

Children and women's rights to property and inheritance in Mozambique

Elements for an effective intervention strategy



Published by:



Save the Children



**Food and Agriculture
Organization of
the United Nations**

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Save the Children in Mozambique and
Food and Agriculture Organization
of the United Nations (FAO)



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abbreviations

| | |
|------------------|---|
| ADDC | Associação dos Defensores dos Direitos da Criança (Association of Child Rights Defenders) |
| AIDS | Acquired Immunodeficiency Syndrome |
| AMETRAMO | Associação de Médicos Tradicionais de Moçambique (Mozambican Association of Traditional Healers) |
| AMMCJ | Associação Moçambicana das Mulheres de Carreira Jurídica (Mozambican Association of Women in Legal Professions) |
| ARV | Antiretroviral |
| CBO | Community-based organization |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CFJJ | Centro de Formação Jurídica e Judiciary (Centre for Legal and Judicial Training) |
| CNCS | Conselho Nacional de Combate ao HIV/SIDA (National AIDS Council) |
| DNRN | Direcção Nacional dos Registos e Notariados (National Directorate for Registry and Notaries) |
| DPMAS | Direcção Provincial da Mulher e da Acção Social (Provincial Department of Women and Social Action) |
| FAO | Food and Agriculture Organization of the United Nations |
| FRELIMO | Frente de Libertação de Moçambique (Mozambique Liberation Front) |
| GROOTS | Grassroots Organizations Operating Together in Sisterhood |
| HIV | Human Immunodeficiency Virus |
| IAWJ | International Association of Women Judges |
| ICRW | International Center for Research on Women |
| JFFLS | Junior Farmer Field and Life School |
| LADA | Law and Development Association (Zambia) |
| LDC | Liga dos Direitos da Criança (Child Rights League) |
| LDH | Liga Moçambicana de Direitos Humanos (Mozambican Human Rights League) |
| LWOB | Lawyers without Borders |
| MMAS | Ministério da Mulher e da Acção Social (Ministry of Women and Social Action) |
| MULEIDE | Associação Mulher, Lei e Desenvolvimento (Women, Law and Development Association) |
| NACWOLA | National Association of Women Living with HIV and AIDS (Uganda) |
| NGO | Non-governmental organization |
| PACOV | Plano de Acção para Crianças Órfãs e Vulneráveis (Action Plan for Orphans and Vulnerable Children) |
| REDE CAME | Rede Contra o Abuso de Menores (Network Against Child Abuse) |
| UN | United Nations |
| UNICEF | United Nations Children's Fund |
| UTREL | Unidad Técnica de Reforma Legal (Technical Unit for Legal Reform) |
| WFP | World Food Programme |
| WLSA | Women and Law in Southern Africa Research and Education Trust |
| ZWOT | Zimbabwe Widows and Orphans Trust |

executive summary

Women and children's insecure rights to property and inheritance in many countries in sub-Saharan Africa is not a new issue. The extended family support systems that used to function as social safety nets for widows and orphaned children have weakened as a consequence of societal changes such as economic development, migration and urbanization. This situation has clearly been exacerbated by the AIDS epidemic. Though prevalence is starting to level off, or even decline, in several high prevalence countries, this comes after years of increasing prevalence. In Mozambique, 2007 prevalence was 12.5 percent, an increase from 10.3 percent in 2001. Increasing mortality due to HIV leads to growing numbers of widows (and widowers) and orphans and can amplify the challenges women and children already face in securing their rights to property and inheritance.

In 2006-07, Save the Children conducted a comprehensive study in four provinces of Mozambique (Gaza, Manica, Zambézia and Nampula) to improve understanding of the nature and scale of the problem of property grabbing and the principal effects of disinheritance on women and children. This report is the result of a follow-up project undertaken by Save the Children, with support from the Food and Agriculture Organization of the United Nations (FAO), to identify the elements for an effective intervention strategy to improve children and women's access to property and inheritance.

The main objective of this report is to propose possible entry points for interventions, key messages and activities to lay down the basis for a strategy to secure women and children's rights to inheritance and property. Its intended audience are government institutions, national and international NGOs and community-based organizations that could intervene in different areas of work, based on their specific mandates and capacities.

The first chapter gives background information, sets out the aim of the study, and outlines the structure of the report. The second chapter looks at the cultural norms, values and practices that guide families' behaviour on property and inheritance issues, especially those positive norms and values that could serve as key communication messages within behaviour change programming. The third chapter maps out activities carried out by various organizations in Mozambique aimed at safeguarding children and women's inheritance rights; it presents their ideas on where there are gaps and gives suggestions as to how these gaps might be filled. The last chapter sets out recommendations on the main elements for an effective strategy to secure women and children's rights to inheritance and property.

Traditional and cultural norms and values

The study found that traditional norms related to kinship and community structures and property and inheritance do not justify the kind of property grabbing from widows and orphans that Mozambican society is witnessing. Although women are not customarily allowed to own property or to inherit directly, widows would always be given access to land, housing and other assets to provide for themselves and their children. This inheritance would pass on to the children once they reached adulthood. The process would be administered by male relatives but they fulfilled their duty to protect and care for widows and orphans in their community.

Despite the fact that this traditional norm is based on unequal gender roles and might have been promoted through a set of practices that are not acceptable in modern society – such as widow inheritance – the norm itself is still highly valid. Some recent practices reflect more equal gender roles and empower widows economically.

Other protective norms are rooted in religion, such as the duty to take care of widows and orphans; and in the spiritual sphere, the obligation to respect the wishes of the dying.

Witchcraft accusations were identified as one of the main obstacles to gaining respect for women's inheritance rights. Since these are founded on a different type of logic, they are not easily fought without crossing ethical boundaries. However, there have been cases where community members and leaders successfully defended those accused of witchcraft, for example through scientific evidence regarding a person's cause of death.

One of the biggest problems is that inheritance issues are seen as a private, family matter. This means that despite strong condemnation of individual cases of property grabbing from widows or orphaned children, there is little active opposition from community members or leaders who do not want to interfere unless asked.

Finally, there is a significant cultural factor that allows relatives to go unpunished when they grab property from children, and this is the fact that adults often do not perceive any need to account for their acts towards children. Even women, because of the gender role attributed to them, often feel they are not in a position to oppose (male) relatives or to ask outsiders for help when their rights are being violated after the death of their husband.

Best practice

The study found that few organizations in Mozambique currently address the problem of property grabbing from orphans and widows. Those that do, mainly focus on the legal aspects of succession either through advocacy and lobbying on legal reform or by training stakeholders on legal standards regarding property and inheritance. There is an urgent need to look beyond legal arguments when promoting children and women's inheritance rights at community level, and to develop more culturally appropriate communication strategies.

There is a definite interest among organizations working with women or orphaned and vulnerable children to integrate aspects relating to property and inheritance rights into their programming, and there are many activities underway that provide a good entry point for discussing property and inheritance rights. These include (para)legal aid, memory work with people living with HIV and the strengthening of community committees to improve the protection of orphans.

The way forward

To better understand the scale of the problem of property grabbing from widows and orphans, there is a need generate data on women and children's rights to property and inheritance and to document cases of property grabbing. This information is needed to create awareness on the issue, to support advocacy efforts, and to better inform policy and programming.

To provide justice for women and children within the formal legal framework, there needs to be advocacy to bring about changes in relevant legislation and government policies as well as building the capacity of Mozambican judges, magistrates, court officials, police officers and other law enforcement officials responsible for implementing and enforcing existing legislation. There also needs to be dialogue and training with community leaders and judges, religious leaders and traditional healers (*curandeiros*) to improve women and children's access to justice at the community level.

To improve community monitoring and support, three main activities are recommended: engaging families in future and succession planning; encouraging community committees to act as watchdogs; and expanding paralegal assistance for women and children whose property is taken from them. Establishing partnerships with community-based organizations will be important.

To change community attitudes, there is a need to promote more open discussion to bring the problem of property grabbing out of the family sphere and into the public sphere. A number of culturally appropriate protective messages have been identified and some participatory, creative and provocative methodologies to get them across have been proposed.

Finally, it is essential that children participate in efforts to secure their rights. In this regard, some key materials that should be developed to implement the recommended activities have been suggested.

1 introduction

Background

Women and children's insecure rights to property and inheritance in many countries in sub-Saharan Africa is not a new issue.¹ The extended family support systems that used to function as social safety nets for widows and orphaned children have weakened as a consequence of societal changes such as economic development, migration and urbanization. This situation has clearly been exacerbated by the AIDS epidemic. Though prevalence is starting to level off, or even decline, in several high prevalence countries, this comes after years of increasing prevalence. In Mozambique, HIV prevalence rose from 10.3 percent in 2001 to 12.5 percent in 2007². Increasing mortality due to HIV³ leads to growing numbers of widows (and widowers) and orphans⁴ and can amplify the challenges women and children already face in securing their rights to property and inheritance.

A study by Seuane⁵ looks at these dynamics, comparing the pre-HIV scenario with the current situation in Mozambique. In the former scenario, children were generally old enough to inherit and could therefore ensure theirs and their mother's access to the land and property. In the current situation, however, adults are dying younger, when children are still under age, which can weaken their rights to property and inheritance. Though substantive data measuring this phenomenon are lacking (existing evidence tends to be more anecdotal in nature), some studies that have been conducted in the region provide evidence that property grabbing from widows and children is occurring. For example, in Zambia it was found that on average, widow-headed households controlled 35 percent less land following their husband's death⁶. A study conducted in Namibia reported that 44 percent of widows and orphans lost cattle, while 39 percent lost farm equipment⁷. These are but a few examples that speak to the issue of property grabbing from widows and children.

Despite encouraging levels of economic growth,⁸ Mozambique is still one of the poorest countries in the world, and is ranked the fifth least developed country in terms of human development.⁹ It has been severely affected by the AIDS epidemic. This has grave consequences for the socio-economic development of a country where more than half of the population already live below the poverty line.¹⁰ Given this bleak scenario, children and

¹ Available data from Agricultural censuses and FAOSTAT show that, for example, female ownership of agricultural land is 3 percent in Mali (2003), 9 percent in Senegal (1998/1999), 15 percent in Madagascar (2004/2005) and 20 percent in Tanzania (2002/2003). In Mozambique, female land ownership is 23 percent (1999/2000); while only 20 percent own more than two hectares (Swedish International Development Cooperation Agency, 2000).

² UNAIDS, 2008.

³ AIDS deaths in Mozambique increased by roughly 72 percent from 2001 to 2007 (UNAIDS, 2008).

⁴ Orphans due to AIDS in Mozambique increased more than three-fold between 2001 and 2007 (UNAIDS, 2008).

⁵ Seuane, 2005.

⁶ Chapoto *et al.*, 2007.

⁷ FAO/IP, 2003.

⁸ Mozambique's gross domestic product (GDP) grew on average 8.7 percent annually, 2001-2006 (UNDP, 2007).

⁹ According to UNDP's Human Development Report (2008 Statistical update), Mozambique is ranked 175 out of 179 countries worldwide in the Human Development Index with a score of 0.366.

¹⁰ UNICEF, 2006.

women's inheritance rights are increasingly important for their survival and wellbeing. When women and children's inheritance is taken away, this can mean losing valuable resources such as land, housing, money, cattle, agricultural implements, household furniture and clothing. This leaves the widows and their children without access to a means to sustain their livelihoods, and can make them vulnerable to further hardship and exploitation.

