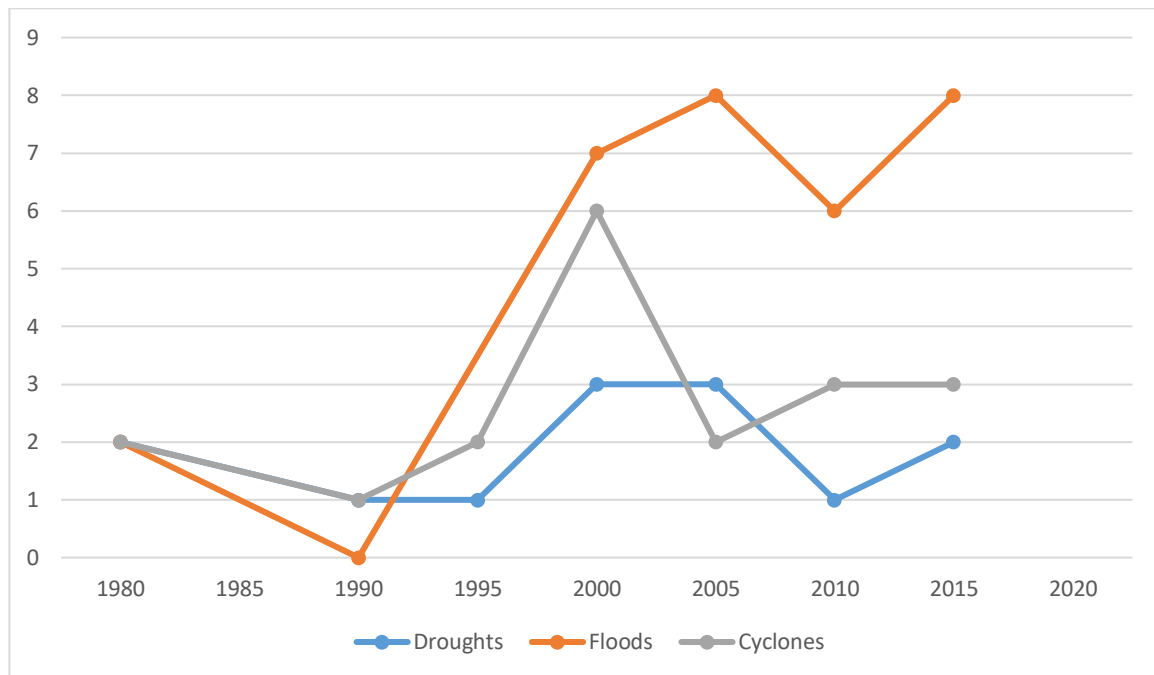


On the one hand, land tenure issues are exacerbated by the new problems brought by climate change while, on the other hand, existing land tenure issues further complicate climate adaptation measures that are needed. Besides the difficulties that these problems create in people's lives, they also have enormous potential to ignite and fuel conflict, both in affected and resettlement areas, especially when they take place in settings with weak and/or overloaded dispute-resolution mechanisms (Mitchell & McEvoy, 2019: 21). If not properly and timely addressed, the land tenure issues caused by environmental displacement and measures to prevent disasters can make the response against climate change more difficult, and further increase its impacts on communities.

Interestingly, this nexus between climate change, displacement and land tenure issues remains understudied in the literature (Quan & Dyer, 2008; Mitchell & McEvoy, 2019). Moreover, although environmental displacement has a significant impact on land rights and land-related conflict, different studies have not found agreement on how these processes develop, as shown by the extensive literature review by Busby (2019), nor do they offer much guidance on how such conflicts can be prevented. More knowledge on how to address these issues is therefore urgent, especially in light of the consequences of leaving them unaddressed. The way in which these problems are addressed put many societies at a crossroads. As highlighted above, climate change impacts tend to disproportionately affect the poorest and most vulnerable people. If adequately considered and designed, measures to address the land-related problems caused by climate change provide opportunities to address existing social inequalities (Kälin, 2005); but on the other hand, those same measures also have the potential to deepen social inequality and further marginalize already vulnerable people. The case study of Mozambique presented below provides a clear illustration on the nexus between natural disasters, displacement and land rights and the questions that are related to this.

### **3- Mozambique's experience with natural disasters, displacement and land rights**

Among African countries Mozambique is one of the most prone to natural disasters, such as flooding and cyclones (Governo de Moçambique, 2017). The devastation of the central and northern areas of the country caused by Cyclone Idai in March 2019, followed a month later by Cyclone Kenneth again highlighted the country's vulnerability. Figures are highly alarming. Between 1970 and 2009, Mozambique was hit by 77 natural disasters, of which 41 occurred between 2000 and 2009 alone (see Fig 1, but also Artur, 2013: 41). In the last three decades, at least 14% of the population has been affected by either droughts, floods or tropical storms (Governo de Moçambique, 2017). The floods of 2000, 2008, 2013 and 2016 are especially fresh in people's minds (Christie & Hanlon, 2001; Artur, 2011). World Meteorological Organisation figures show that tropical storms are occurring in Mozambique with less frequency, but more severe tropical cyclones have increased in number (WMO 2019: 10). The strong winds and relentless rainfall brought by Cyclone Idai caused major floods and landslides, destroyed infrastructure, houses, crops and agricultural fields, and affected more than 1.8 million people (WMO 2019; Governo de Moçambique, 2019). Heavy rains and floods in Central Mozambique during the 2019/2020 rainy season frustrated part of the disaster-recovery efforts, again displacing thousands of people, and further highlighting the growing exposure of the country to extreme weather events (RFI, 06/12/2019; RFI, 06/01/2020; Africa 21, 08/12/2019).



**Fig. 1. Trend of Disaster Evolution in Mozambique** Source: adapted from Governo de Moçambique, 2017: 11

One of the main consequences of Cyclone Idai was the displacement of thousands of people. It is important to keep in mind that displacement is not a completely new reality in Mozambique. The civil war that devastated the country between 1977 and 1992 displaced more than 6 million people inside and outside the country. The colonial *prazo* system and the later *aldeamentos*, as well as the villagisation policies from the 70s and 80s forcedly and ‘voluntarily’ displaced millions more (Coelho, 1998; Artur, 2011: 170). Oil, gas, and other mineral exploitation, infrastructure development, nature conservation projects, and private investments have also been a significant cause of displacement throughout the country (see for instance Jacobs, 2010; Lillywhite *et al.*, 2015; Milgroom & Spierenburg, 2008; Shannon *et al.*, 2018). Natural disasters such as floods, droughts and cyclones have also been a constant source of displacement and resettlement (Christie & Hanlon, 2001; Patt & Schroter, 2008; Artur, 2011). These different types of displacement gave origin to different forms of resettlement: forced or voluntary; led by individuals, the state or private companies; temporary or permanent; with or without any compensation paid; all with various degrees of success. Nevertheless, history shows that resettlement –or *reassentamento* as it is often called in Mozambique- is a well-known practice in the country.

As it happened in previous disasters –and with the nuances that are debated below- one of the main approaches taken by the Mozambican authorities in response to Cyclone Idai was the resettlement of affected people. For the National Disaster Management Institute (INGC), resettlement is the main intervention to reduce the number of people living in high-risk areas and to reduce risks in the future. The destruction caused by the cyclone temporarily displaced thousands of people to improvised temporary accommodation centres established in buildings such as schools and churches (IOM 2019; IOM/INGC, 2019b). Within three months, 66 new permanent resettlement sites were opened and around 88.000 individuals coming from different areas were resettled there (IOM/INGC, 2019b), raising a number of problems that are debated below.<sup>5</sup> Months later, at the time of our field visit in November 2019, the flood levels had gone down in the regions affected by

<sup>5</sup> The exact number of resettlement sites is not clear, for instance a 2020 report from IOM mentions 71 sites (IOM DTM & CCCM, 2020).



the cyclone, as had media attention and humanitarian aid interventions, but life had not yet returned to normal for the thousands of people resettled in the new resettlement sites. For instance, at the resettlement site of Mutua, most people still depended on aid provision and did not have access to agricultural land nor other forms of employment. Aid was supposed to end in March 2020. If aid is in fact terminated in March 2020, it will most likely seriously impact on people's lives, their need for land or other resources, and their decision to stay in the resettlement site, move on to another place, or to return to the risk areas again. Strong rains and floods in December 2019 and January 2020 destroyed thousands of upgraded and emergency shelters, tents, and support structures such as latrines and water points (IOM DTM & CCCM, 2020), again highlighting the fragilities of the response to Cyclone Idai.

Resettlement as a response to climate risks might be an effective strategy under certain circumstances, but can hardly be seen as a durable solution to displacement for the people who are affected.<sup>6</sup> If a resettlement programme only entails the physical displacement of people from a high-risk area to a non-risk area, this might prevent them to be affected by disasters in the future. But people who are displaced need more than only shelter. They might need compensation for the investments they did in their former residencies before they are willing to move away. They also need to build up livelihood strategies in displacement in a secure manner. For most people, this means that they need to find access to land in the areas around the resettlement sites. Tenure security is important here, not only for the resettled people, but also for the hosting communities. The findings that we present in section five provide further illustration of this.

#### **4- Legal and institutional frameworks**

One of the main objectives of this research is to assess the role that legislation and state institutions play in addressing the land-related problems caused by extreme weather events and climate change. This section provides an overview of the existing international legal framework on environmental displacement and land tenure, followed by an analysis of the Mozambican legal and institutional framework.

##### **International legal framework on environmental displacement and land tenure**

The topics of displacement and land tenure are not new in international law. However, as this section shows, international laws and governance frameworks on displacement on the one hand, and land tenure issues on the other hand are poorly connected and hardly speak to each other. This section provides a brief overview of the main hard and soft international law instruments on each of these topics, the main legal solutions followed, and the remaining gaps. As further highlighted in the conclusion of this section, when reading it one must be aware of the intrinsic limitations of international law such as the inapplicability of soft law instruments, the vagueness of many provisions, and the dependence of international law on national legislation.

##### *International law and displacement*

Although displacement is not a new topic in international law, the recognition of and protection given to people displaced by environmental disasters by hard instruments of international law has been a gradual, but nevertheless slow and hesitant process, driven by the progressive knowledge about and acknowledgment of the impacts of climate change. For instance, the 1951 Geneva

---

<sup>6</sup> Note that the IASC Framework defines return, resettlement, and local integration as three durable solutions to displacement.

Convention relating to the Status of Refugees and its 1967 Protocol – the main international legislation regulating displacement - do not explicitly acknowledge environmental displacement as one of the possibilities for obtaining the statute of refugee (Falstrom, 2002).<sup>7</sup> People can obtain the statute of refugee based on ‘well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion’, but the convention and its protocol do not mention environmental issues as a reason to obtain this status.<sup>8</sup> Acknowledging this limitation, a number of scholars and international organizations have advocated for the approval of an international treaty on the rights of EDPs but with no avail until now (Falstrom, 2002; Aminzadeh, 2007: 257).

