



POLICY BRIEF

Restricted Access: Zones Closed by Mining (Cabo Delgado) and Conservation (Sofala)

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This policy brief is part of a set of five briefs produced in the TIPS research on the root causes of natural resource conflicts in the provinces of Inhambe, Sofala, Tete, Niassa, and Cabo Delgado.¹

As part of the decentralization that took place in the post-civil war period from 1992 onwards, district governments are responsible for supervising the areas under their governance and the management of natural resources in a context of participatory democracy, exercised mainly through local community councils. The District Services for Economic Activities (Serviços Distritais de Atividades Económicas - SDAE) in collaboration with civil society including NGOs, local communities represented by Natural Resources Management Committees (Comités de Gestão dos Recursos Naturais - CGRN), and various community organizations; supervise activities and raise awareness among residents and the various economic actors on the sustainable use of the land, forests, and the environment. However, the situation on the ground does not always observe this ideal model, as legislation on the use and conservation of natural resources serves more as a guideline.

Using the examples of gemstone mining by the Gemfields² company in Cabo Delgado and the environmental protection and conservation area in Gorongosa National Park (Parque Nacional da Gorongosa - PNG) in Sofala, this study highlights the declining power of State institutions especially district governments, in two different “restricted” zones i.e., those licensed for prospecting and mining and those established as national parks. The study also discusses the difficulties encountered by State institutions and civil society when monitoring activities in these areas, which are often surrounded and supervised by private security companies.

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² Namely, two limited liability companies in Montepuez district (Montepuez Ruby Mining and Nairoto Resources) in which Gemfields Mauritius holds 75% of the shares and Mwiriti 25% (Gemfields, 2021). Although the main shareholder (60%) in Mwiriti is Raimundo Pachinuapa, a famous veteran of the national liberation struggle, the majority shareholder in NR and MRM is a limited liability company registered in Mauritius and based in London.

The findings and recommendations derive from project interviews in the districts affected by the PNG and industrial gemstone mining in Montepuez.³

AREAS RESTRICTED DUE TO MINING

The Land Law (19/97), which has been under review since 2020, and the Forestry and Wildlife Law (10/99) recognize the Mozambican people’s right to use and benefit from the land and its resources to guarantee their livelihoods. According to De Wit & Norfolk (2010), the Mining Law (20/2014), which allows large areas to be reserved for this activity, and its current interpretation, might conflict with these rights for local communities to benefit from the land even though there are mechanisms for providing compensation for losses. This conflict of laws fuels misinterpretations and non-compliance and calls for reconciliation of the laws. The same authors indicate that non-compliance, rather than the factual conflict of laws, may lead to some studies point to that the political and economic elites who become the main beneficiaries of these resources instead of the local communities, as another reason for non-compliance.

Large concessions for prospecting and mining are clearly visible in Cabo Delgado, as is the concentration of benefits in the hands of a few, with a tendency for local populations to be excluded from accessing the economic benefits, especially young people.⁴ One manifestation of this exclusion is the restricted access to physical spaces, including what was previously used for the benefit of the community as a source of subsistence resources. Mining concessions are granted at the central government level, often with poor public consultations with district governments and the affected communities. In the community consultations, which the Mining Law provides for and requires, companies are rarely represented by the owners, but by professional consultants who do not return to the area to be accountable for the

³ There were interviews and conversations with provincial and district government (especially SDAE) technicians, farmers, miners and other community members, natural resources management committees, community leaders, activists and NGO staff in Gorongosa, Beira, Nhamatanda, Muanza (Sofala), Montepuez and Pemba (Cabo Delgado), between June and August 2021.