In order to investigate the nature and scale of the problem of property grabbing in Mozambique, in 2006-07 Save the Children conducted a comprehensive study in four provinces of the country: Gaza, Manica, Zambézia and Nampula. The aim was to improve understanding of the main constraints facing widows and orphaned and vulnerable children in securing their inheritance rights, as well as the principal effects of disinheritance. The results of this study, published in a report called *Denied Our Rights: Children, women and inheritance in Mozambique*, indicate that widows and orphaned children tend to suffer some kind of material loss after the death of their husband or father¹¹. Testimonies from widows recounted how they had been evicted from their house or land by their late husband's relatives or how the relatives had taken all assets of value, such as cattle or bicycles from the household. Orphaned children who lost both parents reported that not only had much of their parents' property been taken from them, but they also faced discrimination in the families who were supposed to take care of them. They were less likely to be well-nourished than their peers who still had both their parents, and more likely to drop out of school. Property grabbing was found to directly affect the livelihoods of women and children, making it necessary for them to find other coping strategies that made them vulnerable to exploitation and abuse.

Aim of the study

One of the main recommendations of the *Denied Our Rights* report was to design cultural and contextually relevant strategies to improve protection of children and women's property and inheritance rights. Following on from this, Save the Children, with support from FAO, undertook the current project to develop key elements of an effective intervention strategy based on good practice at community as well as organizational level. This paper is based on three main types of research: a background literature review; community fieldwork; and consultation with representatives from various organizations working on children and women's rights in Mozambique. Its main objective is to propose possible entry points for interventions, key messages and activities to lay down the basis for a strategy to secure women and children's rights to inheritance and property. Its intended audience are government institutions, national and international NGOs and community-based organizations that could intervene in different areas of work, based on their specific mandates and capacities.

Structure of the report

The next chapter aims to increase understanding of the cultural norms, values and practices that guide families' behaviour on property and inheritance issues. It specifically aims to identify positive norms and values that exist within the system of social and kinship relations, and those related to spiritual and religious beliefs, that could serve as key messages within behaviour change programming. This chapter is based on anthropological fieldwork undertaken in Gaza, Manica, Zambézia and Nampula provinces to complement the information gathered for the *Denied Our Rights* report, as well as on secondary sources. For an overview of the socio-economic background of the study sites as well as the methodology used, see Appendices two and three.

The third chapter identifies good practices within activities carried out to date by various organizations concerned with safeguarding children and women's inheritance rights. It also looks at where there are gaps and what can be done to fill these gaps. Evidence was gathered through personal interviews with representatives from community-based organizations, national and international NGOs, government institutions and United Nations agencies, and has been complemented by international good practices identified through a literature review (see Appendix four for a list of the people and organizations that took part).

The last chapter gives recommendations on the main elements for a strategy to secure women and children's rights to inheritance and property in Mozambique.

¹¹ Save the Children, 2007a.

2 traditional and cultural norms and values

Understanding traditional and cultural norms and values and how they translate into practice at local level is a significant step towards finding appropriate ways of protecting children and women's property and inheritance rights. Identifying positive norms that can be reinforced, as well as actions already being undertaken by community members to protect widows and orphaned children against property grabbing, can be essential towards building a framework. This chapter is divided into two parts. The first part explores kinship relations and social structures within traditional and contemporary Mozambican society and how these affect women and children's rights to property and inheritance. The second part explores how beliefs and practices related to spiritualism, religion and witchcraft influence inheritance practices.

Property and inheritance within the traditional extended family

Norms and practices of succession and inheritance cannot be viewed separately from the kinship and social structures of the society in which they operate. Whether grouped around lines of paternal or maternal relatives, the extended family is traditionally the building block of Mozambican society. The organization of the extended family defines control and inheritance of property – land, houses, cattle and other assets – along either patrilineal or matrilineal lines. The patterns of residence of married couples also play a role – either a woman joining her husband and his family in patrilocal/virilocal communities or a man joining his wife and her family in matrilocal communities. Patrilineal and patrilocal or matrilineal and matrilocal, however, are not necessarily related, which can create a complex mosaic of residential patterns.¹² This system creates a sense of collective rather than private control over property, with property being controlled by the extended family instead of a nuclear family unit. Most customary inheritance laws are therefore designed to ensure that land and other assets remain within the lineage.

Traditionally, in patrilineal communities dominant in the southern and central regions of the country below the Zambezi valley, control of property by the elder males of the family was considered the most adequate manner to manage communal property. Since the extended family was formed around male members, girls and women were considered temporary members. Girls born into the family would, upon marriage and receipt of the *lobolo* (bridewealth), leave to become part of their husband's extended family. Allowing women in the family – daughters or widows – to own or inherit property would therefore mean that upon marriage or remarriage their assets would be transferred to their new families, thus transferring property outside of their father or husband's extended family. Hence, property is traditionally passed on along the male line, the sons of the deceased being the first in line to inherit, followed by male ascendants (father or uncles) and male siblings and their descendants. Only if none of these categories exist, or all refuse to accept the inheritance, will the widow have a right to inherit. Daughters' rights come only after those of the widow.

¹² For example, in some countries, matrilineality combined with patrilocality has been associated with women having difficulty in sustaining their control over land, even though their rights are equal under customary law (see Dondeyne et al., 2003). Also, in matrilineal/matrilocal systems, both the wife and husband depend on the woman's maternal uncle for land. In this case a husband is disadvantaged and needs to relinquish assets if the marriage dissolves. (see Chalimba and Pinder, 2002; Tango International Inc., 2004).

Customary law does not actually differ much from the succession laws established in the Succession Book of the 1966 Civil Code (Section 2133). The main difference is that the Civil Code grants equal rights to female and male heirs in each category. According to the Civil Code, descendants are first to inherit and the estate is divided in equal parts between the children of the deceased, with the exception of illegitimate children who receive half the quota assigned to legitimate children. If none of the children accept, grandchildren are approached. In their absence or if they refuse to accept, ascendants are the subsequent class of heirs. If there are no surviving ascendants, the estate is divided in equal parts among the siblings of the deceased and any descendants of a deceased sibling are jointly entitled to his or her quota. Only if none of the previous categories exist, or all refuse to accept the inheritance, is the spouse of the deceased formally allowed to claim the inheritance. The legal position of male and female spouses is therefore equally disadvantageous under current succession law. However, in practice widows are much more vulnerable than widowers to property grabbing, because the latter are better protected under customary law¹³.

Unless the deceased had written a will, the entire estate would be divided according to these norms. But even where a will was written to dispose of the assets of the deceased in a different way, there is a certain quota of the inheritance, the *legítima*, which cannot be freely disposed of as it has to benefit the legitimate heirs as described above. The size of this quota depends on the composition of the family of the deceased and the number of possible heirs, but ranges from one-third to two-thirds of the estate. The recognition of legal inheritance rights for the surviving spouse, either male or female, is thus one of the main changes proposed for the revision of succession law.

In matrilineal families in the northern part of the country, control over resources is generally also in the hands of men but property inheritance occurs from mother to daughter. Combined with a residence pattern in which women predominantly continue to live alongside their families, this gave women increased influence over access to lineage property and land. However, in recent decades patrilineal norms have begun to replace customary practice in matrilineal societies on a large scale and women have lost considerable power to their brothers, sons and uncles, who are nowadays commonly identified as the head of the family and owner of the land. Also, according to the research conducted, most families now seem to choose the location of their residence either according to patrilocal patterns, or in a totally new area such as the provincial capital (neolocal). This alienates women from their relatives and diminishes the control they would traditionally have had over assets in their families' land and other property. Where a widow's male family members – her brothers and uncles – would have normally decided on the division and management of assets, this role has been increasingly taken over by the husband's relatives, reflecting norms of a patrilineal society. Therefore, in practical terms, the fieldwork for this study found little difference between the patrilineal communities in Gaza, Manica and Zambézia and the matrilineal communities in Nampula.¹⁴

Norms that favour women's access to property

Although men have traditionally held property in the name of the family, it is important to remember that wives, daughters and under-age sons have always been allowed to benefit from this property to guarantee their survival and wellbeing. As women were not allowed to own or inherit property themselves, this implied an obligation on the part of male members of the family. Sons who inherited from their parents were supposed to take care of their sisters and allow them to use some of the land to secure their livelihood until they got married. Widows who were still of child-bearing age would remain in the family through the practice of widow inheritance (see box 1). Elderly widows who were not expected to marry again were allowed life-time usage of the land that passed on to male heirs so that they could stay in their marital homes. Relatives would take care of a widow so that she in turn would be able to take care of her children. For this reason, some African scholars have argued that when dealing with inheritance one should focus more on access to property rather than on direct ownership of property.¹⁵

¹³ Except in matrilineal systems where the reverse is the case.

¹⁴ From a more anthropological point of view, additional research would be necessary to determine whether the findings are indeed representative of all matrilineal communities in Mozambique, especially more rural communities. See also Osório (2006) for the results of a study carried out by Women and Law in Southern Africa (WLSA) on the changing power and influence of women in matrilineal communities in Mozambique.

¹⁵ Gordon, 2005.

Box 1: Widow inheritance

According to tradition, after her husband's death, a widow would be married to another man from her deceased husband's family (usually one of his brothers) to ensure she still belonged to that family. This practice is related to the payment of *lobolo* (bridewealth) by the family of the groom to the family of the bride, which marks her passage to her husband's family as well as the fruits of her labour and her offspring. One could argue that this practice prevents a woman from becoming destitute and her needing to inherit property, and indeed, not all women oppose it. Many Mozambicans, men as well as women, consider marriage a social contract that is agreed to after careful consideration of the advantages and disadvantages it offers – quite different to the romantic act of love it now represents in some Western cultures. Many widows have therefore happily accepted this chance of securing their and their children's livelihoods, rather than considering it an obligation forced upon them.

Women's rights organizations in Mozambique have, however, actively opposed the practice because it is considered a violation of the rights of both men and women. It denies them the free choice of a life partner. It can relegate a widow to the status of second wife in a polygamous marriage. It also implies a serious health risk for both the widow and the brother-in-law in the era of HIV. Where these practices are still followed, widows are more likely to give up their home and property 'voluntarily' to prevent being 'inherited'. In addition, her deceased husband's family can use her refusal to be inherited as a reason to evict her from her home and land. Support for this practice is declining slowly, both because widows refuse to be inherited and because brothers of the deceased refuse to accept his widow as their wife.

Finding a middle way between refusal and complete acceptance, there is anecdotal evidence from women who have found a way to turn this practice to their advantage, with the cooperation of the man selected to inherit her and her in-laws. Some widows nominally agree to 'marry' their brother-in-law, which allows them to continue to live in their marital homes and work the family land, but without having to assume other marital obligations. Other widows have temporarily accepted the practice so as not to break the family relations, but thereafter end the relationship amicably.* Other families have allowed widows continued access to the house and land, as long as she remains unmarried. These are just a few examples of how cultural practices can be negotiated, while still respecting the norm.