There are, however, a number of changes at regional level. For instance, the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa from 1969 does not explicitly include environmental displacement as one of the possibilities for obtaining the statute of refugee, but establishes a more open definition of refugee that can be interpreted as including environmental displacement (see art. 1.2). ‘Events seriously disturbing public order in either *part or the whole* of the country’ (as the article states), can also be seen as a reason to apply for asylum status.<sup>9</sup> Natural disasters could probably fall within the scope of this definition. The 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention further strengthened – at least on paper- the protection that is given by African regional instruments to EDPs, explicitly including those displaced by natural disasters in its definition of ‘Internally Displaced Persons’ (art. 1.k). This convention establishes a number of important obligations to member states, and rights to Internally Displaced Persons (IDPs) such as the obligation of the state to refrain from, prohibit and prevent arbitrary displacement (art. 3.1.a); the obligation of implementing disaster risk reduction strategies, and paying special attention to those communities with a special attachment to and dependency of their land (art. 4.2, 4.5); the obligation of providing adequate humanitarian assistance including food and shelter (art. 9.2.b); the right to freedom of movement and choice of residence of internally displaced people (art. 9.2.f); the right to free and informed choice to return, integrate locally or relocate (art. 11.2); and the right to fair compensation for the damage incurred as result of displacement (art. 12.2). The member states of this convention are also obliged to incorporate the rights and obligations established in this convention into their domestic legal framework (art. 3.4). However, it must be highlighted that although Mozambique has signed this convention, it has not yet ratified the Kampala Convention.<sup>10</sup>

The recognition that the rights of EDPs must be adequately protected, and some guidance about how to do it is further expanded in a number of soft-law instruments, which although not binding, allow for guidance in the interpretation of law and negotiation of other instruments (Kolmannskog, 2012: 1073). For instance the preamble of the UN Guiding Principles on Internal Displacement (GPID) from 1998 explicitly includes natural and human made disasters as part of its definition of

---

<sup>7</sup> Mozambique is party both in this treaty and protocol. See <https://www.unhcr.org/5d9ed66a4> and <https://www.unhcr.org/5d9ed32b4>

<sup>8</sup> This should be placed in a time perspective, as the Convention and Protocol came about in a time in which there was much less attention for disasters as a cause for displacement.

<sup>9</sup> Mozambique is party in this convention. See <https://www.refworld.org/docid/3ae6b36018.html>. It is unclear to what extent this definition is really applied in practice. Several authors have pointed at a lack of information on the implementation of the convention in general (Kagan, 2007; Sharpe, 2012, 2018; Wood, 2014)

<sup>10</sup>See: <https://au.int/sites/default/files/treaties/36846-sl-AFRICAN%20UNION%20CONVENTION%20FOR%20THE%20PROTECTION%20AND%20ASSISTANCE%20OF%20INTERNALLY%20DISPLACED%20PERSONS%20IN%20AFRICA%20%28KAMPALA%20CONVENTION%29.pdf>

internally displaced person (see point 2 of the introduction),<sup>11</sup> and establishes a number of protections regarding their land rights (Principles 7, 9, 21). The 2005 Principles on Housing and Property Restitution for Refugees and Displaced Persons, better known as the Pinheiro Principles, also explicitly state its application to all displaced persons, ‘who were arbitrarily or unlawfully deprived of their former homes, lands, properties or places of habitual residence, regardless of the nature or circumstances by which displacement originally occurred’ (Principle 1.2). In the last decade the need to respond to the climate crisis gave origin to other soft law instruments that are even more explicitly tailored for EDPs, such as the 2013 Peninsula Principles on Climate Displacement within States, and the Sendai Framework for Disaster Risk Reduction 2015-2030.

#### *International law, EDPs, and human rights protection*

The existing gaps in the international legal protection frameworks that relate to environmental displacement do not mean that the rights of people concerned are completely unprotected. A number of authors as well as jurisprudence has shown that the existing international human rights legislation can, at least in part, address some of the existing legal gaps (Aminzadeh, 2007; Kolmannskog, 2012: 1076). Although refugee legislation thus far does not yet recognise climate change as a reason for displacement across borders, discussions about this are taking place. For instance in January 2020, the UN Human Rights Committee ruled the case of an I-Kiribati man who requested asylum in New Zealand, claiming that his life was being threatened by climate change. Although the Committee did not rule in his favour because it was not sufficiently proven that his life was immediately at risk, it stated that ‘The Committee is of the view that without robust national and international efforts, the effects of climate change in receiving states may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant [on Civil and Political Rights], thereby triggering the *non-refoulement* obligations of sending states’. The judgement can be seen as opening the doorway for future protection claims under refugee legislation, which could have a major impact in the future if more people will be forcibly displaced because of climate change (Guardian, 20/01/2020).

#### *International law and the protection of land rights*

The protection given by international law to the right to private property is another path for the protection of the rights of EDPs. The Universal Declaration of Human Rights from 1948 is the starting point for the current protection given by international law to this right (art. 17).<sup>12</sup> Although the exact meaning of the provision of article 17 is debated by scholars, there is a growing consensus that this protection includes the obligation of the states to not violate this right, but also actively create the necessary legal and institutional tools for people to enjoy this right (Aminzadeh, 2007: 248; Almeida, 2018: 104). The right to property is also protected in regional instruments such as the African Charter on Human and Peoples' Rights (art. 14), and more specific instruments of international law such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the ILO Convention 169 on Indigenous and Tribal Peoples.<sup>13</sup> Soft-law instruments of international law such as the Basic Principles and Guidelines on Development-based Evictions and Displacement, and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs) further elaborate on the protection to the right to private property.

---

<sup>11</sup> Earlier examples, such as the Cartagena Declaration, only refer the need to expand the concept of refugee, but do not directly acknowledge environmental disasters as a cause of displacement.

<sup>12</sup> According to article 17 this right can be individual or collective.

<sup>13</sup> The ILO Convention 169 on Indigenous and Tribal Peoples has not been ratified by Mozambique.

Moreover, the right to property is an integral part of other rights protected by international law. For instance, the right to property is not explicitly mentioned by the International Covenant on Economic, Social and Cultural Rights (ICESCR) from 1966, but it is implicit in the right to adequate housing established in article 11. As debated in the General Comment No. 4 of the UN Committee on Economic, Social and Cultural Rights, legal tenure security is a key element of the definition of adequate housing, and forced evictions must be limited to exceptional circumstances. Soft law documents such as the Sphere Minimum Standards for Shelter and Settlement express in a more practical way the right to adequate housing in humanitarian contexts (Sphere, 2018).<sup>14</sup>

#### *International law - conclusion*

As this brief analysis shows, there are already several instruments of international law to protect the rights of EDPs, but there are also still a number of gaps to be fulfilled. Depending on the case and jurisdiction, EDPs can explore various legal paths to protect their rights. At international and regional level, legal protection frameworks for internally displaced persons are a bit ahead of the protection frameworks for refugees when it comes to the recognition of environmental factors as a reason for displacement. Yet, most IDP regulatory frameworks are guiding rather than binding (in contrast to the 1951 Refugee Convention). In the absence of direct protection frameworks, climate-induced displaced people might resort to international human rights, but it remains to be seen to what extent they are accepted by national governments.

One must not forget that the international legal framework still has a number of structural limitations. First, many of these provisions come from soft law instruments which have some advantages but also the serious limitation of not being enforceable. For instance, the very detailed regulations of the VGGTs on land rights, including the rights of those displaced, cannot be directly invoked in court to defend one's rights. Second, although the international legal framework establishes some important principles, in many aspects its provisions remain relatively vague and programmatic, leaving many difficult questions unanswered. For instance, the right to fair compensation for the damage incurred as a result of displacement, as established by the Kampala Convention, is a progressive and laudable principle, but raises a number of questions: which damages can be considered to be resulting of displacement? And who should pay this compensation? Finally, international law often lacks implementation in national legal frameworks, and is often legally and illegally disregarded in practice by state officials and courts (Kolmannskog, 2012: 1072).

These limitations of international law can in part be addressed by the way in which law is applied. Paying attention to the context in which different instruments were approved, and how they have been progressively interpreted and implemented can open new interpretations and applications to existing legislation. A dynamic, context-oriented, and human rights-based approach to the interpretation of instruments of international law is key to make them useful tools of international law (Aminzadeh, 2007: 265; Kolmannskog, 2012: 1075). But such approach cannot fully compensate the limitations of international law. Therefore, national legislation and institutions have a central role in addressing the rights of EDPs.

---

<sup>14</sup> These standards can in part be considered hard instruments of international law, as they are incorporated by the Kampala Convention (see art. 9.2.m). However, such is not applicable to Mozambique, considering that it has not yet ratified the Kampala Convention.

## **Mozambican legal framework on environmental displacement and land tenure**

This section discusses the Mozambican legal framework on land tenure and displacement. As mentioned above, although international law plays a role in regulating these topics, the national laws have more relevance in practice in regulating these issues.

One important point to keep in mind when reading this section about the Mozambican legal framework is that its norms cannot be fully understood without connecting them to the history of the country and the main problems that Mozambicans had to deal with. The legal framework of the country has to address the legacy of colonialism and post-colonialism; the consequences of a long and violent civil war that displaced more than 6 million people inside and outside the country; the transition from a Marxist to a liberal regime; and the downfalls of a number of villagisation projects (see Norfolk, Tanner, 2007: 1, 33; McAuslan, 2013: 30, 75; National Land Policy). All of these issues have shaped the norms of the country and are key to understand the particularities of many legal solutions.

Finally, this chapter does not attempt to be a detailed legal analysis and a note of caution is in place. Unfortunately, the national legislation of Mozambique is not freely available online. Some legislation is scattered throughout the internet, but there is no free repository of all national legislation.<sup>15</sup> This limited the scope of our analysis as we were unable to trace some pieces of legislation. As debated by Bedner, access to legislation is a basic element of the rule of law (Bedner, 2010: 61). Getting access to legislation is a challenge for us as researchers, but also for average Mozambicans. Improving access to legislation could be an easy way to improve the rule of law in the country.

### *Land rights in Mozambique*

The first topic to consider in this legal analysis is which land rights the Mozambican law recognizes, and through which process. This is relevant for assessing the land rights of those affected by a climate disaster in both places of origin and of refuge, but also for members of the host communities that are indirectly affected.

