

## **Housing, Land and Property Advisor to the Global Shelter Cluster**

HLP Scoping Mission  
Field Review Internal Report

Cyclone Idai Response, Mozambique  
10 - 14 June 2019

### **Scope of the report**

This Field Review Internal Report presents the findings from the 5-day long scoping mission of the Global HLP Advisor to Beira and Maputo. In addition to the findings, it includes recommendations to Shelter Cluster partners on how to approach some of the most prominent HLP issues related to the response. An account of the activities undertaken in-country by the HLP Advisor and a contact list are provided at the end.

### **Objective of the scoping mission**

To identify land tenure-related issues impacting the response and determine the broad lines of further support needed by shelter cluster partners to ensure increased tenure security for the affected population.

The findings below are not an exhaustive compilation of HLP issues in Mozambique. It is a list of the land tenure issues identified by the HLP Advisor - in the limited time of the field assessment - that may have the potential to hinder the effective and inclusive provision of shelter and housing assistance in the disaster response.

### **ToR**

Attached.

### **Deployment request**

This deployment was first requested by the Global Shelter Cluster Coordination team, on behalf of the Mozambique National Shelter Cluster, following reports that land tenure issues had emerged in connection with the response to cyclones Idai and Kenneth.

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## **Findings and Recommendations**

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### 1. General Considerations

#### 1.1 Land belongs to the State

Mozambique has adopted a Government-controlled land tenure system, where all land belongs to the State. Individuals, companies, groups, communities and institutions can hold a Right of Use commonly known by the acronym DUAT (“Direito de Uso e Aproveitamento da Terra – right of use and enjoyment of the land”).

#### 1.2 Land cannot be sold...

The sale and purchase of land is prohibited. Land can be inherited, but not purchased. Buildings and improvements on the land can be sold and purchased. The buyer of a house must request the State to transfer the DUAT to his/her name.

### 1.3 ...But land is sold anyway

Notwithstanding the legal prohibition of land transfers, expected market forces (an abundance of willing sellers and buyers and demand and supply pressures) have made the legal sale of these improvements/buildings – with the subsequent transfer of the DUAT for the land – commonplace. Officially, only the building is sold, not the land. It is however a *de facto* sale of land, where the price for the land is paid “off the books” or included in an inflated price for the building. This workaround has become so widespread that is not unusual to see “land for sale” advertised<sup>1</sup> nationwide.

### 1.4 Invisible land rights

Although unregistered land use rights obtained by custom are widely recognized and viewed as akin to ownership, most land rights acquired by occupation remain invisible on official maps, and government officials may be unaware of the extent of rights held by communities and individuals. The increasing demand for land by investors makes such –invisible rights vulnerable to allocation to third parties by the state<sup>2</sup>.

### 1.5 Less than 10% of land plots are registered

Despite the Mozambican Government’s recent efforts for land formalisation<sup>3</sup>, only a fraction of the country’s land parcels are formally registered<sup>4</sup>. The lack of one integrated National Land Cadastre creates confusion and overlapping concessions of use rights. A unified National Land Cadastre is planned, but still incomplete and facing challenges.

### 1.6 Formalising land rights has its own risks

Land certification in and on itself is not sufficient to provide security of tenure. The rights acknowledge in property certificates can only be adequately enforced if there is rule of law, a functioning and updated land management system and an accessible dispute resolution mechanism. In addition, land certification can have adverse effects, such as the dispossession and land grabbing of communities holding land under customary tenure.

## 2. Land tenure issues in informal settlements

### 2.1 Parallel land tenure systems

According to the Post Disaster Needs Assessments (PDNA) for Cyclone IDAI, “60% of affected housing units, totally or partially destroyed, are conventional homes within

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<sup>1</sup> *Land Tenure Tensions in Maputo - A study of the neighborhood of Polana Caniço*, Eleonora Dobles, September 2017.

<sup>2</sup> USAID Mozambique Country Profile, 2011.

<sup>3</sup> Funded by a 100M USD World Bank grant, the “Terra Segura” project was approved in December 2018 and aims to register 5 million land parcels, develop a National Land Cadastre and improve the country’s land management systems and legal framework. The titling effort is being conducted by private contractors, each company assigned a different area within the provinces. The

<sup>4</sup> Estimated 500,000 DUAT issued countrywide, against a national target of 5 million parcels to be registered.

urban areas, prevalently in informal settlements with high environmental social and economic vulnerability”<sup>5</sup>.