Calling for respect for the traditional norm to take care of widows and their children as a duty intrinsically related to the right to inherit property is a strategy that could be very effective. Property grabbing from widows and orphaned children clearly breaks the tradition of solidarity within the extended family. Reinforcing the original value could therefore restore a widow's access to property and secure a basic livelihood for herself and her children. However, taking this pragmatic stand carries the risk of reinforcing existing gender relations, instead of empowering women by advocating their right to actual control over their house, land or other assets. Hence, it could also be argued that a focus on mere access to property will prolong the structural vulnerability of women and their dependence on male relatives, vulnerabilities that are evident across the lifecycle.

Commercialization of land seems to play an important role in this regard as relatives may take the view that selling the land in question will be more beneficial for the family as a whole than its continued cultivation.¹⁶ Also, the fact that extended families are now less likely to inhabit the same geographical area, which allowed for sharing the profits of communal property, makes it harder for widows to access any benefits from their late husband's property unless they receive unalienable rights over the assets.

¹⁶ In a study on women's access to land in Mozambique, Seuane (2005) concluded that most separated or widowed women did not have difficulties in accessing land for their survival, either through male members of their own family or by requesting use of a plot of community-owned land. However, the study suggests that this could be inherently related to the fact that land was not a scarce resource in any of the communities studied. The hypothesis was that where commercial agriculture or urbanisation would increase competition over available land, women would have more difficulty accessing land.

* See also WLSA, 1996.

Irrespective of the broader issues raised, it can be concluded that women's rights to inheritance and property is not contrary to Mozambican tradition or culture as such. Allowing widows access to land and property to secure their own livelihoods and those of their children is the norm. What remains to be negotiated is how to put this norm into practice under changing circumstances. As will be shown in the following examples, communities may come to the conclusion that individual control over family assets by women is indeed a feasible option.

There have been cases of widows that have been able to ensure continued access to their household's property by managing their children's inheritance until they reach adulthood. Traditionally, male relatives of the children would be considered the most appropriate persons for this task, having a duty to use the benefits of the inheritance to provide for the widow and her children; but on some occasions widows have been allowed to take on this responsibility themselves. Administering the estate for her children once again means mere access to rather than control of property, and in the long run it will put her in a position of dependency vis-à-vis her (male) children. Theoretically, however, this would offer more security than a widow having to depend on the goodwill of non-blood relatives.

Changing circumstances that favour women's ownership of property

The 2004 Family Law¹⁷ establishes that where couples (whether married in a church, before the state, or de facto marriages¹⁸) have not made any provisions regarding the division of their property, a system of community property (*regime de comunhão de adquiridos*) is applicable. This means that all assets acquired by a couple over the duration of their relationship are joint property and therefore in cases of divorce or separation, each spouse has a right to whatever property they brought into the relationship individually, plus half the assets the couple acquired over the duration of the relationship. Although the Family Law does not specifically refer to succession or inheritance, it has set a precedent that can be used by lawyers to argue for a widow's rightful control over property following the death of her husband. Thus, before assets are distributed among the rightful heirs, the widow should receive her half of the couple's assets or she should be compensated accordingly.

Although the existence of this legal norm is largely unknown at community level, the principle behind it is more often recognised and has been used to some extent to decide on the allocation of property following one's death. The argument that all family assets belonged to the man because he was the one generating income for the family is still common. For example, although women and their children are frequently the main labourers on family land, the commercialisation of agricultural products is typically the domain of men and the income generated is therefore seen as brought in by the husband. However, when asked to explain why some women do have access to property or inheritance after their husband dies, community members would often refer to the contribution she had made to the household, which entitled her to have control over at least part of the communal household property. This shows that appreciation for women's economic contribution to the household could enhance the perceived right for them to have control over property.

Evidence of successful women-headed households, as well as women participating in credit and saving schemes or income-generating projects, seems to be contributing to this changing perception as well. Even the fact that in polygamous marriages wives are often dispersed over the village, each inhabiting their own house – contrary to the traditional ideal of all co-wives living together in one compound – seems to open up opportunities for women to be more economically independent and carry the responsibility of managing the household and its property. Economic independence not only empowers women individually but also serves as an example for other men and women.

¹⁷ Lei Nº 10/2004 de 25 de Agosto

¹⁸ A de facto marriage (*união de facto*) is defined as a monogamous lasting relationship (minimum one year without interruptions) between a man and a woman who are legally entitled to get married but have chosen not to do so (article 202). The large majority of Mozambican couples, especially in rural areas, have never formalized their traditional wedding and the inclusion of the concept of the de facto marriage in Family Law has therefore greatly improved the legal position of women.

Women's knowledge and participation

In recent decades, many organizations have been actively promoting women's human rights and condemning gender-based violence in Mozambique. However, this knowledge has not been sufficiently internalized by society, not even by women themselves. This is particularly the case in rural areas of the country. One of the findings of the fieldwork was that widows who have lost belongings or access to their marital house and land after their husband's death do not always consider this as a violation of their rights because they are largely unaware of their rights or interpret them in a different way. Women are both sisters and wives and as such are often present on both sides of inheritance disputes. Widowed women can be victims but female siblings of the deceased can be among the victimizers.

Because of the gender role attributed to women, those widows who do perceive the treatment by their husband's relatives as unfair often feel they are not in a position to oppose these relatives or to ask outsiders for help. Since inheritance issues are considered a private, family matter, they are normally dealt with by a family council, where the elder males play an important role. Upon the death of a father and husband, a family council consisting of his relatives would be convened to decide on the division of assets and guardianship of children. The widow and children would generally not have a say in these proceedings. However, sometimes – more commonly in Nampula province than in the other regions – representatives from both families come together to make these decisions.

A widow who has been expelled from her home would normally go first to the elder males in her family for advice and support. If they agree to help her, they would contact her deceased husband's family to discuss the details of the succession arrangements made. Traditional leaders would only be involved if the two families could not reach agreement. In cases where the widow's family live in a different area, her only option would be to go to a community leader directly. In many places, however, this is not common behaviour for a woman and therefore it takes a lot of courage. During the study, women reported that if they knew a local leader had been sensitized on the issue of women's inheritance rights, this would make it easier for them to approach this person directly and ask for his help.

Children's inheritance rights

Contrary to a widow's disadvantageous position, children are recognized as the first in line to inherit from their parents under both customary and formal succession law. The main difference is that formal law grants equal inheritance rights to female and male descendants, while under patrilineal customary law the sons of the deceased often are the direct heirs¹⁹, with the implicit duty to provide for their female siblings until they marry. In Nampula province, likely due to the influence of matrilineal norms, equal inheritance rights for boys and girls appeared to be more widely accepted as customary practice.

Children's inheritance rights are often considered to be realizable only when they reach adulthood. They would then directly own and decide over the property left to them by their deceased parents. Until this time, the family members that would assume care for them would also manage their assets.

From a human rights perspective, the definition of a child is unambiguous. Article 1 of the UN Convention on the Rights of the Child states that, "a child means every human being below the age of 18 years [...]".²⁰ However, the social and cultural understanding of what defines a child in any given community is more complex than the issue of legal majority alone. A previous study undertaken by Save the Children²¹ found that criteria based upon biological, cultural and behavioural characteristics are in fact far more relevant to communities' understanding of what defines "a child" than physical age alone. Children's access to their inheritance is therefore unlikely to be linked to their legal coming-of-age.

¹⁹ It is important to remember that although customary law is formally recognized in Mozambique, this is only as long as it does not contradict the basic principles of the 2004 Constitution. The equal rights of men and women is a constitutional principle and therefore any decision made based on customary law that discriminates against women because of their sex can be legally appealed.

²⁰ The term used under Mozambican law is "minor" – applicable to any individual under 21 years of age.

²¹ Save the Children UK, 2007c.

Boys will often claim the assets that previously belonged to their parents when they decide to start their own family. The house, land or other durable assets that were administered for them during their childhood will allow them, where necessary, to pay their bride's *lobolo* (bridewealth) and to start building their own household.

On the contrary, when orphaned girls are considered mature enough to start a family of their own, this often decreases their chances of realizing their inheritance rights. A girl's first menstruation is often seen as an indication that she has reached womanhood. Thus girls as young as 13 or 14 can be perceived as ready for marriage and for having children of their own. But as young women, they are traditionally not allowed to have control of property because upon marriage they would extract these assets from their family and pass them on to their husbands' family. In addition, as discussed earlier in this chapter, women face several other challenges in securing their property and inheritance rights related to common gender roles and perceptions. These do not only affect widows but also orphaned young women who will often be regarded as less capable of managing property than their male siblings.

Hence, orphaned girls suffer from a double disadvantage when defending their rights to inheritance. First they are considered too young to inherit. Yet when they reach adulthood and could theoretically claim their inheritance rights, they are likely to have these denied because they are women. In particular, orphaned girls who do not have male siblings run high risks of losing all their parents' property because of gender discrimination in the division of assets.

Property grabbing from orphaned children

One of the characteristics of the AIDS epidemic is that in comparison to other causes of death, it creates a disproportionate number of orphans. Children may lose both their father and their mother, often within a short space of time. Property grabbing affects paternal orphans when their mother is denied her right to inheritance. But it also affects children directly when both their parents die and the assets that belonged to them are seized by family members. This may occur in a relatively open way when, following the death of the surviving parent, relatives divide the items belonging to the household among themselves, including the house and the land. Alternatively, it may be done in a more covert way by assuming guardianship of the orphans and, under the pretext of administering their assets until they reach adulthood, disposing of the property and using the benefits for personal gain.

Guardianship of orphaned children

Traditionally, orphans would be taken in and raised by individuals from their extended family, usually their grandparents or aunts and uncles.²² In matrilineal communities in the north of the country, children, upon dissolution of their parents' marriage either through divorce or death, are expected to be taken care of by their maternal family. In patrilineal communities, through the act of *lobolo* (bridewealth), the couple's children in principle belong to the parental family. Where *lobolo* had not been paid, both paternal and maternal relatives would demand their 'share' of the offspring and children would be divided between the two families.

An important assumption in this societal logic was the value of children for families and communities. Traditionally, children were regarded as a blessing for a couple and their extended families. Not only would they continue the family's name but they were also an important socio-economic resource, providing useful additional labour and income for the family in the present as well as a safety net for their parents' future. Having many children would also earn a man respect. Sustaining large families was relatively easy because the cost of an extra child would be no more than the amount of food needed to feed him or her, which would come from the family lands. More recently though, caring for many children has become increasingly difficult for

²² Family Law establishes a framework for the appointment of legal guardians that is implemented through the Ministry of Women and Social Action (MMAS). However, as acknowledged by provincial MMAS representatives, the procedures to establish legal guardianship over children are normally followed only in cases where parents have been convicted to a jail sentence or have otherwise been declared unfit to raise their children, but not in cases of death. So far, the only cases where MMAS actively promotes the establishment of legal guardianship for double orphans seem to be those where one of the parents was a public servant and the children need a legal guardian to be able to apply for the state subsistence pension they are entitled to.

families struggling to survive because of the increased cost of food and other costs such as education. Also, the geographical spread of extended families means that often, orphaned children find themselves far away from relatives that would normally have provided for them. The growing number of children orphaned by AIDS²³ who are in need of care is adding fuel to an existing problem. Children who used to be seen as a blessing are now often regarded as a burden on their families and communities. This has resulted in relatives trying to avoid their traditional responsibility of caring for orphans. This seems to be especially true for paternal relatives, showing a tendency towards increased responsibilities of the maternal family when it comes to the care of orphans who have lost one or both of their parents. Even when their father is still alive, maternal orphans are often 'returned' to their deceased mother's family. This is also the case in patrilineal communities.