The 2004 Mozambican Constitution, in line with previous constitutions, establishes a number of key principles regarding land rights that are regulated in further legislation. While the Constitution recognizes and protects the right to private property (art. 82.1), it also establishes that all land is owned by the state, and that land cannot be sold, mortgaged, or otherwise encumbered or alienated. (art. 109.1 and 109.2). However, the Constitution also recognizes that the use of land as a means of production and social welfare is a right of every Mozambican (art. 109.3 and 110), and the occupation of land is, with some exceptions, recognized and protected (art. 111). Moreover, the Constitution establishes that expropriation can only happen in case of public interest, upon payment of fair compensation, both according to criteria that shall be established in law.<sup>16</sup> Also relevant, the Constitution establishes that the international treaties of which Mozambique is part are immediately applicable internally, and are legally equivalent to national laws (art. 18).

---

<sup>15</sup> The service Legis-Palop gives free access to an organized list of approved legislation, but the text of these documents, as well as jurisprudence, can only be accessed through a paid subscription that costs at least 250€ per year - <https://www.legis-palop.org/>

<sup>16</sup> Interestingly the Constitution refers to 'public need, interest or purpose', and not only public interest.



The Mozambican Land Law from 1997 (Law 19/1997) is the central piece of legislation regarding land rights in the country.<sup>17</sup> This law builds on the National Land Policy from 1995 (Resolution No 10/95) and it is often mentioned in the literature as a good example of an inclusive and careful lawmaking process (Tanner, 2002; Cabral & Norfolk, 2016: 26; Norfolk *et al.*, 2020: 12). Moreover, a number of solutions adopted in this law for the recognition of land rights are pointed out by land specialists as innovative, flexible and adapted to the needs of the country, which makes this law a model for other countries facing similar situations (Norfolk & Tanner, 2007: 2; McAuslan, 2013: 74; LANDac, 2016: 1). In line with the Constitution, the law excludes any ownership rights over land, centring its protection instead on land use rights commonly known as DUATs (right of land use and benefit in its Portuguese acronym).<sup>18</sup> One of the key features of this law is the recognition that it gives to customary-based land rights, therefore integrating in the formal system the customary land tenure systems that *de facto* rule most land in the country (Norfolk & Tanner, 2007: 1). Especially innovative is the way in which the law recognizes these land use rights; these rights can be requested to the state by private parties, but are automatically recognized to national individuals and communities in case of customary-based occupation or more than ten years of good-faith occupation (art. 12; Serra, 2014: 568).<sup>19</sup> In these two last cases the land use right is not limited in time, it is inheritable, and exists by itself, the law expressly says that ‘the absence of title shall not prejudice the right of land use and benefit’ (art. 13.2, 14.2, 15). Contrary to what happens in many other countries, those who have a customary right or a 10 year good-faith occupancy are not dependent of any administrative process of recognition nor document to claim their land use right (Deininger, 2003: 171; Cabral & Norfolk, 2016: 13). This automatic acquisition of the land use right is especially important because automatically protects those poor land occupants that tend to have limited legal awareness and little resources to legally protect their land rights (Norfolk & Tanner, 2007: 2; Serra, 2014: 571; Norfolk *et al.*, 2020: 10).

This all sounds as good protection mechanisms. However, as we were told by an expert on Mozambican land tenure issues, the peak of political will to protect people’s land rights in the country happened at the approval of the Land Law, and has been decreasing ever since. A number of pieces of legislation progressively undermine the innovative aspects of the Land Law (Norfolk & Tanner, 2007: 3; Knight, 2010: 136; McAuslan, 2013: 81). For instance, Decree 60/2006 on spatial planning establishes that ‘the acquisition of the right of land use and benefit through occupancy in good faith is based on the rules established in articles 10 to 16, and as long as it is in line with the urban plan (...)’ (art. 29).<sup>20</sup> Such provision results that in practice, for instance slum dwellers cannot ever see their land use recognized by law, because no urban plan foresees a slum (See Shannon, 2019: 8).<sup>21</sup> This weakening of the protection of land use established in the Constitution and Land Law not only introduces confusion in the legal system, but also raises doubts regarding the constitutionality of such provisions, considering that the Mozambican constitution expressly recognizes and protects the occupation of land (art. 111; see Serra, 2014: 637; Cabral & Norfolk, 2016: 17).<sup>22</sup>

<sup>17</sup> This law is further regulated by, among others, Decree 66/98 that regulates the Land Law; and Ministerial Diploma 29-A/2000 that established the Technical Annex to the Land Law Regulation.

<sup>18</sup> For national citizens this right is in practice very similar to an ownership right (Serra, 2014: 568).

<sup>19</sup> With the exception of public domain areas (art. 6, 7 and 8). Although the land use cannot be sold directly, investments made on land can be sold, bought or mortgaged (art. 16).

<sup>20</sup> Regarding other examples of the weakening of the Land Law provisions see for instance the change introduced to article 35 of Decree 66/98 that regulates the Land Law, debated in detail by Serra (2014: 637).

<sup>21</sup> A few provisions of this law mitigate the effects of this article (e.g., art. 24.4), but the initial provisions of the Land Law are nevertheless weakened.

<sup>22</sup> Article 36 of Decree 60/2006 was declared unconstitutional by Decision No. 4/CC/2016 for a number of reasons,



### *Expropriation of land rights*

On the one hand the Mozambican Constitution establishes the right to private property - which in the case of land is limited to the right of use. On the other hand, it establishes a restriction to this right, through the possibility of expropriation of this right to use. Expropriation can be relevant in a number of situations, such as forced eviction of people from certain areas for construction of climate change adaptation infrastructures, forcible removal of people from dangerous areas, and resettlement of people in others' land. However, this section shows that the regulation of the expropriation process in Mozambique is quite inconsistent. There are a number of spread articles that establish a few basic rules about expropriation in general, and a few pieces of legislation that regulate expropriation with some more detail, but these rules are directed to specific situations only (e.g., spatial planning). There is no comprehensive piece of legislation that addresses expropriation as a whole.

The Constitution establishes that expropriation can only happen 'for reasons of public necessity, utility, or interest, as defined in the terms of the law, and subject to payment of fair compensation' (art. 82.2). A similar, but less detailed regulation is also established by the Land Law (art. 18.1.a) and the Land Law Regulation, which establishes that the termination of a DUAT for a public purpose is equivalent to an expropriation (art. 19.3 of Decree 66/98). However, none of these pieces of legislation establish the process through which expropriation must be conducted; such as which state entities can start an expropriation process; how interested parties are involved in the process; or how compensation is negotiated.

As mentioned above, there are a few specific cases in which the expropriation process is regulated further, but even in these cases the detail is limited. Law 19/2007 on Spatial Planning has one article about expropriation, which determines that special plans shall identify the areas for the implementation of public projects (art. 20.1). It provides more details regarding the payment of compensation, which must include the loss of assets and social cohesion (art. 20.3). Expropriation in the case of spatial planning is further regulated by Decree 23/2008 (art. 68 to 72). This decree establishes that any expropriation must always be preceded by a declaration of public interest/necessity/utility by the Government (art. 87), and establishes a few parameters for its definition (art. 86). The decree also establishes that the expropriation must always be preceded by fair compensation, and establishes some criteria for its calculation (art. 70). Finally, this decree establishes a few steps for the expropriation process (art. 71). In this specific case of spatial planning a few more details are further regulated by Ministerial Decree 181/2010 that establishes a Directive on the Expropriation Process for Spatial Planning. Other pieces of legislation such as Decree 31/2012 (on the Regulation for the Resettlement Process Resulting from Economic Activities),<sup>23</sup> and Decree 34/2015 (on the Regulation of Petroleum Activities) are linked to expropriation, but make almost no explicit reference to it.

Because of the lack of general legislation on expropriation, some authors argue that the Portuguese colonial law remains applicable, specifically Law 2030 of 1948 (Trindade *et al.*, 2015: 19).<sup>24</sup> The application of the Portuguese law seems to be one legal path for expropriation of land for instance in the case of resettlement of people affected by a natural disaster, if such resettlement is not part of any spatial plan. However, the literature shows that even in the above-mentioned cases where

---

including the fact that it does not respect the lower hierarchical level of this norm in regard to the Land Law.

<sup>23</sup> This decree is further regulated by Ministerial Decree 155/2014 and 156/2014.

<sup>24</sup> Which became partially applicable in Mozambique through Ordinance (*Portaria*) 14507 of 1953 and Decree 37758 of 1950.

rules about expropriation process exist, they are systematically ignored by state authorities (Centro Terra Viva, 2016: 11; Salomão, 2017: 165).

Surprisingly, the lack of a clear and consistent regulation of the expropriation process is almost not addressed in the literature. Several authors raise issues with forced displacement in the country, and as highlighted by many, the topic of expropriation is convoluted with the common assumption that, because by law land is owned by the state, those using it are powerless against the state in case of dispossession (Norfolk & Tanner, 2007: 31; Osório & Silva, 2017). But there is almost no focus on the (lack of a) formal process of expropriation. The importance of a well-regulated process of expropriation must not be overlooked, and should be object of further research. It is through a well-regulated and implemented expropriation process that people can contest illegal expropriations and negotiate fair compensation (True Price & University of Groningen, 2016: 11; Almeida, 2018: 110). Leaving the expropriation process unregulated exposes everyone, but especially those in more fragile positions, to unfair discretion and abuse by state officials.

#### *Legislation on the management of natural disasters*

The Law 15/2014 on Calamity Management is the final main piece in the complex puzzle of the Mozambican legal framework that is relevant for our study. Law 15/2014 is quite comprehensive, establishing several mechanisms of assessment and prevention of risks and management of calamities, and many of its provisions are protective of local communities.<sup>25</sup> For instance, the law establishes that the will and culture of the people are key elements to be considered in case of resettlement (Art. 10.3.f). Moreover, the law establishes a right to an especially careful protection for vulnerable groups (art. 37.1). Regarding expropriation, the law allows for the urgent acquisition of assets in case of calamity. Such acquisition is supposed to follow a process to be established by the Council of Ministers, but to the best of our knowledge, this process has yet not been approved (art. 18.1.e).<sup>26</sup> The law also explicitly states that any right affected by these measures must be compensated (art. 18.3), and establishes a general rule determining that rights affected by the provisions of this law, including rights with a customary basis, can be addressed by the courts, and the courts should give them priority (art. 41). In any case, this law was designed for disaster preparedness and response, and focuses mostly on short-term solutions. It does not cover the longer-term needs of people involved in resettlement.