⁴ More detail about concentration of mining concessions of the Montepuez district in Mwiriti Mining Limitada can be found in the TIPS Research Report (Rantala, in press). Mwiriti belongs to Pachinuapa and Asghar Fakhr Ali and is a partner of the Gemfields in Cabo Delgado.

promises they made. Given the restrictions on physical access combined with the conflicting interests of political elites, mining areas such as those of Montepuez Ruby Mining (MRM) and Nairoto Resources Limitada (NR) in Cabo Delgado are rarely supervised by local State agents, district governments, or members of the Provincial Assemblies. For example, until mid-2021, the Montepuez district government was unable to gain access to NR facilities. The lack of access could be related to the fact that although Mozambique has a decentralized government structure that should provide for more local political autonomy, local bodies are not represented in the central decision-making process and under the 2018 Constitutional amendments are still compelled to “respect the unitary State structure” (Kössler, 2018). Thus in this scenario, decisions taken at the central level are rarely contradicted at the local level, regardless of whether just or not. Access to MRM and NR is also restricted and complicated for civil society organizations and research institutions, highlighting issues of transparency and accountability. However, deputies of the Assembly of the Republic (AR) don’t face similar challenges in visiting the areas. Permission for certain visits to the MRM, such as those by AR deputies, however, is given by the Gemfields parent company in London and often with a long delay.⁵

Another location with similar problems of access is the above-mentioned NR, which is around 30 km away from the MRM area and is owned by the same shareholders. Residents, journalists, and civil society activists highlight the lack of access to the large NR area which is partially fenced. Even local State representatives face restrictions on entering the area. It is controlled by several private security companies and by two police forces i.e., the Rapid Intervention Unit (Unidade de Intervenção Rápida - UIR, or anti-riot police) and the Civil Protection Police -that fall under the authority of the Provincial Police Command instead of the local police post. These forces remain in the area for long periods, are better equipped than the local police and receive a company subsidy in addition to their wages. Although some administrative posts in the district are occupied by people with a military background with greater access, local government officials

⁵ This is not surprising, as even the cases about MRM violence against communities in Nhamanhumbir between 2016 and 2017 were heard in a British court, not in Mozambique.

are unable to investigate whether some concession areas are being used as logistical routes by the insurgents⁶ due to restricted access resulting from the conflict. Restricted access and weak inspection give mining companies a lot of power, and this leads to abuse. One example of abuse by NR is the mining company’s order to detain workers of the Panga logging company in an area where both companies have licenses to operate.

Given their excessive power, mining companies can decide how much they want to reveal about their profits and how much they pay in taxes. Despite possessing an extraction license since 2017, NR states that it is still in the prospecting and investigation phase and therefore it has not paid any taxes. However, very few people believe that NR with all of its expensive tools has yet to find gold in mines, as artisanal miners operating in the district report finding 1-3 grams of gold per day. In addition to tax evasion, violations of labor rights are also suspected, but there is no indication that the State’s police forces in the concession area have investigated these problems.

Although not the focus of this study, it would be unfair not to mention that NR has some merit in the field of social responsibility. The company built the Nairoto Primary School office and a public television room. In 2019, it offered four vehicles to the local police force.⁷ Even though it employs some local youth, NR’s social responsibility initiatives pale against the negative impact that its extensive occupation has on people’s livelihoods, especially of women, whom NR does not employ mainly for security reasons.

AREAS RESTRICTED DUE TO CONSERVATION

The case study in the field of environmental conservation is focused on the Gorongosa National Park (Parque Nacional da Gorongosa – PNG), which has a special autonomous administration. Originally created in 1921 with an initial area of only 1,000 km², the park was a hunting reserve for managers of the Companhia de Moçambique and its important European visitors (Walker, 2015). Today, its conservation area with restricted access occupies an area of 4,086 km² covering

⁶ Since 2017, northern Mozambique, with a particular focus on Cabo Delgado, has been the victim of attacks attributed to insurgents.

⁷ However, these vehicles did not benefit the local police and their whereabouts are unknown.

the districts of Gorongosa, Muanza and Cheringoma in Sofala province. In addition, it occupies a buffer zone covering 5,333 km² that extends to the districts of Maringue, Nhamatanda, Dondo, Macossa and Caia, containing an estimated population of some 150,000-200,000 people (MITADER, 2016). Formally, the area is under the joint control of the State and the Carr Foundation⁸, but the government has leased the administration of the park to this American foundation until 2053.