Informal settlements<sup>6</sup> affected by the cyclone operate a parallel land management system that is not recognised by law. Neighbourhood chiefs (“chefe de unidade”) record land transactions, issue “certificates” (“property sale statements”) and charge for the service. The system is trusted by the community and provides security of tenure within the neighbourhood, i.e land rights holders under this informal system can successfully repel challenges to their claim, if such challenges come from within the community<sup>7</sup>.

However, their “certificates” are powerless against outside challenges to their tenure. For example, an informal certificate issued by the chefe de unidade (ou even by the Secretario de Bairro – a higher authority) would not be sufficient to prevent the holder from being evicted by State authorities.

The lack of secure tenure in these locations weakens the confidence of its residents to invest in their homes, repair the damaged buildings, “build back better” or work on flood resilience adaptation. It also discourages residents to leave their houses in the informal settlement unoccupied (for example, to move temporarily to a safer location), for fear of losing the land to illegal occupants.

**RECOMMENDATION: Shelter Cluster partners should understand the land tenure system practiced in the areas of intervention (and areas of origin) and plan their activities accordingly.**

For example, it would be inadequate to require affected households to present a DUAT as proof of ownership in informal settlements for repair or reconstruction projects. The “property sale statement” and the testimony from local authorities (“chefe de unidade”) can be more adequate means to prove land tenure for the purpose of shelter interventions.

## 2.2 Hazard areas and tenure security

Not all residents of risk areas lack formal land rights. But even for cases where households hold a DUAT, rehabilitation and reconstruction of houses located in neighbourhoods deemed vulnerable to cyclone/floods can be hampered by general lack of clarity vis-à-vis the Government’s recovery policy for such areas.

Residents don’t know if they should invest in repairing their homes in risk areas for fear that the neighbourhood could be forced out of the area by the government. It is also not clear if shelter actors will be able to provide support to rehabilitate damaged houses in risk areas and adapt them to increase flood/storm resilience.

As seen in previous disasters in Mozambique, in many cases residents of affected neighbourhoods may prefer to keep their land/house in the area, even if they accept

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<sup>5</sup> Mozambique Cyclone Idai PDNA, Housing and Settlements Sector, 2019.

<sup>6</sup> *Land Tenure Tensions in Maputo - A study of the neighborhood of Polana Caniço*, Eleonora Dobles, September 2017. See also [http://www.urbanlandmark.org.za/downloads/tm2013\\_03.pdf](http://www.urbanlandmark.org.za/downloads/tm2013_03.pdf)

<sup>7</sup> Key informant interviews in Munhava-Matope neighborhood, Beira, 11<sup>th</sup> June 2019.

to relocate to resettlement sites. The allocation of a land parcel in a relocation site should not be conditioned to the forfeiting of or to any limitation to the beneficiary's land rights in the place of origin.

**RECOMMENDATION: The Shelter Cluster should seek clarification from Government on the mandated policy for risk areas in order to guide partners accordingly.**

The lack of clarity on the possibility of returning to/remaining in risk areas is hindering partners ability to plan for interventions such as on site repairs, reconstruction and adaptation. It is also hampering the capacity of affected households to make informed decisions on self-recovery. At the time of writing, the Shelter Cluster had not have access to the risk mapping produced by INGC, or to a clear policy for the different risk levels in the assessed areas.

### 2.3 Owners versus renters

Despite the fact that land can only be owned by the State and that the vast majority of affected households do not hold a formal DUAT, some of the affected claim to be land "owners". These are individuals that have inherited or purchased land under the parallel tenure system, or that have built their houses on land that they occupy informally. Albeit informal, their "ownership" claim affords enough tenure security as to allow the owners to rent out their properties, becoming landlords.

Other households declare to be tenants, either renting the land upon which they have built their house, or renting someone else's house. Anecdotal evidence suggest that most of the households who have stated their intention to relocate are landless renters, who hope that the relocation will afford them the opportunity to obtain ownership of a plot of land. Better understanding the split between owners and renters can help Government and organisations to develop - or adjust - shelter options in the response.