Problems arise when paternal relatives (in patrilineal systems) evoke their traditional right to administer assets left by the deceased, but are unwilling to accept the duties that traditionally come with it. This is leading to a situation where paternal relatives take control over property while children are raised by maternal relatives, without benefiting from the property left by their deceased parents and with little chance of accessing it when they reach adulthood. Although this behaviour seems to be all too common nowadays, there is no cultural or traditional reason why this should be accepted.

This tendency also means that the family from the maternal side who have taken in the children often do not have access to the additional means of livelihood that the inheritance could have provided, and as a result they may find it difficult to cope financially. In addition, if these families were already having difficulties providing for their own children, this could make them more likely to perceive the orphaned children as a burden to the household and could lead to discrimination. For instance, it is common for orphaned children to be made to work harder or given less to eat because the family may be struggling to cope²⁴. Ensuring that the management of children's inheritance stays in the hands of those relatives responsible for their upbringing, as traditional norms prescribe, would therefore be a step towards guaranteeing children's inheritance rights.

However, where relatives who agree to take care of orphaned children are also responsible for administering their inheritance, they often appear to abuse their position by selling part of the assets or obtaining personal benefit from their management – for example, by renting out the house or leasing the land. However, given the financial difficulty many households face when they have to provide for more children in the household, it is not unreasonable for these families to be allowed to reap some of the benefits of the orphans' inheritance in order to provide for them. The problem lies in defining what is acceptable use of the inheritance and how to stop those who are clearly abusing their position.

Community monitoring systems could be a solution. In some communities, traditional leaders have started to play an active part in monitoring the wellbeing of orphaned children, making regular home visits to families caring for them. These leaders have the power to reproach families that have taken in orphans and clearly overstepping the boundaries regarding the benefit they are obtaining from the orphans' property, or if they are otherwise not protecting the children's best interest. Committees formed to support orphaned and vulnerable children at community level have also taken up this monitoring task. Where these community committees form part of a wider network linked to formal institutions, cases of property grabbing that cannot be solved through mediation by local leaders could also be referred to other institutions such as the Ministry of Women and Social Action (MMAS) or the police department responsible for women and children (*Gabinete*). However, this approach can only be successful when communities agree that inheritance issues are not merely domestic problems and allow for them to pass into the public sphere, legitimizing interventions by community groups and leaders that do not belong to either of the families involved.

²³ The number of orphans due to AIDS in Mozambique more than tripled from 2001 to 2007 (UNAIDS, 2008). Children orphaned due to AIDS account for nearly 30 percent of children orphaned due to all causes (UNICEF, 2008).

²⁴ Save the Children, 2007a.

Child-headed households

The difficulty faced by communities in coping with the increasing numbers of orphaned children (largely due to the AIDS) has led to an increase in the number of child-headed households in Mozambique. Although legally a sibling has to be at least 25 years old to assume guardianship over his or her brothers and sisters,²⁵ this does not correspond to the harsh reality whereby households headed by children have arisen out of bare necessity. Under certain circumstances, child-headed households might be in the best interests of a child – for example, when growing up in an institution would be the only other option, or if siblings would otherwise have to be separated. However, child-headed households place huge responsibilities on the oldest siblings who, while still children themselves, have to take the responsibility of providing and caring for their younger brothers and sisters. Also, one of the consequences of the AIDS epidemic is that parents die at an increasingly younger age, and their children are therefore likely to be younger than children who have been orphaned by other causes. This means they are less likely to be old enough to take care of themselves.

In this regard, careful consideration should be given to recommendations to enable children to achieve “active legal capacity” to be able to protect their property rights against relatives who abuse their guardianship.²⁶ Young children should not be expected to assume these types of responsibilities themselves and although the capacities of older children may be greater in individual cases, child rights organizations should not promote the general transfer of adult responsibilities to children.

Child participation

A significant cultural factor allowing guardians to deny children their rights to their inheritance is that adults often do not see the need to account for their actions towards children. It is still uncommon for Mozambican adults to ask children’s opinions on issues affecting them and to take their opinions into account. Children and young people spoken to during the study mostly agreed that their family members, such as uncles and aunts, were the most appropriate persons to take care of them. They generally trust them to take the right decisions and to act in their best interest, including in the administration of their inheritance. What they requested, however, was to be informed about what happened to their parents’ property and to know why certain decisions were taken – for example, when a decision was taken to sell property. They also asked for their opinions to be taken into account.

There is also a need to take children’s views more seriously, particularly when they are unhappy with the way they or their assets are being treated by relatives. Too often, outsiders such as traditional or religious leaders disregard these issues because they are unwilling to listen to a child, especially over what they consider to be internal family matters. Children who are members of orphaned and vulnerable children (OVC) committees, youth organizations or the Child Parliament²⁷ have been known to stand up for children in their communities on several issues, but they also often feel they are not listened to²⁸. Children deserve special protection, and if family members responsible for their care abuse their position, communities should take action. Local leaders and other key stakeholders in the community should be encouraged to listen to children and young people and supportive so that they feel they can speak out and be taken seriously.

Traditional weddings, polygamy and other complicating factors

The particular attitudes of Mozambican society towards relationships and the existence of different types of marriages further increase women and children’s vulnerability to abuses of their inheritance rights.

Most married Mozambicans, especially in rural areas, have celebrated a traditional community wedding that has never been formalized according to legal norms. The new family law has greatly improved the legal position of Mozambican women by recognizing *de facto* relationships (*união de facto*). Couples involved in a

²⁵ Family Law, article 344.

²⁶ Rose, 2007.

²⁷ Launched by the Government and the Parliament of Mozambique in 2001, the National Child Parliament represents different groups of children across the country – girls and boys, orphaned and non-orphaned children, children in school and out-of-school as well as children with and without disabilities.

²⁸ See Save the Children UK (2007b) for an account of the experiences of Child Parliamentarians in Mozambique.

monogamous and lasting relationship but who never legally registered their commitment now have the same rights as men and women married before the church or state. As mentioned earlier, this means that women who are in such a relationship now have the same rights as legal spouses to marital property upon separation or divorce. However, with the reform of succession law still pending, women involved in a de facto relationship are not yet legally allowed to inherit as a spouse²⁹.

Polygamous marriages have a long tradition in Mozambique and the fact that the new family law does not legally acknowledge their existence does not change the reality in which many men and women live. Practical reasons, such as the increased cost of sustaining large families, have led to a decline in the number of new polygamous marriages. The rise of evangelical Christian churches that condemn polygamy, especially in the central provinces, has also had some impact. But even these churches have seen the need to adapt their message to the reality of their congregations and often do not turn away believers involved in a polygamous marriage. In the eyes of many, men as well as women, polygamy is an accepted practice. And for some, it continues to be an ideal that conveys considerable status on a man within his community. The existence of polygamous marriages is thus an undeniable fact, especially in rural areas, and needs to be taken into account when looking at inheritance practices.

One aspect of polygamous marriages that influences succession and inheritance practices is the hierarchy that exists among wives. The first wife, also called the great wife, is regarded as the woman with most power and privileges in the family. According to the data gathered during the fieldwork, in the central provinces of Manica and Zambézia this means that the first son of the first wife would be considered the principal heir of his father's possessions the children of other wives dependent on his willingness to share. In Gaza province in the south, however, the power of the first wife and her offspring seems to be more symbolical. It was reported that inheritance would be divided equally according to the number of children per wife.

Another problem is that since polygamous marriages are not officially recognized under family law, co-wives cannot all have equal legal rights as spouses. Normally, if all marriages have been celebrated in the same way, this would mean the first marriage would be considered to have legal validity and therefore the first wife would be regarded as the legal spouse. However, it could also happen that the commitment to a first spouse is celebrated in a traditional wedding while the commitment to a second spouse is officialized through a church or state wedding. In this case the first wife could find herself without legal rights when her husband dies. This has created a difficult situation for women's rights organizations. On the one hand, they define polygamy as a violation of women's human rights and would not want to promote its existence. On the other hand, they have had to admit that not making special provisions for women involved in polygamous marriages leaves these women highly unprotected and vulnerable.

Besides the traditional acceptance of polygamous marriages, it is not uncommon for men to be involved in extra-marital relationships. Where children have been born from these relationships, conflicts are likely to arise over who is rightfully entitled to parts of his inheritance when a man dies. Inheritance disputes may therefore not only arise between the deceased man's relatives and his widow and children, but can also involve first wives, second and third wives or girlfriends, as well as children born from previous marriages, children born out of wedlock and orphaned children adopted into the family. The number of scenarios that could arise makes it a complex situation; what might be considered unacceptable property grabbing by one person could be defended by another as simply securing their rights. In these complicated cases, both women and children can be victims as well as victimizers and there may be no straightforward solution that is satisfactory for all, even less so when strictly adhering to formal succession law. Case-by-case negotiation based on a mixture of customary law, formal law and common sense may be the only solution.

²⁹ As mentioned earlier, the legal position of male and female spouses is equally disadvantageous under current succession law. However, since in practice widows are much more vulnerable to property grabbing than widowers, the revision of succession law is especially relevant for women.

Religion, spiritualism and witchcraft

In addition to norms and practices related to family life and kinship structures, spiritual and religious beliefs can also affect inheritance practices.

Spiritualism and animist beliefs

Although animist beliefs and practices vary across different parts of the country, belief in the existence of ancestors' spirits who provide strong links between the past, present and future and who thus continue to play an important role in family and community life is omnipresent. These beliefs are tied to succession and inheritance practices in several ways.

First, in order for the deceased to successfully complete the journey to the spirit world, funeral and mourning rituals, as well as rituals to honour ancestors' spirits, are often considered necessary. These extensive rituals offer spiritual and emotional consolation, but can sometimes put a great strain on the surviving family members because they can continue until all food items present in the house are consumed and animals might also be slaughtered for the occasion. The deceased's personal belongings – for example, clothes and personal items – are often buried with him or her, sold or burnt. This gives peace to the deceased and prevents his or her spirit from haunting surviving family members. In extreme cases, evident for example in Zambézia province, this practice can extend to the burning of houses, the selling of all furniture and household items and the family having to move off their land – especially when both spouses die. These practices can make widows and orphaned children more vulnerable.

However, when looking at the reasons why this happens, it is clear that these practices are not meant to disadvantage women and children to the benefit of other family members. They are purely based on a perceived need to appease and pacify the spirit of the deceased and other ancestors to guarantee a balance between the earthly and spiritual worlds. This means that if those people with real influence in spiritual matters can offer, and actively promote, acceptable alternatives to these practices – alternatives that do not harm the surviving spouse and children – there is no reason why change would be opposed. And indeed, there is evidence at local level that these practices are changing.

The rapid growth of evangelical churches³⁰, which are strongly opposed to several features of traditional rituals, has started to change funeral ceremonies in central and southern parts of the country, making them more austere and thereby less of a burden to the family of the deceased. The role of traditional healers is also important. A representative from the Mozambican Association of Traditional Healers (AMETRAMO) in Manica province explained that, in the interests of orphaned children, the association has started performing harmless purification rituals that eliminate the need to get rid of the deceased's belongings or avoid certain living spaces. This allows the widow and her children to continue to use these items and live in their house without fear of retaliation from the spiritual world. These harmless purification rituals that protect widows' and orphaned children's rights should be strongly promoted at community level.