The park's objective is to conserve biodiversity, guarantee the continuation of ecological processes and preserve natural values. In order to fund conservation and minimize negative impacts on communities around the park, it also intends to develop an ecotourism industry. However, the use of natural resources in protected areas for local subsistence purposes is prohibited and access to them is restricted. There have been regular clashes between the PNG and locals who move around in the park area to pursue their economic activities.

Under the Biodiversity Conservation Law (16/2014, Article 16), subsistence hunting, felling trees, beekeeping and agriculture are not allowed in national parks because they were created for the total protection of the environment and do not consider human habitation. In principle, national park projects are not responsible for providing compensation of the kind required in the case of the resettlement caused by mining, but the State still has this responsibility (Law 16/2014: article 48). For example, the PNG's Management Plan does not mention compensation for resettled people. In practice, parks expect people to leave and abandon the land because they cannot withstand the human-animal conflict. The people who still live in the PNG and its buffer zone complain about the use of repressive measures by the government and PNG to drive them away from their land, attacks, and destruction of farms by animals and the prohibition of various subsistence activities. This violence is primarily structural and cultural, as communities lose the right to their lands and daily livelihoods, their cemeteries, sacred places, and their means of subsistence. Secondly, it is also physical, not only because of the presence of animals, but also due to the park's militarized private surveillance. In July 2021, a farmer who

found ivory in Nguinha-Muanza died in hospital after being arrested by PNG inspectors and beaten.⁹

Furthermore, the area surrounding the PNG has various private hunting reserves, where access is also prohibited. There has been spatial exclusion in the PNG, reserves and the prohibition of subsistence hunting to promote sport hunting since colonial times. Although there is no longer a racial character in terms of access to these activities, there is a direct link to purchasing power. Indeed, these restrictions are no longer justified by the recreational interests of the colonial upper class, but mainly for technocratic and bioscientific reasons (Walker, 2015). On this justification for spatial exclusion is the fact that tourists have the right to hunt for sport, while subsistence hunting is banned and severely punished and/or can be questioned.

Nevertheless, relations between communities, the PNG and the reserves, as well as their social impact varies. Outside the total protection area, there are beneficiaries of ecotourism and hunting tourism, social programs, and sustainable agricultural projects, including coffee production with PNG support. In addition to creating some jobs for residents, the PNG has also been training communities in sustainable agriculture. Unlike many logging companies, the PNG and reserves pay taxes and the 20% of tax revenue channeled by the government to the communities is acknowledged by the area's natural resource management committees. However, according to the Management Plan, the PNG's contribution to local development is still insufficient compared to the affected population (MITADER, 2016). Overall, it is difficult to deny the role of the PNG in conserving biodiversity, especially in this age of climate change.

RECOMMENDATIONS

- Put in place the inter-ministerial body which includes CSO, human rights defenders to guarantee the Mozambican people's right to use and benefit from the land and its resources to guarantee their livelihoods, as well as adequate compensation for losses as per Land Law (19/97), the Forestry and Wildlife Law (10/99), and the Mining Law (20/2014).

⁸ The Carr Foundation is an American foundation that focuses on human rights, the environment, and the arts.

⁹ Oral information in July 2021.

- Training for CSOs and community leaders on the provisions of the laws, advocacy, dialogue, and conflict resolution; and creating experience sharing and learning opportunities between communities impacted by the creation of special zones.
- Creation of local platforms and forums for multi-stakeholder engagement and dispute resolution between communities, local government, central government representatives, and the mining companies and park officials.
- Local mechanisms for resolution of grievances including through the justice system, not requiring cases to be tried in international courts.
- Reduction in excesses in inspection in national parks and including local communities in natural resource management and decision making, creating a balance between the socio-economic and cultural needs of the population and conservation interests.
- Establishment of a joint mechanism allowing participation of journalists, CSOs and human rights defenders during the members of parliament mission in the mining areas.

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Restricted access to a mining company's construction area in Niipepe, Niassa.
Photo: Salvador Mukuweke and Lucinda Manhiça

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