**RECOMMENDATION: In coordination with the CCCM Cluster, the Shelter Cluster should obtain household-level data on land tenure of the affected.**

Data collection exercises already underway, such as IOM's Displacement Tracking Matrix (DTM) should try to capture information on land tenure to understand if households were owners, renters or informal dwellers. This information can be used not only as a tenure baseline and reporting tool (i.e. 'x' number of landless households have been allocated land in relocation sites), but also as a valuable input to help adapting shelter interventions to the tenure status of the affected.

## 3. Land tenure issues in relocation sites

### 3.1 Land rights promised, but timely delivery seems unlikely

Approximately 14,000<sup>8</sup> land plots are expected to be demarcated, allocated to an identified household and issued a DUAT. The allocation of plots to households does

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<sup>8</sup> Obtaining the exact number of demarcated land plots in relocation sites can be challenging. Reported figures can refer to plots that have been demarcated, but not yet allocated; plots already demarcated and allocated; or plots that have been planned and drawn in the site map, but not yet physically demarcated. According to the reported figures, there are approximately 14,000 plots demarcated or mapped across Sofala, Manica, Tete and

not involve the adjudication of a formal land right – it is a simple match up of land parcel with affected family.

Resettled families are being informed that they will receive a DUAT, the formal recognition of their occupancy right. From our consultations with government at the provincial and national levels, there seems to be a consensus that the allocation of formal land rights in resettlement sites should and will happen.

The registration of these new parcels and the adjudication of formal DUATs to resettled households will demand a concentrated mobilisation of resources, particularly if the intention is to provide tenure security early enough to enable recovery and reconstruction. There is however no sign that this level of mobilisation is being planned or executed. Officials have indicated that there is a lack of resources for land registration at the local level, and that external support might be needed in order to conduct the land registration and rights allocation.

In addition, many of the affected households don't have adequate identity documents, which are needed for the processing of the DUAT. The processing of personal identification documents must be carried out prior to or in tandem with any efforts to issue DUAT to the resettled<sup>9</sup>. This would also allow for the inclusion of the names of both spouses in the DUAT in order to strengthen the tenure of women, enabling them to participate in decision-making on land matters.

**RECOMMENDATION: The Shelter Cluster should advocate for the expedited processing of DUAT for relocated households and raise awareness of Government and donors to the importance of securing land tenure.**

Strong tenure security gives households the confidence not only to invest in their shelter, but to invest in their future. It creates multiple positive incentives, including to rebuild better, repair, improve and make it more resilient to existing risks. Securing tenure increases the incentives for self-reliance and enables early recovery. Shelter cluster partners seek donor funding to assist the provincial directorates of Land, Environment and Rural Development to carry out an expedited, systematic registration of plots and issuance of DUAT in the relocation sites and host communities.

### 3.2 Land use planning and tenure

Experience from past post-disaster relocations in Mozambique have shown that relocation sites tend to evolve into new human settlements, which will require proper land use planning and the early apportionment of public interest areas for utilities, internal roads, emergency evacuation points, elevated flood-safe zones, and open spaces. Individual land plots allocated before such planning is completed may be placed in the way of such areas and need to be moved, putting households at risk of eviction.

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Zambezi. Approximately 8,000 have been allocated, i.e. officially matched to an identified household. None has been issued a DUAT.

<sup>9</sup> There is an effort by the Mozambican Ministry of Justice (“Ministério da Justiça, Assuntos Constitucionais e Religiosos”) to provide IDs to individuals in some of the relocation sites, but it's unclear if this exercise is being conducted in all sites.

It is imperative that adequate land use planning is undertaken prior to the demarcation of individual plots and the assignment of land rights. If timing doesn't allow for land use planning prior to plot demarcation, empty spaces can be included between parcel lots in the site mapping, to allow for the future planning of public interest areas.

**RECOMMENDATION: The Shelter Cluster should advocate for the development of land use planning in the relocation sites.**

In coordination with the CCCM Cluster, partners can support district administrations in relocation areas to develop land use planning for the sites. When not possible, site planning should include empty spaces to accommodate the future inclusion of public interest areas, so as not to put households' land tenure at risk.

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**Suggested Next Step: Follow Up Assessment and HLP Workshop for partners**

Given the limited time for the initial scoping mission and the fact that relocations and plot demarcations were still underway, it is suggested that a follow up mission takes place for further needs assessment, consultation with Shelter Cluster partners and advocacy with Government. The follow up mission should include a targeted HLP Workshop for partners.