The above-mentioned legal framework is further complemented by a considerable number of national plans and governance instruments such as the 2017-2030 Plan on Disaster Risk Reduction; the 2006-2016 Plan for Prevention and Reduction of Natural Disasters; the 2010 Strategy and Action Plan for Gender, Environment, and Climate Change; and the 1999 Policy for Disaster Management. From these documents it is possible to conclude that there is a progressive shift of focus from addressing the impacts of disaster, to a stronger investment in understanding the risks of disaster and prevent them before they happen (Governo de Moçambique, 2017: 11). The INGC Master Plan for prevention and mitigation of natural calamities, approved by the Council of Ministers in 2006 already set in motion this line of thinking, defining as one of its objectives to 'reduce human vulnerability to flooding in major cities of the country. This is supposed to be achieved by mapping of risk areas and risk populations, and of resettling them to areas that are located at higher altitude

---

<sup>25</sup> This law is further regulated by Decree 7/2016. Despite all our efforts, we were not able to obtain the full text of this Decree.

<sup>26</sup> According to article 18.4 these measures can also be taken by decision of the Provincial Governor, but the article does not make any reference to the process to be adopted. The process might be further regulated in Decree 7/2016, but as mentioned above, we were not able to obtain this decree.

or that have better drainage.<sup>27</sup> As a performance indicator, the plan mentions that all people living in urban flood zones should be resettled (Conselho de Ministros, 2006: 23-24). The updated plan shows a further elaboration on this, and makes it clear that resettlement is necessary at risk areas throughout the country, whether they are located in urban or rural areas. It is noted for instance that resettlement has already reduced the risk exposure of the vulnerable people in especially the Zambeze, Save, Búzi and Limpopo valleys. Regarding the preventive resettlement of people living in dangerous areas, the 2017-2030 Plan on Disaster Risk Reduction specifically states that due to a slowly unfolding decentralisation process, the slow decentralization of roles to local authorities, and a lack of human and financial resources, the resettlement processes have not been fully implemented (Governo de Moçambique, 2017: 16).

#### *Institutional framework*

Due to time constraints this research did not pay much attention to institutional arrangements, and this section is therefore a (very) brief summary. Institutionally, the Ministry of Land, Environment and Rural Development (MITADER in its Portuguese acronym) is responsible for land governance, and deals with various land-related functions such as spatial planning, land management, forestry, rural development, and environment (Resolution 6/2015).<sup>28</sup> These competences are internally spread over various national directorates, as well as provincial governors for DUATs up to 1000ha, and municipalities.<sup>29</sup>

The National Institute for Disaster Management (INGC in its Portuguese acronym) takes the leading role in the prevention of and response in case of natural disasters.<sup>30</sup> However, and as it is debated in more detail below, the scope and institutional design of INGC is limited to emergency response and disaster preparedness, although in practice some of its actions, such as the leading of the permanent resettlement of people living in dangerous areas, go much beyond the short-term disaster response.

#### *National legal framework and institutional arrangements - conclusions*

Our brief analysis of the Mozambican legal framework shows that the Land Law establishes a clear system of recognition of land rights that can work especially well for those that don't have the resources to go through complex and expensive administrative processes. At the same time, we argue that this system is partly undermined by other pieces of legislation. This creates legal uncertainty to the formal land tenure system, leaving questions regarding for instance the land rights of land dwellers in urban slums. What is even more worrisome is that it potentially exposes Mozambicans to the arbitrariness of state officials, as the following sections further exemplify.

One major gap in the Mozambican legislation is a clear, detailed, and unified process of land expropriation. If people have to give up their land (or their DUAT to be more precise) to state-led activities such as creation of protection structures or resettlement, expropriation is the legal mechanism for the state to obtain that land. Without rules that regulate such process, state officials have the leeway to follow arbitrary approaches, and they might ignore the land rights of people on the ground, forcing them to give up their land with little or no compensation. At the end, there is

---

<sup>27</sup> Note that this part of the plan specifically addresses urban areas but not rural areas.

<sup>28</sup> About the institutional framework see Cabral & Norfolk, 2016: 18.

<sup>29</sup> Art.22 of Law 19/1997; Law 2/97 regarding Municipalities; Decree 6/2015; Salomão, 2017: 278.

<sup>30</sup> On INGC see Artur, 2011.

the risk that those expropriated are the ones paying with their land for whatever measures government takes.

Law 15/2014 regarding calamity management establishes a quite comprehensive framework for assessment and prevention of calamities, and counts with a number of provisions that show concerns with the protection of local communities. If well used, these provisions could make up for one of the main flaws of the law, which is the lack of clear long-term guidance of resettlement processes. Our empirical findings show that this is not necessarily working out in practice thus far.

## **5- (Post) cyclone responses at a local level**

In the following sections we zoom into the different responses to the cyclone that were provided by state and non-state actors and by the people affected. We also look into the ways in which different responses were perceived by each of these actors and by the people that willingly or unwillingly got involved in the response.

### **Immediate disaster response**

When Cyclone Idai hit the central Mozambican city of Beira, many people were taken by surprise, despite warnings that had been issued by the INGC;<sup>31</sup> several of our respondents indicated not having received the warnings on time, or not having believed that the impacts of the cyclone would be as bad as they were. But when strong winds started to blow off the zinc sheet roofs of many houses in the most vulnerable neighbourhoods, people were left uncovered and unprotected against the torrential rains. Some managed to find shelter in neighbouring homes, others had no choice but to flee and to find shelter in one of the many temporary accommodation centres that were rapidly opened. School buildings, churches, health centres, and police stations served as shelter for large groups of people. These accommodation centres were also the places through which the government and non-state actors would provide emergency aid such as food, blankets and clothing, but they were – from the beginning- temporary in nature.

The government approach of resettlement was unfolded shortly after the cyclone, with 66 resettlement sites identified and prepared to receive people within two to three months only. 22 sites are located in Sofala province. People from Beira were relocated especially to Savane, Mandruzi (Dondo district) and Mutua (Mafambisse district). Some of the sites had been identified by the government as potential resettlement sites already prior to the cyclone, as resettlement has been a government strategy after previous disasters as well. In most cases, people were resettled within their own district. This allowed some people to continue cultivating the same fields, even when one's residency has moved. For people from Beira this was different, as no resettlement sites were located inside the municipal boundaries.<sup>32</sup> For them the move from an urban to a rural area also means that they need to get used to new livelihood strategies and lifestyles.

---

<sup>31</sup> An INGC officer told us that they had sent staff to the center of the country already 7 days prior to the cyclone to prepare a response. In principle, people should receive text messages on their mobile phones as early warning. Several of our workshop participants opined that they had received too little information. The INGC officer responded that the warnings were not sent out nationwide, but only to people registered in the risk areas. Technical and logistical limitations make it impossible to send out warnings throughout the country. Furthermore, there could be a risk in sending off warnings too often and in too general ways.

<sup>32</sup> Within the municipality of Beira and among its inhabitants there is a strong conviction that this resettlement outside of municipal boundaries has political reasons. Beira is a political opposition stronghold (Shannon, 2019: 4), and we were told by a number of respondent that the national government does not want the city to become bigger and more powerful, therefore was keen to move people away from its boundaries. It is difficult to establish whether these

However, the resettlement process was marked by some confusion and miscommunication. Some respondents explained that they were told that they were not allowed to return to risk areas, but the determination of 'risk areas' was not done through a consultative process, nor was the enforcement of this prohibition very consistent. There were some threats, but no strict enforcement of this prohibition. For a number of people we talked with, force was not needed anyway, as they went to the resettlement areas on their free will. However, several respondents indicated that they would have preferred to choose themselves to which site they wanted to go. In reality, families were placed on lists and could not choose the specific resettlement site themselves, nor visit it beforehand, so many just embarked with all of their belongings on a bus trip to an unknown place.

### Returning

Praia Nova is one of the sites that was classified – some years ago already - as a high-risk area where people are not supposed to live. In many regards, the site is not an attractive; part of the neighbourhood (*bairro habitacional*) gets flooded every day at high tide. This is the part of the neighbourhood that is muddier and where houses were constructed in a slightly more durable manner than in the sandy area of the quarter (*bairro de Pescadores*). In this second area of the neighbourhood houses are simply *pau-a-pique* constructions with zinc or grass roofs. People in this area are indeed often involved in the fishery sector. Among international aid organisations and the government there is a strong conviction that people from Praia Nova are stubborn and do not want to leave. But is this truly the case? And do people have alternative options?

Walking around in Praia Nova, it is clear that quite some people have opted to leave; piles of stones of former houses testify of the abandonment by the owner or tenant (Fig. 2). But there is certainly still quite a large number of people that remained, also in the *bairro habitacional*, where many people do not make a living out of fisheries. When the cyclone hit, almost all of our respondents fled the neighbourhood (apart from one couple), either to one of the temporary accommodation centres or to relatives or friends living in safer areas of the city. From there, most of them returned within a couple of days. They first looked for zinc sheets to cover their roofs, and in some cases had to recover collapsed walls of their houses. Zinc sheets were hardly for sale at that time, but they could be found in the streets where the wind had dropped them at some point. Some houses have been reconstructed completely, sometimes at a small elevation to prevent the water from entering the house at high tide.



Fig. 2 – Destroyed houses at Praia Nova.

conviction are based on real policy or more on pre-existing general feelings of being disadvantaged by the national government. These convictions however feed into people's willingness to accept the national government policy.



Why are people still staying at such places? What many of the people in Praia Nova have in common is that they survive on small jobs, have little savings, and will not easily find a job elsewhere, let alone affordable accommodation. In their perception, remaining is not a matter of choice but a matter of survival; *'não temos como'* ('We don't have another alternative'; interview PN-02). Others, especially those who had fled to friends or relatives instead of temporary accommodation centres, missed the opportunity to be registered as a person to be resettled. Such was the case for instance of a man who was at work in another area of town when the cyclone came. He could not return home anymore and stayed with a friend for some days. He explained to us:

*"If I could, I would leave [to a resettlement centre]. I have no problem living in the bush. In Zambezi [the province where he lived until 2003] I also did not live in the city. The first days in a new place might be difficult, but thereafter not anymore. There have been people coming to our house [state officials], but I was not at home by then. I hear that they've been passing here to tell people that it is not good to live here. Most people here would want to leave. I don't have money to buy a plot [...] Since the water is entering at high tide, nobody wants to come and live here anymore. It is difficult to live in an unsafe place and there are no people that would want to buy my house."* (Interview PN-07)

Among government officials and humanitarian aid organisations, we met a critical stance towards people living in Praia Nova. They would argue that the area has gotten flooded repeatedly and that people simply do not want to leave because they benefit from aid whenever floods hit the place. It is certainly true that a number of people in this neighbourhood have been affected by floods repeatedly, but our interviews showed us that many of them would be willing to leave if they would have an acceptable alternative. Without an attractive alternative, Praia Nova remains a populated place: First, this has to do with its central location that provides access to petty jobs in the town's centre without having to spend costs on commuting. Several people indicated that they would be more than willing to leave from Praia Nova, as long as they could remain in Beira, and would not have to move to 'the bush'. In their perception, the resettlement sites are 'in the bush' and deprived of any of the living conditions that make urban life attractive. Second, some respondents also mentioned the fact that they had invested their savings in their houses in Praia Nova. The growing awareness of the dangerousness of the place averts any possible buyers of the houses, and therefore they cannot recover their investment. Abandoning their house without any return on their investment would mean they have to rebuild their lives from scratch.