Purification rituals are very important within the framework of spiritual beliefs. A much-criticized ritual has been that of widow cleansing, also called *pita-kufa* or *kutxinga*. According to this ritual, a widow is considered to be contaminated after the death of her husband and in order to prevent the spread of bad luck caused by repercussions from the spiritual world, a purification ritual has to take place. This is traditionally accomplished through sexual intercourse with one of her late husband's male relatives. This ritual has been linked to the practice of widow inheritance discussed earlier. Women have been protesting against this practice for many years as it clearly violates their rights; moreover, it puts them at greater risk of contracting HIV.

One of the most successful interventions with regard to widow cleansing has been the collaboration with *curandeiros* (traditional healers) to come up with a viable alternative to this harmful practice. This does not necessarily entail asking people to change their beliefs but rather to change the way they are put into practice.

³⁰ For example, membership in the Evangelical Lutheran Church in Mozambique alone grew nearly five-fold in 2004 and by around another 24 percent in 2005 (Eunice, 2005; CEPE, 2007).

In both Gaza and Manica provinces, traditional healers mentioned the existence of purification rituals based on baths with herbs and other ingredients that could replace the *pita-kufa* ceremony. Since refusing to participate in the *pita-kufa* ceremony has also been used as an argument to dispossess a widow of her belongings, this alternative ritual should be strongly promoted at community level. *Curandeiros* who carry out these alternative ceremonies should be engaged to convince their colleagues and followers of the spiritual acceptability of these practices.

At the same time, some aspects of the deeply rooted belief in a balance between the spiritual and earthly worlds and obligations to the deceased could potentially be advantageous in protecting children and women's rights to inheritance. For example, many people emphasized the fact that from a spiritual point of view, a dying person's last wishes should always be respected – including with regard to the inheritance of property – otherwise the spirit of the deceased would not be able to rest and the person(s) who took possessions that were not rightfully theirs would suffer from misfortune, illness or even death. This means that if, during life or on their deathbed, people could be convinced to express their wishes regarding how their possessions should be divided after their death, there would be a very strong spiritual imperative to comply with these wishes. However, the main obstacle here seems to be that people are afraid to express their wishes as this could be interpreted (by either the living or spirits of the dead) as them saying they are ready to die. People also expressed their distrust of those family members who would benefit from their death, fearing they would do something to hasten it. Also, those excluded from the provisions of the (oral or written) will could try and harm the intended beneficiaries. Considering this level of mistrust, people often prefer to say nothing on the issue of inheritance, hoping that sensible decisions will be made after their death.

In the case of disputes between extended family members over the division of land, houses or other assets, a *curandeiro* can be hired to evoke the spirit of the deceased to clarify what he or she considers a fair division. The outcome of this ceremony would be irrevocable and not open for discussion. Since the *curandeiro* is a clairvoyant and depends on the spirits, it is not possible to anticipate which way the ruling will go. However, prior to the ceremony, the *curandeiro* talks to the deceased's family to find out more about: the circumstances of the death; the nature of the relationship between him and his wife and between them and the rest of the family; the relationship with his children; who his friends were; who spent most time at his deathbed taking care of him, etc. Whether this is done to help the *curandeiro* establish contact with the spirit or because *curandeiros*, as with other traditional leaders, try and make their decisions based on knowledge of the family, is not clear.

However, one major difference between the power of worldly traditional leaders and that of the *curandeiros* is that the latter are not accountable. Therefore, there is little chance of contesting the outcome of any ceremony because the will expressed is seen to be that of the ancestors' spirits, the *curandeiro* simply being the messenger. The decision of a *curandeiro* can normally only be contested by another, more powerful, *curandeiro* but even then there is no guarantee regarding the outcome, nor are there standards available to measure compliance. Some community members also referred to the possibility of a *curandeiro* siding with either party in an inheritance dispute depending on the reward promised to him or her if a certain outcome were secured.

Witchcraft

Linked to the belief in ancestral spirits is the belief in *feitico* (witchcraft or sorcery), which is deeply embedded in all levels of Mozambican society, and in rural as well as urban areas. As in other parts of Africa, witchcraft is typically used to explain adverse events such as illnesses, the loss of a job, or other misfortune. The threat of witchcraft is a powerful tool to impose fear, both willingly and unwillingly, and the accusation of having used witchcraft can lead to individuals being disgraced and ostracized from their communities.

Traditional leaders such as *régulos* report that many of the conflicts they resolve in their communities are related to witchcraft. However, when talking about development issues, the role of *feitico* is not always taken seriously. Since it is hard to relate to (let alone deal with) from an outsider's point of view, and maybe even harder to confront from an insider's point of view, it is an issue that often remains unaddressed. Matsinhe, in his exhaustive analysis of the Mozambican response to HIV, argues that the hegemonic discourse on the epidemic has persistently refused to engage with traditional beliefs and practices related to magic, witchcraft

and the power of ancestors.³¹ A recent Save the Children study on community attitudes towards child sexual abuse in rural Mozambique also revealed that one of the main reasons why children and their families do not report what has happened is the fear of revenge by the perpetrator or his family, specifically through witchcraft.³² In the case of property grabbing from widows and orphaned children, fear of witchcraft is all too present and should not be ignored.

One of the most commonly used arguments to justify taking away all possessions from a recently widowed woman is the accusation that she killed her husband through witchcraft, either for no particular reason or precisely in order to take control of his possessions. This seems to be most common when the husband died from AIDS-related diseases. Being accused of witchcraft, the widow is judged unfit to benefit in any way from the couple's shared possessions or to deserve the support of her husband's family. This in turn justifies the deceased's family taking control of his possessions.

In the case of people living with HIV, accusations of witchcraft are widely interpreted as an excuse not to have to face the stigma still attached to the disease. It was suggested that some people living with HIV might have started the rumours that sorcery is the cause of their illness since at community level being attacked by spirits as a consequence of witchcraft is a more acceptable explanation for disease and death than being infected by HIV and developing AIDS. However, the fact that the same accusations are also used against widows whose husbands die under other circumstances seems to point towards a more general pattern, where witchcraft is being used as an excuse to justify personal gain from property grabbing.

These occurrences, however, should not be dismissed as merely story-telling because at community level people might genuinely feel they have a moral right to take all possessions away from a woman accused of witchcraft and send her, with or without her children, back to her family. Thus, without convincing arguments to refute the accusation, women are unlikely to see their rights re-established after having been accused of being responsible for their husband's death. Individuals and organizations that have defended women accused of witchcraft have used arguments pertaining to both the belief system that generates these accusations as well as scientific or physical evidence.

Traditionally, only *curandeiros* are believed to have the power to decide whether a person is guilty of witchcraft or not. The ceremonies held to prove or refute accusations range from seemingly harmless rituals that involve the use of herbs and the throwing of bones and stones whose pattern reveal whether magical activities have taken place, to more violent ceremonies that personally involve the accused woman.³³ The main problem with encouraging *curandeiros* to perform non-harmful rituals that can clear women of witchcraft accusations is that there is no way of predicting the outcome of the ceremony. Even when *curandeiros* are sensitized on women's rights, there is no guarantee that all women will be cleared of the charges since the *curandeiro* is only the messenger. Encouraging people to accept the judgement of a *curandeiro* when he says a certain woman is innocent of witchcraft implies they should also believe him when he states that another woman is guilty. The promotion of non-harmful rituals could therefore reinforce a belief system where women can find themselves at the mercy of an authority that cannot be controlled and is rarely questioned or corrected. Although less common than consulting a *curandeiro*, there have been cases of people and organizations fighting witchcraft accusations through science or the power of traditional leaders.

Many scholars argue that tensions and conflicts between people or families are often at the root of witchcraft accusations.³⁴ The present research suggests that women who did not get along well with their husband's family or their neighbours were more likely to be accused of witchcraft and to be disinherited.

³¹ Matsinhe, 2006.

³² Save the Children UK, 2007c.

³³ For example, a ritual that *curandeiros* in both Manica and Gaza seem to perform involves the accused women having to swallow a potion of unknown, but likely to be insalubrious, substances. If it induces vomiting, it is believed to prove that the woman is indeed a witch. If she does not vomit, she is declared innocent. It was reported, however, that the health consequences of keeping the potion down could be substantial. These types of ceremonies clearly constitute a violation of women's human rights.

³⁴ See, for example, West (2005) on sorcery in northern Mozambique or Save the Children UK (2006) on child witches in the Democratic Republic of Congo.

One approach mentioned by several organizations that help widows to counter witchcraft accusations is to establish the husband's exact cause of death (and getting scientific proof where possible) to convince the deceased's relatives that there was a genuine reason for his death. Even though technically this does not answer the question as to why that particular person had to die instead of someone else, according to these organizations, this has proved to be an effective argument to clear a widow of witchcraft. An important aspect of this is obtaining an official death certificate, which could have financial implications. It is, however, necessary in order to obtain legal access to the inheritance and because it states the cause of death. At community level, there are an increasing number of cases in which the credibility of witchcraft accusations in cases of property grabbing from widows is being questioned, which could be a sign that this practice is open to being discussed and even questioned. The fact that community members and leaders have already started to challenge witchcraft allegations against widows, even on a small scale, is highly encouraging.

Aside from facing accusations of being a witch, the fear of witchcraft can also prevent a widow from denouncing her deceased husband's relatives for taking the possessions to which she is entitled. For example, in a case in Nampula a woman brought her case before the provincial tribunal, however after the judge ruled as to what was lawfully hers, she refused to go back to her husband's community and claim the house and land because she feared witchcraft would be used by her in-laws.

Where community monitoring and the threat of legal action may be used to prevent property grabbing or even threats of physical violence, witchcraft and the fear of it are harder to handle since it can be inflicted from a distance, without the victim even noticing. In situations in which there is a strong belief in – and fear of – witchcraft, an alternative response could be promoting protective anti-sorcery rituals, which might make widows more inclined to claim their rights without fear. However, it should not be forgotten that for *curandeiros*, their ability to relate to the spirit world is also their source of income, and ceremonies are often costly, especially for women who risk losing (or have already lost) everything they own.

From the discussion in this section, it is clear that the situation in communities is complex and that different belief systems exist. Therefore, in many communities the scientific causes of death or the legal aspects of property and inheritance cannot be seen as mutually exclusive from witchcraft. Thus, it is important to address these issues with a two-track approach, taking into consideration the specific local context.

Monothestic religion

In Mozambique, many different beliefs co-exist: Catholicism, Islam and traditional Protestantism as well as Evangelical and Zionist churches that are also often mixed with traditional animist beliefs. The scope of this report does not allow for a detailed description of how each of these different churches or belief systems deal with inheritance issues. This section, however, attempts to address some of the related norms and practices that emerged during the research.

As already mentioned, the rapid increase in the number of evangelical Christian churches in the central provinces has influenced practices related to property and inheritance in several ways: their rejection of exuberant offerings to traditional deities or spirits has influenced funeral ceremonies; and their disapproval of polygamous marriages is supporting the position taken by women's rights organizations. Their opposition to the power of *curandeiros*, not in their role as traditional healers but as a link to the spirit world and an authority in issues related to witchcraft, is also provoking changes. Although these different values are not promoted with the specific interest of enhancing children and women's rights, they are examples of how behaviour change can occur for reasons that are unrelated to the pursuit of rights. The growing influence of Evangelical churches is not so much based on their specific interpretations of the Bible in general or of passages related to succession and inheritance, but has more to do with their increasingly important role in society.