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**Activities**

10/06

*Maputo*

- briefing with IOM Chief of Mission, Katharina Schnoering
- briefing with Shelter Cluster National Coordinator, Francisco Monteiro (IFRC)

11/06

*Beira*

- Briefing with Mark Deasey, Shelter Cluster Coordinator in Beira (IOM)
- Meeting with Joana Correia, Shelter Cluster Roaming Coordinator (IFRC)
- Visit to peri-urban informal settlement affected by the cyclone ("Munhava-Matope"), guided by Terra Nova's (a local social-enterprise) manager, Flore Roura, and community leader Gildo Pereira;
- Discussions with community members and local authorities
- Collection of document samples and inspection of land plots / physical boundaries
- Meeting with CCCM Cluster Coordinator, Simon Cowie (IOM) and Leanne Hanmore, CCCM Operations (IOM)

12/06

*Beira*

- Discussion with Mr. Fernando B. Lucas, Head of Cadastral Services of the City of Beira

- Presentation by the team developing the digitalised land cadastre in the City of Beira
- Visit to resettlement camps in Savane and Mutua
- Inspection of land plots / physical boundaries
- Discussion with resettled persons and camp managers
- Meeting with Christopher Zapp, DTM Beira Team (IOM)

13/06

*Beira*

- Meeting with Fernando Ferreiro, Early Recovery and Reconstruction (UN Habitat)
- Meeting with Sr. Diogo Borges Davide, Provincial Director of Land, Environment and Rural Development
- Debrief with local shelter cluster partners, CCCM, and interested parties (UNHCR, World Vision, Terra Nova, etc)
- Flight to Maputo

14/06

*Maputo*

- Debrief with IOM Chief of Mission
- Meeting with Adérito Wetela, National Director of Spatial Planning, Ministry of Land, Environment and Rural Development.
- Meeting with Sofia dos Santos, National Director for Housing and Urbanisation, Francisco Vassalo Monteiro, National Shelter Cluster Coordinator (IFRC)
- Discussion with Lazaro Gomende, Head of the Land Titling Department, Francisco Monteiro, National Shelter Cluster Coordinator (IFRC)
- Departure to Pretoria

## ANNEX 1

### Terms of Reference for the

### HLP PRELIMINARY MISSION FOR MOZAMBIQUE CYCLONE RECOVERY

June 2019

Context: Cyclones Idai and Kenneth caused massive displacement of population across several provinces of central and northern Mozambique in March and April 2019. Emergency shelter needs have now been largely met in the Idai-affected provinces (albeit with some persisting gaps), and response is well advanced in the Kenneth-affected areas. In the Idai affected areas, only around 3,000 people remained in collective accommodation centres as of 6<sup>th</sup> June, out of a total initially displaced population of around 400,000.

Population movement has still not stabilised, with government-arranged resettlement sites both losing some original resettleses, and drawing in others through availability of otherwise scarce services. Large numbers of people have spontaneously resettled at sites of their own choosing, which may be adjacent to or far from their original homes; in other locations entire communities have moved a short distance from flood-prone or otherwise vulnerable areas.

HLP status and rights of three major categories of population need consideration:

- Those who have been resettled per planned movement to official resettlement sites, where their land tenure is not yet fully clarified.
- Individual households and whole communities who have spontaneously resettled.
- Urban and peri-urban populations in informal settlements, which suffered disproportionate destruction in Cyclone Idai particularly, and who are in need of more secure title if they are to be assisted to build back with homes of greater resilience.

Goal of initial mission: To identify land tenure-related issues impacting the Idai response and determine the broad lines of further support needed by shelter cluster partners to ensure increased tenure security for the affected population.

The Adviser will continue to liaise with key parties identified among the humanitarian and development agencies and the GoM, to assist in guiding and reviewing an HLP strategy as it develops.

Outline Plan: Assuming an available one week/five working days in country, the outline allocation of time would be:

- Two days spent in Maputo to consult with the National Shelter Cluster Coordinator, relevant directorates of the Ministry of Land, Environment and Rural Development (MITADER), and other central government actors to be identified; and
- Three days in the Beira area, including meetings with provincial level of MITADER; visits to rural INGC-sponsored resettlement sites; and to urban informal settlements with civil society groups engaged in support for reconstruction and secure tenure.

Deliverable: Debrief in Beira at conclusion of visit; summary report outlining issues and recommending next steps – feasible timetable to be discussed with the Adviser.

## ANNEX 2

### Contact List

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