In some cases the resettlement opened opportunities for others to move in, as it is revealed by the following words of one of our respondents:

*"People who went to Mutua seem to be satisfied there. They did not sell their houses, but are renting them out to newcomers"* (interview PN-03)<sup>33</sup>

As long as access to Praia Nova is not physically forbidden for people, it is likely that people – especially newcomers to the city with limited assets- will continue to accept poor living conditions

---

<sup>33</sup> Note that we did not talk to anybody who moved into Praia Nova after the cyclone and could not confirm this claim with others. In fact, most people argued that the place was becoming emptier. One family seemed to have been resettled and returned after some months (although the woman was not very open about this). One youngster admitted that he could have left with the other members of the family, but preferred to stay behind alone because he needed to do *'negócios e brincadeiras'* (fooling around).



in tidal areas. For this group of people everyday concerns about bare survival are understandably more urgent and of more weight than the possibility of a cyclone or flood in an unspecified future.

### Resettling on ‘the promised land’<sup>34</sup>

Those who opted for resettlement could remain in the accommodation centre until they were allocated a resettlement site. This process took about three months for most people we met in Mutua Resettlement Site. An INGC-official told us that the first resettlement started within two months after the cyclone.

To reach Mutua Resettlement Site (hereafter MRS) one has to follow some kilometres of a sandy road that splits of the main road (EN6) where Mutua 1 is located, just past Mafambisse and still part of Dondo district. It is located at about 60 km from the centre of Beira. Part of Mutua 1 is a resettlement site to which people from the Pungue river valley have been relocated during a flood of the river some years ago. That part of the settlement consists of houses that are all alike, testifying of the type of aid that was provided at that time. These roots of (part of) Mutua 1 could explain why people were tolerant to accept newcomers in their area.

Approaching MRS one sees several signs of aid providers at the entrance. The reception centre is run by IOM staff. This is where registration takes place. Although there is a calm atmosphere, there is quite some movement of visitors, and representatives of aid organisations throughout both days that we are visiting the site. Administratively, the site is subdivided into 6 units, each with their own chiefs that are headed by a *secretário de bairro*. The camp itself consists of relatively large plots with mostly tents. There is a total of 618 registered households, hosting 2403 individuals (IOM/INGC, 2019b). The tents testify of a wide variety of donors in the emergency phase, as stickers often show their origin; Japan, Kingdom of Morocco, USAID, UNICEF, Save, INGC etc. Most tents show signs of wear and tear (Fig. 3). Our visit is at the beginning of the rainy season, but it is already clear that not all tents will keep their inhabitants dry for much longer. Around the tents, many people are cultivating on small plots, especially manioc. People who have been resettled from Beira express their appreciation of the vegetables they are at least able to grow in this way. People who have been resettled from other places usually had larger plots of land and for them the small plot around their house is of an insignificant size for cultivation.



Fig. 3 – Tent at the MRS.

<sup>34</sup> One respondent told us that he would call the resettlement site ‘The promised land’, as he felt it was the place that God destined for them (MRS-14).

A relatively small number of people have started to construct their own semi-permanent houses, usually next to the tent, with the tent still serving its purpose as a kitchen or extra room. People who construct usually do so with bamboo sticks and mud (*pau-a-pique*; Fig. 4). For the roof, they make use of plastic or the canvas of old tents, and cover this with grass. Some people are constructing with sundried bricks, which are not as resistant against rains as burnt bricks. Looking around in the area it is clear that it would be difficult to find enough firewood to make burnt bricks. The resettlement site is rather open, with some low shrub vegetation, but there are hardly any big trees left (Fig. 5). We were told that they have been logged already.



**Fig. 4 – bamboo sticks and mud house at the MRS.**



**Fig. 5 – Vegetation at the MRS.**

In terms of facilities and services, it is visible that the site is still under construction. Although there are already some buildings that could function as classrooms, so far there is only education for the first three years of primary school. No teachers nor equipment is available, and the classrooms - constructed with support of the Catholic church- remain empty. A tent serves as health centre, but



is equipped with an empty wooden box only (Fig. 6). A nurse is supposed to come twice a week from Mutua centre, but because of her pregnancy she is not well able to walk the distance, leaving the site without any medical care for most of the time. In the area close to the site's entrance there are many public latrines but, in the areas further away, latrines seem to be less numerous. An aid worker told us that the aim was for each household to have its own latrine, but many were clearly still under construction. There are 6 water taps available for public use, but in the higher zones of the site the water does often not reach the tap and people resort to hand-dug wells.



**Fig. 6 – Health centre at the MRS.**

Thus far, people have not received definitive documentation giving them the DUAT over their residential plots. Some people proudly showed us the temporary document over their land that they received from government authorities. However this document was only a small piece of paper, with a handwritten number of the plot, but no name nor any other relevant information (Fig. 7). More detail about each number is kept with the administrative authorities, but we were told that only one name per plot was allowed.<sup>35</sup> People were aware of the importance of the piece of paper and convinced that it would ultimately provide them more formal ownership documents.<sup>36</sup>



**Fig. 7 – Land document given to residents.**

<sup>35</sup> We were told by aid workers that most land was being registered in the name of men.

<sup>36</sup> People referred to obtaining the DUAT, which is a rather technical abbreviation that shows that there must have been some instructions about it.

Obtaining agricultural land appears difficult for people and is something that they had to arrange for themselves. We were told that some people – who were considered to be most in need- had received small plots, but these plots were often at a relatively long distance from MRS and therefore people ended up not using them.<sup>37</sup> Whereas some respondents complained about the lack of agricultural land, others proudly told us that they already arranged a plot. One of them summed it up as follows:

*“Almost everybody who wants to have a field, has gotten one by now, but it is only the ones that really want to because it is quite far and you have to pay for transport to get there. My field for instance is at a distance of 15 kilometres. For some people it is difficult to go to such places, for instance if they have small children to take care of. If you only have a small field there, it is a lost effort. If there would be a short-cut to get there, the field would be much closer.”* (interview MRS-14c).

The ones who had obtained access to a plot had taken the initiative themselves to negotiate the land with former users or with the local customary authorities. Such arrangements are usually informal:

*“When I came here, I looked around in the bush to find a field, then went to the secretário and negotiated with him to get the field. I even went there this morning to pay him some soft drinks.”* (interview MRS-12a).

A young couple told us that they were cultivating on a field of others, paying them rent for a period of one year (interview MRS-11). Generally, the resettled people that we met showed moderate satisfaction about their living conditions in the new place, accepted that some conditions still needed a considerable upgrade, and kept hope that conditions would improve in the near future. A woman optimistically explained to us:

*“When a child is born, it can also not walk right away. They [the government] are helping us to get somewhere little by little [...] We’ll have a city here as well, once there is electricity. Then things will be good here in Mutua2.”* (interview MRS- 14a).

### **But whose land?**

Resettlement programmes often sketch a picture of empty land that only had to be identified by the government with the help of local authorities. In reality however, such ‘empty’ land is often not as empty as suggested. This was also the case in Mutua2. Although it was not an inhabited space, it was an area where 60 households owned their agricultural fields. During our two-day visit, we extensively talked with one of the people who used to have his agricultural fields on the resettlement site. His residential plot was in Mutua1. His former field was now divided into five residential plots, and he had kept one of these plots for himself, where he now had a tent. He had meanwhile arranged fields in another location, but had not received any monetary compensation for the loss of land. Overall, he was fairly positive about the arrival of new people as he hoped that it would provide new opportunities to the place. He was planning to construct his own house at the resettlement site in the future and to abandon his current home, but he would only do so once certain facilities would become available.

---

<sup>37</sup> Similar problems of land shortage, higher pressure on the land, and lengthened distances to the agricultural fields were already experienced before during the villagisation initiatives (Coelho, 1998:84).

Despite this respondent's general optimism, we also sensed more reserved feelings about the arrival of newcomers, especially because newcomers benefitted more from external aid than the members of the host communities. This respondent had been able to secure a tent for his own family as well, but was officially not entitled to receive one. He was also not entitled to benefit from some other projects that were set up for displaced. During our visit for instance we were shown a fish pond project that was set up with the support of UNDP. The pond is supposed to become a breeding ground for fish that can then be sold by the beneficiaries of the project. 30 households are targeted by the project, but it only includes displaced inhabitants. Overall, our respondent was positive, but when we probed whether the exclusion of longer-term inhabitants in development projects such as the fish pond would not cause any resentment, he very quickly responded that this could indeed cause problems in the future. Earlier on in our conversation, he had also pointed out that cultivating had become more difficult because the remoteness of his new fields. He could no longer go to the field early in the morning and return in the afternoon. Instead he would sometimes spend the night in the field in a small hut to be able to start work in the early hours of the day.

Lack of time did not allow us to further triangulate and to compare the experiences and opinion of our respondent with the experiences of other longer-term residents/farmers at the resettlement site. Talking to more people would certainly provide a more balanced picture. But his experience already signals an important, yet often overlooked element of resettlement programmes: What to do with the former occupants of the land? Even when land at first sight seems to be 'empty', it is often used in one way or another by people. In many cases, people in rural areas in Mozambique will not be able to provide a formal title over their land, although by law they have a right. It means that they have little negotiation powers when it comes to compensation. This is even more difficult when the state expropriates people in the public interest. This limited power to negotiate with the state became visible to us when, during an interview with a state official, he explained that in those cases where people do not have the formal DUAT document, *'the land does not really belong to them'* (Expert interview 9). This is in total contradiction with what is explicitly established by the Land Law.

## 6- Analysis: Diverging discourses

To address climate risks and to avoid further disasters from taking place, the government of Mozambique, through its National Institute for Disaster Management (INGC), has chosen a clear strategy: Removing people living in high-risk zones to other areas to prevent disasters from wreaking too much havoc. They expect that with this approach the number of people that could potentially be affected by disasters is reduced. But such a policy of population movement clearly has major consequences for the people that are affected; whether they are resettled, supposed to be resettled, or whether they are among the previous owners of the resettlement land. The country has already a number of previous failed experiences where the same approach was taken (Patt & Schroter, 2008: 459; Chambote & Veja, 2008). It is therefore not surprising that such a policy provokes strong opinions and risks dividing people in opposite stances. The challenge will be for both law makers, policy makers and practitioners to unite these different stances and to balance the needs and interests of all. In this section we shed light on a number of diverging discourses that we found during our field work, and exemplify the tensions created by these resettlement practices. Awareness of these divergences is needed to come to improved, more durable solutions to tackle the climate-displacement-land rights nexus in a satisfying manner for all parties involved.