The breakdown of the extended family structure is leading to an increased importance of the church congregation in systems of mutual help and support, as well as in the celebration of important life events such as births, weddings and funerals. Through their involvement in funeral proceedings and other ceremonies, churches are in a strong position to influence norms and practices, including the process of designating heirs and the division of assets. Also, since churches of all religions have been recognised as important community actors in caring for widows and orphaned children, they could help improve and strengthen protection mechanisms

within the community. The involvement of religious leaders in advising grieving families on ways of fulfilling their duty to care for widows and orphaned children through access to the marital home and land could be a possible role, though so far few such have been observed. Churches have been more involved in offering direct assistance to orphaned and vulnerable children through education, health or nutrition, as well as supporting their mothers, than with acting upon the causes of their vulnerability, such as lack of access to property. According to one Christian leader in Manica, this is because of their reluctance to get involved in family disputes, a reluctance echoed by many traditional leaders.

The influence of the Muslim faith was very clear in Nampula province where the majority of the population adhere to Islam. Mozambican Muslims are said to practice a hybrid form of Islam that mixes traditional Islamic practices with local customs; a practice that is driven more by the knowledge and interpretations of local Islamic leaders than by formal religious doctrine. This mixture of Islamic and traditional practices is very noticeable in the area of inheritance. Although the Qur'an provides for specific succession standards, dictating a system of specific shares that govern every conceivable familial situation following death and in which the widow is included, these standards are in practice often unknown or disregarded in favour of customary practices.

Nonetheless, as a religious leader from the African Muslims Agency noted, some verses of the Qur'an could offer excellent awareness-raising messages to discourage property grabbing from widows and orphaned children. For example, Surat 4:2 says: *"You shall hand over to the orphans their rightful properties. Do not substitute the (your) bad things for the (their) good ones, and do not consume their properties by combining them with yours. For this is indeed a great sin."* Then 4:6 adds: *"You shall test the orphans when they reach puberty. As soon as you find them mature enough, give them their property. Do not consume it extravagantly in a hurry, before they grow up."* Women are also entitled to a definite share of what their parents and relatives leave behind, even though not necessarily in the same proportion as men. Notable was the higher prevalence and acceptance of oral or written wills in Nampula compared to the other three provinces, possibly also due to the centrality of inheritance laws in the Qur'an that specifically allows for one-third of an estate to be designated in a will.

Although lay organizations might not be willing to directly use messages from religious texts – the Qur'an, the Bible or others – to support their work, these can form a good starting point for dialogue with religious leaders and faith-based organizations.

Issues around poverty

Although poverty might be an influencing factor in some cases³⁵, it is unlikely to be a determining factor for property grabbing. Property grabbing happens both among poor families and better-off families, and in rural as well as urban areas. None of the community respondents cited poverty or the need to survive as an explanation for property grabbing. Rather, property grabbing seems to be linked more to the breakdown of the traditional extended family and the weakening of a sense of duty towards widows and orphaned children, than the economic need of the relatives involved.

³⁵ More than half the Mozambican population live below the poverty line.

3 learning from good practice

This chapter focuses on lessons that can be learned from current good practice, discussing initiatives undertaken by government institutions, UN agencies, NGOs, and community-based and religious in Mozambique. Where relevant, experiences from organizations in the east and southern African region have been included to complete the picture. Activities have been grouped according to type of intervention, based on the following categories³⁶: advocacy for the revision of relevant national legislation and policies; improving capacity to implement and enforce existing legislation; influencing customary legal culture; community monitoring and referral; support services for communities and victims of property grabbing; awareness-raising and open discussion; and children's knowledge, life skills and participation.

Advocacy for the revision of relevant national legislation and policies

A legal and policy framework designed to protect children and women's property and inheritance rights is an important foundation for the creation of a protective environment. Succession law, family law and land law are all important tools to ensure legal protection of property and inheritance rights. Legislation needs to be complemented by government policies that express the political will to address problems faced by widows and orphaned children as well as budgets to ensure the effective implementation of these policies. Although the existence of protective legislation and policies is no panacea, a lack of government commitment will make it harder to bring about other changes that are needed.

Mozambique is currently going through a period of extensive legal reform. This includes the revision of succession law because it is no longer compatible with newly approved legislation, particularly the 2004 Family Law and the Constitution. The fact that the revision of succession law is still underway offers an excellent opportunity for rights-based organizations to influence decision making. Strong capacity for lobbying and advocacy work is essential to take advantage of this opportunity to influence policy makers and politicians.

One of the main lessons that has been learned in this regard, not limited to the area of inheritance rights, is the added value of joining networks. This can bring several advantages.³⁷ First, a large number of organizations speaking with a united voice can increase the legitimacy of a social cause. Second, a network of members with diverse skills and strengths can appeal to a broader constituency than organizations working alone, thereby widening ownership of the issue and reaching a broader level of support and participation. Experiences in southern and east Africa show that many of the organizations working on the issue of children and women's rights to property and inheritance are indeed networks.³⁸ Networks can integrate different perspectives, and they offer a complementary range of services that respond to widows and orphans' rights and needs, such as

³⁶ These categories are loosely adapted from the eight areas defined in UNICEF's model of a Protective Framework (see Landgren, 2005).

³⁷ Varga, 2006.

³⁸ For example, GROOTS (Grassroots Organizations Operating Together in Sisterhood) from Kenya or JWOP (Justice for Widows and Orphans Project) from Zambia.

their health and wellbeing. In Mozambique, Fórum Mulher³⁹ has taken the lead on advocacy efforts regarding the reform of succession law. Through a participatory process (see box 2), a civil society proposal was formulated and submitted to the designated government body in November 2006. The Government of Mozambique is currently considering a revised draft of the Succession Chapter, which could come into effect in 2009.⁴⁰

Box 2: Fórum Mulher's participatory approach to succession law reform

Fórum Mulher coordinated the actions of civil society in the formulation and presentation of a counterproposal to the government's proposal produced by the Technical Unit for Legal Reform (UTREL). This counterproposal was the outcome of a participatory process that involved several steps. First, the original proposal was thoroughly analysed by a technical working group formed within Fórum Mulher to identify gaps in its applicability as well as areas of incompatibility with newly approved legislation such as the family law. Based on these conclusions, a counterproposal was drafted and presented to civil society representatives at four regional meetings (north, centre, south and in Maputo City). These meetings involved legal professionals that would be responsible for implementation of the new law (such as magistrates and attorney generals), and community members and leaders (including religious leaders and *curandeiros*). Issues arising from these discussions were integrated into the draft and a final document was presented to UTREL and civil society groups at a national meeting held in Maputo. The counterproposal was thereafter formally submitted to UTREL in November 2006.

To date, child rights organizations have been less active on advocacy regarding succession law. However, Rede da Criança (a forum of child-focussed organizations) and Rede CAME (Network Against Child Abuse) have been working with Fórum Mulher on advocacy regarding other issues, for example the recently approved draft legislation on human trafficking. Given their shared interest in children and women's rights to inheritance, this collaboration could be expanded to align lobbying and advocacy efforts on these issues and to speak with a single voice on the needs and rights of children and women. The fact that several member organizations already belong to two or more of these networks could facilitate this cooperation. The increased pressure of a joint advocacy operation could help move the process of legal reform forward.

Through Fórum Mulher, women's groups and individuals have substantially increased their involvement in advocacy and lobbying, making their voices heard. The participatory process undertaken to formulate the counterproposal on succession law is a good example of this. The active and meaningful participation of children and young people in discussions and decision-making about succession and inheritance should also be encouraged. Child rights organizations in Mozambique have experience in enabling young people to participate. These efforts should continue to be supported to make sure that the voices of children and young people are heard, alongside women's views.

Improving capacity to implement and enforce existing legislation

Whatever protective legal and policy frameworks are in place, their effectiveness will depend on the knowledge and capacities of those individuals responsible for their interpretation and implementation: judges, court officials, police officers and officials of the Attorney General's Office (*Procuradoria*), among others. With several Mozambican laws still under revision and some older instruments incompatible with newly approved legislation, the defence of children and women's rights will depend to a considerable extent on the capacity and willingness of individuals to use all available legislation to serve the best interests of women and children.

³⁹ Fórum Mulher is a network organization founded in 1993 to unite the strength and efforts of institutions working to defend women's human rights. It is currently comprised of more than 70 organizations.

⁴⁰ Schroth and Martinez, 2009.

* Fórum Mulher, 2006.

Building the capacity of the judiciary

The level of training of judges and court officials in Mozambique is low and this means that even if adequate legislation to protect children and women's rights existed, they might not always be able to claim those rights through the judicial process. Especially where culture and custom could go against the spirit of the law, there is an urgent need to properly train those individuals responsible for its interpretation and implementation. This includes addressing their own prejudices – for example, regarding the rights of women or children.

The Ministry of Justice's Centre for Legal and Judicial Training (CFJJ) is the main formal institute that provides training for members of the judiciary. In collaboration with the UN's Food and Agriculture Organization (FAO), one of the centre's priority subjects is rights to land and natural resources. District judges across the country have been trained on this issue in recent years. Women's access to land was already one of the centre's priorities, and a new three-year Women's Rights Project starting in 2008 will reinforce the women's rights and gender component of the CFJJ training programme. According to Fórum Mulher, who is working with the CFJJ on the women's rights and gender component of the judges' training, the results of the programme have so far been very encouraging. Informal evaluations with judges show that, based on what they have learned through taking part in the training, they would have ruled differently on certain cases brought before them. This echoes the experience of the International Association of Women Judges (IAWJ), which provides training for members of the judiciary in several countries on discrimination and violence against women. According to IAWJ, the rulings issued by judges trained on their Jurisprudence of Equality Programme have not only benefited individual women but have also been a powerful tool against discriminatory laws and practices in general.⁴¹

Regarding the defence of children's rights, the recently approved legislation on Jurisdictional Organization regarding Minors⁴² proposes the creation of juvenile sections in all provincial tribunals. These sections will deal with cases involving children and young people, either as complainant or defendant. UNICEF is already working with the Mozambican government on the implementation of these plans and so far, juvenile sections have been opened in the courts of Beira and Quelimane. By the end of 2009 all ten provincial courts should have a juvenile section. Each section will consist of at least one judge, a *curador de menores* (children's attorney general), a clerk and a social worker from the Ministry of Women and Social Action. UNICEF's protection team is currently compiling all relevant national and international laws related to children's rights to produce a training package to be used for judges and other staff in these juvenile sections. The proposed training package and methodology is sure to include the topic of children's inheritance rights.

Official law enforcement institutions might not always be regarded as the most accessible option for women and children demanding justice. The limited capacity of the formal justice system in Mozambique is a serious constraint. Although an effort to sensitize and train all judges and legal staff would make their rulings more responsive to children and women's rights, the fact is that the system is already suffering from an enormous backlog. The risk of encouraging widows and children to turn to the formal legal system for assistance is that long delays in their cases being heard would only confirm their ideas about the ineffectiveness of the system. It also doesn't provide them with any protection from property grabbing relatives while they are waiting for their case to be heard. On the other hand community conflict resolution mechanisms usually have a lower threshold and are less prone to bureaucratic slowness. In this regard, the government's intention to reintroduce community courts into the formal legal system is a good response. This would present opportunities to increase the capacity of the judiciary at community level.

Building the capacity of the police force

The Mozambican government has started creating special departments within the police service to deal with women and children who are victims of violence. These so-called *Gabinetes*⁴³ are staffed mainly by female police officers that have received additional training from psychologists and rights-based NGOs. Most cases presented at the *Gabinetes* concern domestic violence and division of assets in cases of separation. The idea is

⁴¹ FAO, 2008b.

⁴² The *Lei da Organização Jurisdicional de Menores* was approved by the Mozambican Parliament on 9 April 2008.

⁴³ *Gabinetes de Atendimento às Mulheres e Crianças Vítimas de Violência* (Office for the Assistance of Women and Children Victims of Violence)

to lower the threshold for women and children for reporting cases of violence against them through formal mechanisms. In practice, however, before initiating a legal procedure, the *Gabinete* officer will usually try to mediate and find an informal solution.⁴⁴ This means that, as with traditional leaders or community judges who mediate in domestic conflicts, the knowledge and awareness of these police officers is very important to guarantee that women and children's rights are respected and their complaints resolved in a positive way.

It is important to remember that the fact that most of these officers are female does not automatically guarantee that they will be supportive of women's rights. Just as female relatives can play an active role in the dispossession of widows, female police officers are also products of their society and are subject to the same norms and values as their male counterparts. This is exemplified by views on property grabbing expressed by one female police officer who was interviewed during the study. She explained that although she would mediate to try and solve the problems of widows who were involved in family disputes over inheritance, she did not consider these cases to be proper crimes that deserved to be brought before a court. While this attitude cannot be generalized to be representative of all female police officers in the *Gabinetes*, it is indicative that such views exist. Proper training and tools to sensitize police officers on the plight of widows and orphaned children, as well as to respond to these issues is needed. The success of the Victim Support Unit (VSU) of the Zambia Police Service (see box 3) highlights the benefits that could be obtained by involving and strengthening capacity of *Gabinetes* to deal with inheritance issues.

Box 3: Police involvement in Zambia and Zimbabwe

The main purpose of the Zambian VSU, as in the case of the Mozambican *Gabinetes*, is to deal with acts of violence against women, children and the elderly. They have actively embraced their obligations against the property stripping of women and children and actually form part of the Justice for Widows and Orphans Project (JWOP) network. Though the issue of getting widows and orphans to officially report those responsible for harm done to them still remains, the impact of VSU's work is evident. The number of property and inheritance cases reported that actually led to a conviction rose dramatically from 6 percent in 2001 to 31 percent in 2003.*

Other promising results are reported by the Zimbabwe Widows and Orphans Trust (ZWOT), which supported the implementation of a programme on inheritance rights by the Zimbabwe Republic Police. The programme was directed at police officers and their spouses and included awareness-raising on issues such as writing a will, inheritance rights, pension processing, birth and death registrations, and counselling services for widows, orphans and relatives of the deceased.** According to ZWOT, these actions did not only directly protect the police officers and their families but also made the officers more sensitive when encountering widows or orphaned children who were victims of property grabbing.

Several national and international organizations, including Save the Children and UNICEF, have supported the setting up of the *Gabinetes*, training of their police officers, as well as training for the police force in general. Women and Law in Southern Africa (WLSA), for example, organizes a monthly legal consultation for police officers in Maputo. The officers get a chance to discuss any difficult cases they have dealt with over the past month, discuss their outcomes, and ask advice on legal issues where they feel they lack information. The continuity of contact between the police officers and WLSA is one of this programme's strong points and has allowed for a positive impact on officers' daily work and their decision making. WLSA also uses these sessions to present specific topics related to women's rights, especially when new legislation or instruments have been approved. The topic of legal property relations and succession law has not been specifically discussed yet but if appropriate materials were available, this could very well fit into the programme.

⁴⁴ According to the 2007 CEDAW civil society shadow report (WLSA, 2007) there are two reasons for this: the reluctance of police officers to criminalize acts of domestic violence, as well as the expectancy of the victims who are not normally looking for a way to send their partner to jail but rather looking to the police for help to control their violent behaviour.

* Izumi, 2006c.

** Izumi, 2006d.

Influencing customary legal culture

The co-existence of formal and customary law systems in Mozambique means that training those involved in the formal system alone will not be enough to create an environment in which women and children can claim their rights to property and inheritance. Although the state recognizes only written law as legally binding, it does recognize the use of customary law outside formal courts, as long as it does not go against the principles of the Constitution – equality between women and men being one of those principles. At the local level, especially but not only in rural areas, formal legal institutions are poorly represented and a long-standing tradition of community conflict resolution is prevalent.

Community systems usually involve traditional and/or modern community leaders (for example, *régulos* or *mfumos*) as well as neighbourhood secretaries or local administrators and community judges. Community courts in Mozambique are formalized by law but rule independently from the formal system of town, district, provincial and supreme courts. The community courts are expected to pass judgement based on “common sense and reconciliation”⁴⁵ instead of formal law. Should an individual appeal these decisions to courts in the formal system, the formal court can overrule a decision made by the community court. However, evidence shows that most cases never go beyond the intervention of either local leaders or community courts. The decisions made by community leaders or judges in community courts, shaped by their personal interpretations of right and wrong, are therefore extremely important for children and women.

Working with local community leaders and judges

The prevalence of a system for conflict resolution that relies on the ‘common sense’ judgement of older males, who lack formal training and, as products of their own society, may exhibit gender-bias, may have harmful consequences for children and women’s human rights. Mozambican traditional leaders and judges are often more inclined to think in terms of women and children’s duties rather than their rights. Nonetheless, local systems of conflict resolution are generally recognized as providing better options for women to seek justice because of their low cost, accessibility, familiarity and social acceptance.⁴⁶ The study found that when women or children (or a male relative speaking on their behalf) take their inheritance disputes out of the family realm, they would in the first instance use systems of conflict resolution outside of the formal system. This reduces the negative impact on the social network they rely on in other aspects of their lives. Also, they are rarely familiar with ways of accessing the formal legal system, which is often out of reach, both geographically and economically.

On the positive side, precisely because these community leaders and judges are not bound by existing legislation, they are able to rule in a far more progressive way than the law would permit formal judges. They actually have the power to combine the positive aspects of both formal and customary law in their community courts or when mediating between families. Also, community leaders and judges are usually well informed about local household dynamics, and may use this knowledge to support the claims of some women and children regardless of what custom would normally dictate.⁴⁷ Finally, local community leaders have the power to change cultural practices and to influence the behaviour of the community as a whole. Thus, their sensitization and training on children and women’s rights could have an impact on the lives of individuals that present their inheritance problems or other conflict issues before them.

There are many organizations already working with local leaders or judges. The vast majority of people and organizations consulted during the study, however, emphasized the need to work with community leaders specifically on helping women and children secure their rights to inheritance. According to these organizations, changing some of the norms and practices that guide traditional leaders is not as difficult as one might expect. As many years of behaviour change programming in different areas have shown, people do not respond well to new information or strategies being imposed upon them. Local leaders, who have a need to uphold their authority, are likely to be even less responsive if they are not approached in the right way. In the section below we discuss the most successful strategies for working with community leaders, based on the experiences of organizations that have achieved change by working collaboratively.

⁴⁵ WLSA, 1996.

⁴⁶ Knox *et al.*, 2007.

⁴⁷ Walker, 2002.

First, using participatory approaches and open dialogue is crucial. Many organizations agreed that when local leaders are asked to be involved in a process of identifying a problem in their community and participating in the design and planning of possible solutions, most of them are open to receiving new information in the course of this process. Some organizations suggested that local leaders in more rural and isolated communities, that one would expect to be more rooted in tradition and reluctant to change, are often the most open and responsive to new information. When working in partnership with local leaders, however, it is important to ensure their participation right from the start. Otherwise it could create a situation in which they could feel offended by the suggestion that an outsider would know more about their communities' problems (and possible solutions) than they themselves do. On the other hand, if local leaders are willing to recognize the existence of a problem, they are also usually willing to find a solution because having a recognized problem in their community affects their reputation. It is therefore also important to discuss issues in concrete terms, using local examples of how a certain matter is affecting community members, instead of referring to issues in the abstract.

When local leaders agree to the existence of a problem and the need to address this, they should be asked how the situation can be resolved and what solutions customary norms and practices offer. Formal legislation can be introduced as a tool where other locally accepted tools are lacking or insufficient, but should not be presented as a reason why local practices should change. Finally, traditional leaders are not ignorant; they know that society is changing, that circumstances have changed and that norms and values are changing as well. Most rural communities are not completely isolated any more and many leaders realize that unless they change with society, they run the risk of losing their position of power and influence. This in itself will not necessarily cause them to completely change their views on matters they previously defended, but it can have a positive effect on their attitude.

As discussed in the previous chapter, conversations with local leaders revealed that they feel inheritance disputes are private, family matters where they have no right to intervene unless asked. However, when they were asked, all expressed their willingness to mediate between the quarrelling parties and some had already done so. Members of the community also said that local leaders were the key to improving protection of women and children's access to property and inheritance at local level. Community judges from Zambézia province confirmed that although they knew of many cases of property grabbing, it was not common for such cases to appear before their courts, again because of the tendency to regard them as a private, family matter. However, on the few occasions when inheritance cases were filed to the community court, they had been able to negotiate an agreement between the two families that was deemed acceptable for all, including the widow and children involved.

Changing traditional norms and practices is undeniably a long-term process. Bringing about behaviour change requires a series of interventions, including awareness raising, training, monitoring, discussion and refresher courses. Not providing continuity of support to local leaders is probably where most organizations, especially those that are not community-based, go wrong. This lack of continuity is usually not deliberate but a result of the fact that projects have limited human and financial resources and timespans. As a result, there may be little or no follow-up after training has been provided. A lawyer working for the Association of Child Rights Defenders (ADDC), with funding from the Provincial HIV/AIDS Council, implemented a small project last year in Catembe district (Maputo) to train community leaders on legal principles regarding inheritance. Recognizing that the one-day training course was not sufficient to adequately address the complex issues involved, participants were encouraged to return to sessions held in different parts of the same district every three months. Also, when asked to give similar training sessions in Inhambane and Manica⁴⁸ for the Provincial Department of Women and Social Action (DPMAS), police and community leaders, it was decided to add an extra day to the training programme as to allow one day to discuss legal aspects and another for reflection and discussion on customary inheritance practices and how the knowledge acquired during the sessions could be used in day-to-day life.

⁴⁸ Training for Rede CAME/Rede da Criança with funding from the Hope for the African Child Initiative.