### **“People don’t want to leave” vs. “We lost the opportunity to leave”**

Talking to government officials and humanitarian aid providers, we were struck by the dominant discourse that people from high-risk areas such as Praia Nova would not want to leave their residencies and move to safer locations. Several people in the high-risk zone indicated to us that they would be more than happy to leave, but that they missed the opportunity to register for resettlement because they had not fled to one of the accommodation centres but had sought shelter with relatives or friends living in safer locations. Meanwhile, it has become more difficult for people to leave, especially for the ones who bought their residential plots years ago when flood risks were much lower. They have seen the value of their property decreasing and are not always able to take the loss and leave. One couple explained to us that they had bought the land 12 years ago and had obtained (what they called) formal ownership documents from the neighbourhood secretary. Little by little they started to improve their housing conditions, but also little by little they saw the situation in the neighbourhood becoming more alarming to a point at which now they would be happy to leave, if only they would get proper compensation for their lost belongings (interview PN8).

Based on our research we argue that many residents in Praia Nova stay not as a matter of choice, but rather because they lack alternatives. They are well aware that the location is dangerous and unhealthy, and if the right opportunity was given, many of them would leave to a safer area. The conditions that would incentivise each family to leave are different: some seemed to be happy with an opportunity to be resettled in a rural area, while others feel that they could not live a rural life, and resettlement would have to happen in the city. Many are trapped with the investments they made in Praia Nova, and leaving would mean starting their lives from scratch. Moreover, it is quite likely that newcomers will continue to settle in Praia Nova. In parallel with what Patt and Schroter (2008: 461) argued regarding rural farmers, for those in urban areas that have to struggle every day for their survival, the possibility of a new disaster in the future is not a priority. Knowing, understanding, and engaging with the concrete daily survival needs of the residents in this risky area seems key to adequately addressing the risk of a future disaster (Patt & Schroter, 2008: 466).

### **“There will be problems with host communities” vs. “We’ll have a town here”**

Resettling people on ‘vacant’ land sounds as unproblematic. But land that appears unused or is formally vacant often has its users and plays a role in someone’s lives. These users might lose out when their land is claimed by the government as resettlement area, especially when their rights and needs are not adequately compensated. Prior to visiting the resettlement site, we expected to find feelings of resentment among the former users of the land: Who wants to give up his or her land, especially if no proper compensation is being paid? Such feelings indeed do exist and they certainly should not be taken too lightly, but there is also a sentiment of hope about opportunities that might come when the area further develops. Prior to the cyclone, the area of MRS was in use as farmland but it was seen by many as too remote to inhabit. With the establishment of the resettlement site, the area became more attractive for habitation. With the new inhabitants, came aid provision; were latrines and water taps constructed; and was a school and a health centre built (albeit both not yet functional). Many people expressed hope that soon electricity would become available. This would be a great step to turn what was now still seen as ‘the bush’ and unhospitable into an attractive and hospitable town.

However, these more positive feelings towards the newcomers might not last for long if these promises of development are not fulfilled, and the new settlers and the previous land users are left to fence by themselves. The literature is replete of examples where the initial enthusiasm of creating



a new settlement progressively fades away, and government and non-government support to build basic infrastructure ends up being much less than initially promised. If the new settlements only represent more hardships for those that already lived in the area due to the loss of their land, there is a high chance of growing tensions and conflict between them and the new settlers.<sup>38</sup>

### **“There is nothing here” vs. “We will have things, little by little”**

Quality of life at the MRS raised mixed feelings among resettled people. Partly, such mixed feelings can be explained by looking at the places where people used to live. People from Praia Nova were used to urban lifestyles; to the close availability of goods and services and to the petty jobs that are available in a city. The two other groups of resettled people in MRS came from more rural areas. Many of them had been farmers before being resettled, and a number of them are still cultivating the same fields. For them, the resettlement did not entail a complete shift in livelihoods. For people from Praia Nova, the transition was much bigger, as they had to get used to rural livelihoods and lifestyles. Some of them struggled more with this transition than others. Some had managed to secure some land for cultivation and enjoyed their new lives. They expressed optimism that their situation would improve, little by little, through their own efforts, but also through the assistance that they received. They were often the ones that already constructed their own houses of sun-burnt bricks next to the tents they had been provided. Others emphasised the hardships of their new lives; they complained about the lack of employment opportunities, the water that was leaking into their tents and the insecurity they experienced at night when it would be pitch-black because of the lack of electricity.

The optimism of some settlers might not last for ever. There are already a number of resettlement experiences in Mozambique where the failure to address the needs of the settlers made people return to the areas where they had come from (Patt & Schroter, 2008: 461; Chambote & Veja, 2008). The MRS risks to have the same faith if basic needs are not addressed. Moreover, issues such as the planned ending of humanitarian aid in March 2020 and the heavy floods in December 2019 and January 2020 can further make people question if moving to this resettlement site was a good choice.<sup>39</sup>

### **Opportunism vs. survival strategy**

One of the criticisms raised by state officials and aid workers is that people living in high-risk areas take advantage of aid that is provided as part of resettlement packages, but that they rapidly return to their homes in the high-risk areas once they have received aid (Expert Interview 7). It makes officials more sceptical about humanitarian interventions as they feel they have to continue rescuing the same people and providing emergency aid, whereas it would be better to work on prevention of risks.

Based on our findings, we would argue that some people might indeed take advantage of aid provision without the intention of moving permanently, but that is not all there is to say about it. A neighbourhood like Praia Nova is one of the cheapest areas to live in town and will therefore always attract people that are in search of better livelihood opportunities in the city. Significantly, only one couple that we met in Praia Nova was originally from Beira (interview PN8). They had moved to

---

<sup>38</sup> Regarding conflict with the host communities, in this case due to a resettlement for the construction of infrastructure, see for instance Centro Terra Viva, 2016: 24.

<sup>39</sup> It would be interesting to follow-up on the process of settlement and to see whether people return to their place of origin once aid provision is stopped.

Praia Nova already at a time when living conditions were still better. In fact, of the other respondents, only two came originally from Sofala province (interviews PN2 and PN3). Others had moved to Beira from other regions in the country. Moving away and returning shortly after, or sending only part of the family to the new resettlement site might just as well be a survival strategy. Resettlement sites in rural areas without employment opportunities are simply not a good alternative for people who live on petty jobs that an urban setting such as Beira has to offer. And even those that can imagine themselves working as farmers have difficulties in finding enough land to farm. It is therefore logical that people send some family members to test the possibility of resettlement in those areas, but don't fully commit to it (Artur, 2011). If people would see a future for themselves and their family in a different location, it is more likely that they would stay in that new location. What some see as opportunism, is seen by others as a survival strategy that is born out of necessity.

### **Resettlement as a solution vs. resettlement as the solution**

The preferred strategy of Mozambique's INGC to prevent future disasters from taking place, is to remove people from high-risk areas to other areas. It is a relatively low cost and low-tech solution that can be implemented in a relatively short-term, as long as resettlement sites are available. The international donor community and actors such as IOM have supported the Mozambican state to achieve their goal of resettlement. From the outlook, the resettlement approach seems to be widely supported. However, Insider experts from the aid community expressed their doubts and concerns about the resettlement process; about the conditions that were created in the new locations; about the compensation (or lack thereof) that was paid to people losing their land and livelihoods; about the lack of community consultations to identify suitable locations; and about the top-down way in which decisions were made about places where people would be moved. Experts from the aid community mentioned that the resettlement promoted by the government left them with a serious dilemma: should they be part, and therefore legitimise, a resettlement process that was far from the standards that aid agencies recommend, or not be part in this resettlement, but leave resettled people only with the limited support given by the government.<sup>40</sup>

As our research highlights, resettlement comes with a number of drawbacks, and in many cases might not be the best solution to address climate risks. For resettlement to be successful, it should not create new problems such as other natural disasters (e.g., droughts) or a lack of access to livelihoods. This might turn people in fact more vulnerable than they were before. The pros and cons of resettlement and other possible adaptation measures should be considered carefully, and draconian decision-making might not be the best approach to these important decisions. INGC's 2006 Master plan mentioned the need to construct more and better dikes, dams and drainage systems to prevent floods, but also mentions that financial resources will be needed.<sup>41</sup> The plan then emphasizes that if such measures are not taken, it is urgent to resettle people from Beira, Maputo and Quelimane who are living in floodplain areas without adequate drainage (Conselho de Ministros, 2006: 9). The second master plan is less clear about infrastructural works, but expands on a number of risk prevention measures, such as enforcement of prohibitions to construct in risk areas, and better preparedness and warning systems (Governo de Moçambique, 2017). These two plans show that there is a clear institutional awareness of the need to implement adaptation

---

<sup>40</sup> Regarding standards see for instance UNHCR, 2014; DG ECHO, 2017; Sphere, 2018.

<sup>41</sup> The city of Beira for instance is working on an urban Masterplan that includes better infrastructure and drainage systems. This is work in progress that is not yet fully implemented, nor fully tested. During Cyclone Idai for instance, water pumps did not work properly because there was an electricity black-out.

measures other than resettlement, but the solutions adopted in practice seem still far from the planned actions. More knowledge is needed about the reasons that lead to this gap between plan and practice.

### **Rapid and informal solutions vs. more durable and legally formal ones**

The Mozambican government managed to resettle more than 80.000 people within a couple of months, but this resettlement process was rather informal. People had received only temporary informal documents over their residential plots (Fig. 7; Lopes, 2020: 5), but did not yet receive the formal DUAT that they were supposed to get. They also had to organise their own livelihoods and were not granted a piece of agricultural land. At the time of our visit external aid was still provided and many people had not yet obtained access to agricultural land. A quick glance at the site revealed that most people continued to live in the tents that were provided in the direct aftermath of the cyclone. Significantly, heavy floods in December 2019 and January 2020 damaged a considerable number of the housing structures, affecting 64% of the households to some extent (IOM/INGC, 2020). The physical resettlement had taken place rapidly, but in a rather informal way. A more durable resettlement in terms of livelihoods, housing and legal protection was not yet achieved. Moreover, the process through which land was obtained for the resettlement areas was rather informal, giving little room for those affected by it to negotiate their position and be adequately compensated. With little leeway to negotiate alternatives to the expropriation (e.g., alternative areas), nor the form and amounts of compensation (which seems to have been none), those that give away their land are in practice bearing the costs of the resettlement of others. A more formal process to identify resettlement sites; to compensate prior land users; and to secure tenure of new settlers would provide more protection to people who are affected. If they feel more secure about their rights, the solution might also become more sustainable.

Looking for more durable solutions is not a self-evident part of interventions that are set up and carried out by state and non-state humanitarian actors working on disaster response. It is understandable from their mandate that this is something they cannot fully cover. Hence, this would need more bridging with development actors that take a longer-term, more durable perspective. A more formalised procedure could contribute to this as well.

### **Resettlement as a technical solution vs resettlement as a politically loaded solution**

Resettlement tends to be presented by its proponents as a technical solution to natural disasters or the prevention thereof in the future. But the solutions adopted are not politically neutral, and can be perceived as a tool to achieve political objectives. In opposition stronghold Beira for instance, resettlement was perceived by several of our respondents as a politically motivated strategy. Some argued that the national government tried to remove people from Beira prior to the elections in an attempt to reduce the number of votes being casted in Beira (and hence its representation at the national level). They would argue that the government intentionally had not identified any urban sites in Beira as resettlement locations but only identified rural areas. Government officials refuted this claim, arguing that people in high-risk areas in Beira were not treated any differently than people in rural risk areas and that it is simply easier to find 'empty' locations for resettlement in rural areas.

It is not up to discuss here whether there were indeed political motivations behind the resettlement scheme, but it is notable that it was perceived as such by some of our respondents. Such perceptions can impact on the legitimacy of the state and the efficiency of the crisis response. It underlines the

importance of transparent communication and – when needed - negotiation with all actors involved in the process.

## 7- Conclusions

Mozambican people and the Mozambican government have gotten used to live with cyclones, floods, droughts and other natural sudden and slow-onset disasters. When we compare our findings with earlier studies on disaster response (Christie & Hanlon, 2001; Patt & Schroter, 2008; Artur, 2011) it is clear that lessons have been learnt. The INGC had an attendance in the region at the moment the cyclone hit and was prepared for swift action. Early warnings were announced, temporary accommodation centres were rapidly set up, and international aid was coordinated through the INGC. Within some months only, the government resettled about 80 000 people(IOM/INGC, 2019b) from high-risk zones to safer areas to prevent other disasters from wreaking the same havoc in the future.

Maybe due to the long experience in the country with all types of resettlement, this became the go-to solution to address the issue of many of those affected by the cyclone. Just like any emergency aid actor, the INGC is primarily concerned with disaster prevention and with direct humanitarian aid at the moment disaster strikes. But the resettlement programme of the INGC also shows a longer-term vision, as this should reduce the number of people at risk in the future (see also Governo de Moçambique, 2019). It fits within the Sendai Framework that recommends to build back better and in more resilient ways (Priority 4 of the Sendai Framework): people are no longer rebuilding their homes in risk areas, but are now setting up their lives in safer areas. The INGC has done a lot of work to quickly identify such safer areas and in resettling people. But what the resettlement programmes after Idai hardly took into account is how people actually build up their lives; how they construct their homes and livelihoods.<sup>42</sup> Examples such as the provision of tents instead of durable building materials, and the provision of a residential plot but without agricultural land to make a living point at a lack of a truly long-term vision for the resettlement sites. This might not be a task of an institute like the INGC, nor of other humanitarian actors that are concerned with emergency aid, but it is a serious point of concern that limited follow-up is taking place once people have been resettled.

A second point of concern that we noted relates to the way in which people's rights over land are protected in the process of resettlement, both in the high-risk areas where people are removed, and in the safer zones. The gaps and inconsistencies in the legal framework identified above, combined with a selective use of legislation, left people's land rights unprotected. People who have invested in improved housing in risk areas – that sometimes were not at risk at the time of investment- see the value of these investments being greatly reduced and are not able to claim any type of compensation. This reduces people's willingness to abandon their homes and to resettle. People who were making use of the land in newly established resettlement sites are supposed to abandon their land without proper compensation, while noticing the aid that is provided to the newcomers in their area. Although we did not note any major conflicts about this between hosts and resettled people, it is not difficult to imagine that such conflicts or frictions can arise. A stronger recognition of people's land rights and proper compensation for the loss of land or property due to resettlement therefore would deserve more attention.

Apart from the lack of compensation paid to people affected by resettlement, we also noted that the process could be optimized by more participation of people in decision-making processes at

---

<sup>42</sup> A similar point can be found in GFDRR, 2014: 9.

various stages of the resettlement process; when identifying people that were eligible for resettlement; when identifying suitable locations for resettlement; and when distributing people over the various resettlement sites. When we inquired about this, we found that most respondents did not have any idea about how decisions were taken and had not been consulted in any of these processes. More participation could increase the legitimacy of such interventions, but we are also aware that more consultation will increase the time frame of the process when rapid solutions are required. To address this problem, consultation could already take place prior to disasters with people that could potentially be affected.

## **8- Recommendations**

Climate-induced natural disasters are likely to continue to affect Mozambique in the future. It is important that both people and the government are prepared to deal with such events. We have shown some of the dynamics at work in the aftermath of Cyclone Idai. From this some lessons can be learnt that lead to recommendations for the future.

Firstly, we want to emphasise here especially the need to set up a proper legal framework to deal with the resettlement process. This legislation should not undermine the land rights' protections established by the Land Law, but should especially establish the framework for a clear, consultative, and transparent expropriation process. Such legal framework can help to ensure that proper consultation is done, undocumented land rights are respected, compensation is provided in case of expropriation, and that the rights of resettled and host communities are adequately registered and formalised to prevent contestation and conflict in the future. Moreover, state institutions must follow and implement the legislation that it is already in place.

Secondly, we argue for longer-term policy making and programming on resettlement sites. Whereas resettlement can be considered as a durable solution to displacement (IASC, 2010), it can only be durable if people are supported to obtain access to durable housing and livelihood conditions. This might not be a task of the INGC, but other governmental and non-governmental actors could take up a role here at the moment humanitarian actors are leaving the scene.

Thirdly, the relations between resettled people and members of host communities and/or surrounding communities of the resettlement site need to be monitored closely. Moreover, host communities or neighbouring communities might deserve attention and support just as well to avoid (perceived) inequalities that can lead to frictions.

Fourthly, we note that the current Master plan that directs the work of the INGC already focuses at the reduction of disaster risks and aims to reduce people's vulnerability and to increase their resilience, in line with the Sendai Framework. To realise some of these measures, financial and human resources will be indispensable. This could come from the Mozambican government, but might also need support from the international community. Besides, it is important to develop plans in partnership with the people concerned to ensure ownership and engagement. This will make successful implementation of plans more likely.

Mozambique is one of the most affected countries by climate change. Our study shows some of the challenges in addressing climate-induced displacement and the existing protection gaps. We are convinced that this research is also relevant to other regions affected by climate change (Anastasiou & Ní Ghráinne, 2018). As pointed out by Kálin, '[a]ddressing the property issues resulting from displacement crises can also be an opportunity to address any long-standing inequities or



inefficiencies in registration and cadastral schemes generally, as well as to modify laws and policies to ensure that customary rights and non-traditional forms of ownership evidence are recognised' (Kälin 2005:11). Experiences and lessons from Mozambique can hopefully help other countries as well to not only build back better in physical terms, but also to build a better legal framework of protection.

## 9- References

- Almeida, B. (2018). 'Expropriation or Plunder? Property rights and infrastructure development in Oecusse' in J. Bovensiepen (ed.), *The Promise of Prosperity: Visions of the Future in Timor-Leste*. Canberra: ANU Press
- Aminzadeh, S. C. (2007). 'Moral Imperative: The human rights implications of climate change' in *Hastings International and Comparative Law Review*, 30(2), pp. 231-266
- Anastasiou, Thekli; Ní Ghráinne, Bríd (2018). 'Editorial: Environmental displacement in 2018 – current protection challenges' in *RLI Working Paper Series Mini Volume (Papers 23–26)*, pp. 1-4
- Artur, L. (2011). *Continuities in Crisis: Everyday Practices of Disaster Response and Climate Change Adaptation in Mozambique*. PhD thesis, Wageningen: Wageningen University
- Artur, L. (2013). 'The Political History of Disaster Management in Mozambique' in D. Hilhorst (ed), *Disaster, Conflict and Society in Crises – Everyday politics of crisis response*. London and New York: Routledge Humanitarian Studies, pp. 38-57
- Bedner, A. (2010). 'An Elementary Approach to the Rule of Law' in *Hague Journal on the Rule of Law*, 2010(2), 48–74
- Borderon, M.; Sakdapolrak, P.; Muttarak, R.; Kebede, E.; Pagogna, R.; Sporer, E. (2019). Migration Influenced by Environmental Change in Africa: A systematic review of empirical evidence. *Demographic Research*, 41(August), 491–544. <https://doi.org/10.4054/DemRes.2019.41.18>
- Busy, Joshua (2019). *The Field of Climate and Security: a Scan of the Literature*. LBJ School of Public Affairs, University of Texas at Austin
- Cabral, L.; Norfolk, S. (2016). 'Inclusive Land Governance in Mozambique: Good law, bad politics?' in *IDS Working Paper*, 2016(478)
- Centro Terra Viva (2016). *Análise Jurídica do Processo de Reassentamento – Ponte Maputo – Ka Tembe*. Centro Terra Viva
- Chambote, R. M.; Veja, B.S. (2008). *Reassentamento pela Metade no Vale do Zambeze – O caso de Mutarara*. Oxfam
- Christie, F.; Hanlon, J. (2001). *Mozambique & the Great Flood of 2000*. Bloomington: Indiana University Press
- Coelho, J. P. Borges (1998). 'State Resettlement Policies in Post-Colonial Rural Mozambique: The impact of the communal village programme on Tete province, 1977-1982' in *Journal of Southern African Studies*, 24(1), pp. 61-91
- Conselho de Ministros (2006). *Plano Director para Prevenção e Mitigação das Calamidades Naturais*.
- Deininger, K. (2003). 'Land Policies for Growth and Poverty Reduction'. *World Bank Publications*, nr. 15125 The World Bank
- DG ECHO (2017). 'Humanitarian Shelter and Settlements Guidelines' in *Thematic Policy Document nº 9*, European Civil Protection and Humanitarian Aid Operations
- Falstrom, D. Zartner. (2002). 'Stemming the Flow of Environmental Displacement: Creating convention to protect persons and preserve the environment' in *Colorado Journal of International Environmental Law and Policy*, 13(2001 Yearbook), pp. 1-30
- GFDRR (2014). *A Recuperação de Cheias Recorrentes 2000-2013 – Estudo do caso para o quadro de recuperação de desastres*. AFD, World Bank, European Union, UNDP, INGC
- Governo de Moçambique. (2017). *Plano Director para a Redução do Risco de Desastres 2017-2030*.
- Governo de Moçambique (2019). *Mozambique Cyclone Idai – Post Disaster Needs Assessment*.
- Hallegatte, S.; Bangalore, M.; Bonzanigo, L.; Fay, M.; Kane, T.; Narloch, U.; Rozenberg, J.; Treguer, D.; and Vogt-Schilb, A. (2016). *Shock Waves: Managing the Impacts of Climate Change on Poverty*. Washington: World Bank.
- Hellmuth, M. E.; Moorhead, A.; Thomson, M. C.; Williams, J. (2007). *Climate Risk Management in Africa: Learning from Practice* (M. E. Hellmuth; A. Moorhead; M. C. Thomson; and J. Williams (eds.); Vol. 1). International Research Institute for Climate and Society (IRI), Columbia University.
- Hilton Prize Coalition. (2017). *Issue Brief Land Tenure as a Critical Consideration for Climate Change-Related Displacement in Slow-Onset Disaster Zones*. Landesa. [http://prizecoalition.charity.org/wp-content/uploads/2017/05/HPC\\_CollaborativeIssueBrief\\_Landesa\\_BRAC\\_053117.pdf](http://prizecoalition.charity.org/wp-content/uploads/2017/05/HPC_CollaborativeIssueBrief_Landesa_BRAC_053117.pdf)



- IASC. (2010). *IASC Framework on Durable Solutions for Internally Displaced Persons*. The Brookings Institution/University of Bern Project on Internal Displacement. [www.brookings.edu/idp](http://www.brookings.edu/idp)
- IDMC – Internal Displacement Monitoring Centre; NRC - Norwegian Refugee Council (2019). *GRID 2019 – Global Report on Internal Displacement*. IDMC, NRC
- IOM/INGC (2019a). *Mozambique: Tropical cyclone Idai: site assessments Beira district* (Issue 28 March).
- IOM/INGC (2019b). *Mozambique: Tropical cyclone Idai Multi-Sectoral Location Assessment- Round x*. In *IOM Displacement Tracking Matrix* (Issue October). IOM; INGC (2020). *Flash Report 6 | Rain Damages to Resettlement Sites - Rapid Assessment (19-20 February 2020)*.
- IOM DTM; CCCM (2020). *Flash Report | Rain Damages to Resettlement Sites 3 / IOM DTM/CCCM Rapid Assessment (20 - 22 January 2020)*
- IPCC – Intergovernmental Panel on Climate Change (2014). *Climate Change 2014 - Synthesis Report - Summary for Policymakers*. IPCC
- Jacobs, C. (2010). Navigating through a Landscape of Powers or Getting Lost on Mount Gorongosa. *Journal of Legal Pluralism and Unofficial Law*, 42(61), 81–108. <https://doi.org/10.1080/07329113.2010.10756643>
- Kagan, M. (2007). Legal Refugee Recognition in the Urban South: Formal v. de facto refugee status. *Refuge: Canada's Journal on Refugees*, 24(1), 11–26.
- Kälin, W. (2005). 'Natural Disasters and IPDs' Rights' in *Forced Migration Review*, Special Issue Tsunami, pp. 10-11
- Knight, R. S. (2010). 'Statutory Recognition of Customary Land Rights in Africa - An investigation into best practices for lawmaking and implementation', in *FAO Legislative Study 105*, FAO
- Kolmannskog, V. (2012). 'Climate Change, Environmental Displacement and International Law' in *Journal of International Development*, 24, pp. 1071–1081
- Kolmannskog, V.; Trebbi, Lisetta (2010). 'Climate Change, natural disasters and displacement: a multi-track approach to filling the protection gaps' in *International Review of the Red Cross*, 92(879), pp. 713-730
- LANDac (2016). *Food Security and Land Governance Factsheet – Mozambique*, LANDac
- Lillywhite, S.; Kemp, D.; and Sturman, K. (2015). *Mining, Resettlement and Lost Livelihoods. Listening to the voices of resettled communities in Mualadzi, Mozambique*. Oxfam. [https://www.oxfam.org.au/wp-content/uploads/2015/04/mining-resettlement-and-lost-livelihoods\\_eng\\_web.pdf](https://www.oxfam.org.au/wp-content/uploads/2015/04/mining-resettlement-and-lost-livelihoods_eng_web.pdf)
- Lopes, Ibere (2020). *HLP Scoping Mission Field Review Internal Report*. Global Shelter Cluster
- McAuslan, P. (2013). *Land Law Reform in Eastern Africa: Traditional or Transformative?*. Routledge
- Milgroom, J.; Spierenburg, M. (2008). Induced Volition: Resettlement from the Limpopo National Park, Mozambique. *Journal of Contemporary African Studies*, 26(4), 435–448. <https://doi.org/10.1080/02589000802482021>
- Mitchell, D.; McEvoy D. (2019). *Land Tenure and Climate Vulnerability*. GLTN, <https://gltn.net/2019/05/24/land-tenure-and-climate-vulnerability/>
- Naser, M. M. (2012). 'Climate Change, Environmental Degradation, and Migration: Complex nexus' in *William & Mary Environmental Law and Policy Review*, 36(3), pp. 713-768
- Norfolk, S.; Tanner, C. (2007). 'Improving Tenure Security for the Rural Poor: Mozambique- Country case study', *LEP Working Paper No. 5*, FAO
- Norfolk, S.; Quan, J.; Mullins, D. (2020). *Options for Securing Tenure and Documenting Land Rights in Mozambique: A Land Policy & Practice Paper*. LEGEND
- Osório, C.; Cruz Silva, T. (2017). *Corporações Económicas e Expropriação: Raparigas, Mulheres e Comunidades, Reassentadas no Distrito de Moatize*. WLSA Moçambique
- Patt, A. G. and Schroter, D. (2008). 'Perceptions of Climate Risk in Mozambique: Implications for the success of adaptation strategies' in *Global Environmental Change*, 18, pp. 458-467
- Podesta, J. (2019). *The Climate Crisis, Migration, and Refugees*. [https://www.brookings.edu/wp-content/uploads/2019/07/Brookings\\_Blum\\_2019\\_climate.pdf](https://www.brookings.edu/wp-content/uploads/2019/07/Brookings_Blum_2019_climate.pdf)
- Quan, J.; Dyer, N. (2008). *Climate Change and Land Tenure - The Implications of Climate Change for Land Tenure and Land Policy*. Land Tenure Working Paper 2. IIED and Natural Resources Institute, University of Greenwich
- Salomão, A. (2017). *Avaliação da Governança da Terras em Moçambique: 2015-16 - relatório final*, World Bank
- Serra, C. M. (2014). *Estado, Pluralismo Jurídico, e Recursos Naturais – Avanços e recuos na construção do Direito Moçambicano*. Lisbon: Escolar Editora
- Shannon, M.; Otsuki, K.; Zoomers, A.; Kaag, M. (2018). Sustainable Urbanization on Occupied Land? The politics of infrastructure development and resettlement in Beira city, Mozambique. *Sustainability*, 10(9), 1–18. <https://doi.org/10.3390/su10093123>
- Shannon, M. (2019). 'Who Controls the City in the Global Urban Era? Mapping the dimensions of urban geopolitics in Beira city, Mozambique' in *Land*, 8(37), pp. 1-19, doi:10.3390/land8020037

- Sharpe, M. (2012). The 1969 African Refugee Convention: Innovations, misconceptions, and omissions. *McGill Law Journal*, 58(1), 95–147. <https://doi.org/https://doi.org/10.7202/1013387ar>
- Sharpe, M. (2018). *The Regional Law of Refugee Protection in Africa*. Oxford University Press.
- Sphere (2018). *The Sphere Handbook – Humanitarian Charter and Minimum Standards in Humanitarian Response*. Sphere
- Tanner, C. (2002). *Law Making in an African Context: the 1997 Mozambican Land Law*. FAO Legal Papers Online #26, [http://www.fao.org/fileadmin/user\\_upload/legal/docs/lpo26.pdf](http://www.fao.org/fileadmin/user_upload/legal/docs/lpo26.pdf)
- Trindade, J.C; Cruz, L.; José, A.C. (2015). *Avaliação Jurídica Independente aos Processos de Licenciamento dos Projectos Minerais e de Hidrocarbonetos*. Centro Terra Viva
- True Price; University of Groningen (2016). *Towards a Protocol on Fair Compensation in Cases of Legitimate Land Tenure Changes. Input document for a participatory process*. Study commissioned by the Organising Committee of the Dutch Land Governance Multi-Stakeholder Dialogue
- UNHCR (2014). Global Strategy for Settlement and Shelter – A UNHCR Strategy 2014-2018. UNHCR
- Walicki, N. (2008). IDPs from Chechnya in the Russian Federation. *Forced Migration Review Special Issue*, 31, 80. <https://www.refworld.org/docid/50c07c5f2.html>
- Warner, K.; Hamza, M.; Oliver-Smith, A.; Renaud, F.; and Julca, A. (2010). Climate Change, Environmental Degradation and Migration. *Natural Hazards*, 55(3), 689–715. <https://doi.org/10.1007/s11069-009-9419-7>
- Wood, T. (2014). Expanding Protection in Africa? Case studies of the implementation of the 1969 African refugee convention's expanded refugee definition. *International Journal of Refugee Law*, 26(4), 555–580. <https://doi.org/10.1093/ijrl/eeu048>
- WMO – World Meteorological Organization (2019). *Reducing vulnerability to extreme hydro-meteorological hazards in Mozambique after Cyclone IDAI*. WMO Mission report, [https://library.wmo.int/doc\\_num.php?explnum\\_id=6259](https://library.wmo.int/doc_num.php?explnum_id=6259)
- Wong, K. V. (2016). *Climate Change*. New York: Momentum Press

### Press articles

- Africa 21 08/12/2019 – ‘Moçambique: Chuvas intensas na Beira lembram o “pesadelo” de um passado recente’ - <https://africa21digital.com/2019/12/08/mocambique-chuvas-intensas-na-beira-lembram-o-pesadelo-de-um-passado-recente/>
- Guardian 20/01/2020 – ‘Climate refugees can't be returned home, says landmark UN human rights ruling’ - <https://www.theguardian.com/world/2020/jan/20/climate-refugees-cant-be-returned-home-says-landmark-un-human-rights-ruling>
- RFI 06/12/2019 – ‘Beira debaixo de água’ - <http://www.rfi.fr/pt/mo%C3%A7ambique/20191206-beira-debaixo-de-%C3%A1gua>
- RFI 06/01/2020 – ‘Alerta de inundações no centro de Moçambique’ - <http://www.rfi.fr/pt/mo%C3%A7ambique/20200106-alerta-de-inunda%C3%A7%C3%B5es-centro-de-mo%C3%A7ambique>