Working with religious leaders and curandeiros

As seen in the previous chapter, the important role spiritual and religious leaders can play in inheritance issues means that they should also be regarded as key stakeholders and change agents in their communities. Religious leaders usually have a prominent position and are well respected not only within their congregation but often in the wider community as well. Also, as with secular community leaders, they live and work in or close to the communities they serve, many of which are in remote areas, often beyond the reach of services provided by government institutions or NGOs. And most importantly, many religions teach values of compassion and solidarity as well as a responsibility to look after the most vulnerable members of society, especially children.⁴⁹ In this regard, both the Bible and the Qur'an make ample reference to the responsibility of caring for orphans and widows and these messages could easily be reinforced by religious leaders and faith-based organizations. Their sensitization on children and women's inheritance rights could not only encourage them to become more proactive in inheritance disputes or cases of property grabbing but they could also actively prevent them from happening by closely accompanying a family's mourning process.

Traditional healers (*curandeiros*) are usually also very influential within their communities. As seen in the previous chapter, this is not only because of their knowledge of traditional medicine but also because of their capacities to communicate with the spirit world. The Ministry of Health has established working relations with AMETRAMO (the Mozambican Association of Traditional Healers) and according to several organizations working on HIV issues, change can be achieved by engaging in dialogue with *curandeiros* either through AMETRAMO or individually at local level. For example, the coordinator of a community-based organization working with people living with HIV in Chókwe district (Gaza province) reported that their collaboration with local *curandeiros* had led to a significant increase in the numbers of people getting tested for HIV and starting antiretroviral (ARV) treatment.

One of the main reasons this organization gave for their success in working with *curandeiros* was that they took a very pragmatic approach in terms of what they asked from them. Given that *curandeiros* make a living out of the rituals and ceremonies they perform, as well as the traditional medicine they prescribe, at first glance there was little incentive for them to convince people to go to the regular health services for testing and treatment. However, through a combination of awareness-raising about HIV and the promise that they could continue to treat HIV-positive people or people with AIDS for their symptoms and related diseases, the local *curandeiros* now refer clients to clinics for testing and to hospitals for ARVs.

Despite the possible ethical dilemmas related to working with *curandeiros*, discussed earlier, several organizations have already chosen to take a pragmatic stand on this issue, arguing that awareness-raising activities on women's rights can only be positive. Although not all *curandeiros* are affiliated with AMETRAMO, it has been an important partner in this respect. It promotes certain standards for affiliated *curandeiros* and as they have a reputation to protect, they would not want to be face accusations of human rights violations, such as the witchcraft trials described earlier. MULEIDE (Women, Law and Development Association), for example, has established a working agreement with AMETRAMO. Thus, when women come to MULEIDE for legal aid after having lost their house or belongings due to accusations of witchcraft, MULEIDE works on the legal aspects of the case but also refers them to trusted *curandeiros* (who have participated in training on women's rights) for them to sort out the spiritual issues in the families that might prevent the women from realizing their rights.

Community monitoring and referral

In recent years, various organizations in Mozambique have helped communities set up structures to address the needs of orphaned children. These may be known under different names – for example OVC committees (Save the Children) or Community Care Coalitions (World Vision) – but they all aim to improve the wellbeing and protection of orphans and vulnerable children. Support is often through improving their access to basic services such as food, health and education. Also, depending on the particular organization, some

⁴⁹ For a general discussion on the possible role of religious leaders and faith-based organizations in the care and protection of orphaned and vulnerable children, see Christian Aid *et al.*, 2006.

committees have more specific expertise in such areas as psychosocial support, recognition and follow-up of cases of child abuse and exploitation, HIV and home-based care. Some committees have received community grants or micro-credits to help them implement small projects that benefit orphans and vulnerable children; others work more as intermediaries and refer children to governmental institutions or NGOs. Often, these committees are comprised not only of concerned citizens but also local leaders, teachers, religious leaders or other important members of the community. The Ministry of Women and Social Action (MMAS) has acknowledged the important role of community structures in the care and protection of orphans and one of the action points in the national Action Plan for Orphans and Vulnerable Children (PACOV) is to establish and strengthen community support groups for OVCs.⁵⁰ Since some committees are already working with orphans and caregivers, their members could be given training on inheritance issues so that they can provide guidance and assistance to victims of property grabbing as well as those at risk. Community watchdog groups in Kenya (see box 4) are an example of the positive impact community monitoring can have.

Box 4: Community watchdog groups in Kenya

GROOTS (Grassroots Organizations Operating Together in Sisterhood) Kenya, a network of women self-help groups, has set up an effective system of community watchdog groups.* These watchdog groups guard against property stripping from widows and orphaned children in their communities and are typically composed of grassroots women leaders, village elders, local administrators, paralegals, land tribunal members and community volunteers. They work to protect against property-grabbing, monitor communities for cases of women being dispossessed, raise awareness on cases of eviction and seek to protect evictions. Because of the participation of people with formal as well as informal authority within the community, the groups also have the potential to serve as a dispute resolution body regarding property and inheritance. According to GROOTS Kenya, since 2003, 50 Watchdog Groups have been set up in regions across Kenya. Approximately 200 cases of property-grabbing have been successfully resolved in collaboration with local authorities and nearly 90 cases are pending investigation (as of December 2008).

One of their main advantages is that these groups have the capacity to address property rights issues at the local level quickly, whereas centralized government structures may be less able to effectively serve local communities, especially children. GROOTS therefore claims that the watchdog groups deserve to be incorporated within government structures in the community, thereby officially enabling group members to respond to cases of widows and orphans being dispossessed of their property. With or without the power to intervene, these groups can play an active role in monitoring their communities for signs of trouble and they function as an important link within a community-based referral system.

In Zambézia province, both World Vision and ActionAid employed the services of the Mozambican Association of Women in Legal Professions (AMMCJ) to train their community activists on family law, land law and succession law. According to AMMCJ, the process for selecting activists to participate in the training was important to ensure the project's success. An effort was made to select those community members who not only possessed the necessary intellectual capacities to benefit from a week of (para)legal training but also were in a position that would allow them to effectively put their knowledge to use in the community – for example, local leaders or individuals participating in community committees or other community-based organizations. Trained activists will be supported in their work by AMMCJ but it is still too soon to evaluate the impact of this training programme on the participating communities.

Because the issue of women and children's property and inheritance rights comes under the remit of many different governmental and non-governmental institutions, it is essential for effective referral mechanisms to be set up between them so that orphaned children and widows are encouraged to make use of all services available. An orphan who is fighting to obtain ownership of the property left by his or her deceased parents might need to apply for a birth certificate to establish his/her right to inheritance and benefit from social protection

⁵⁰ MMAS (2006), objective 3, action point 7.

* See FAO, 2008a.

programmes. Also, a recently widowed woman whose deceased husband was chronically ill might need not only a referral for paralegal aid but also a referral to a clinic for an HIV test and counselling. Community groups can be important links within such referral systems, as well as trained community paralegals.

In Mozambique, many organizations have already established informal referral mechanisms to other services in their area but this is not done systematically and does not involve all services. Organizations that provide legal aid to victims, such as MULEIDE, AMMCJ and the Mozambican Human Rights League (LDH), frequently receive cases that have been forwarded to them by other NGOs or community-based organizations, as well as by government officials from institutions such as MMAS or the Attorney General's Office. Most NGOs agree that there is limited capacity within government, the police or legal institutions such as the *Gabinetes* to effectively resolve inheritance disputes. The administrative procedures are lengthy and without constant pressure it can take many months for cases to reach court. Also, there is some distrust towards government bodies regarding the defence of children and women's rights. Though referring orphans to the provincial or district department of the Ministry of Women and Social Action to benefit from available social services does seem quite common, these services work more on mitigating the adverse effects of vulnerability after property has been taken, rather than on preventing this happening in the first place.

Support services for communities and victims of property grabbing

There are a number of different types of services that could provide assistance to and empower widows and orphaned children who are victims of property grabbing. Emergency support such as shelter, food, water, clothes and medicines (including ARVs) might be urgently needed by women and children who have been evicted from their homes. Income-generating projects could help re-establish their livelihoods and promote women's economic independence. Addressing all possible services, however, is beyond the scope of this paper. Rather, this section focuses mainly on support services that help victims of property grabbing regain access to their rightful property or that try to prevent property grabbing from happening in the first place.

Legal aid and training of community paralegals

Several organizations provide free or low-cost legal assistance to women and children. Some employ lawyers and offer direct legal aid to victims of human rights violations – for example, AMMCJ, ADDC and MULEIDE. Others, such as CFJJ, provide support through training of community paralegals. The Human Rights League (LDH), for example, combines these two approaches.

Paralegals are community members who have received training on a specific legal subject, such as land rights or women's rights, and they use this knowledge to counsel and assist members of their community. Depending on the structures set up by the organizations they work with or have been trained by, their work might or might not be overseen by a qualified legal expert. Those chosen to be trained as paralegals can be members of community-based organizations or local leaders who receive one-off training and are thereafter supposed to integrate their new knowledge within their regular community work; or they can be specifically selected persons who thereafter work as volunteers or representatives of the organization that trained them.

The latter is the case with LDH, which has more than 600 paralegals covering all provinces of Mozambique. LDH's paralegals receive three months of intensive training and are supervised by human rights lawyers working for the organization. Although paralegals are commonly expected to be able to refer cases to the formal justice system, often their primary role is to mediate between victims and the appropriating party. By using their legal knowledge to explain to widows and children their rights and make perpetrators aware of the possible consequences of their actions, paralegals can be quite successful in securing women and children's rights without recourse to the formal legal system. Based on experiences in various countries, the International Center for Research on Women (ICRW) concluded that "community paralegals can be an effective and affordable resource for women involved in property disputes"⁵¹.

⁵¹ Johnson *et al.*, 2007.

In Mozambique, though no organizations have specifically trained paralegals on the subject of succession and inheritance rights, many regularly defend victims of property grabbing. Given the complexity of the legal situation around succession, coupled with sometimes complex family structures, further training for paralegals on property and inheritance rights would enable them to more effectively support victims of property grabbing. Other possible areas of work for paralegals could be informing families of the procedures for legal guardianship and advising them on writing a will.

There are, however, limits to the kinds of interventions paralegals can make. For instance, this is the case when informal mediation is insufficient and therefore victims choose to pursue a legal case. First, not all paralegals have the authority to represent victims in court or before other legal institutions. Those working for well-known organizations such as LDH have an advantage in these situations, also due to the fact that LDH employs lawyers who can take over a case should it be necessary. Paralegals without such links to well-known organizations indicated that having a credential to prove their capacities to staff of formal legal institutions, such as district or provincial courts, would be useful. Second, the enormous backlog of cases in most courts means that it can take months for a case to be heard. This is particularly damaging when people have been stripped of everything they own and need a rapid solution. Third, the costs involved in initiating legal procedures – including, for example, transport costs to and from court – can be considerable and not all paralegals or organizations have sufficient resources to cover these.

Supporting succession planning

The Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV and AIDS, as agreed in 2004 by a broad range of international stakeholders from all sectors of society,⁵² establishes that there is an urgent need to significantly expand activities aimed at helping parents plan for their children's future. Apart from guidance in disclosing their illness and comforting children in their grief, it is recommended that this should include more practical preparations such as making a will, identifying an appropriate caretaker and seeing to the preparation and passing on of legal documents, such as birth certificates and title deeds to land.

Many organizations in east and southern Africa, including in Mozambique, have been involved in memory projects. Memory work was first initiated by a group of HIV-positive mothers from the National Association of Women Living with HIV and AIDS (NACWOLA) in Uganda, to help parents communicate with their children regarding their HIV status.. Although memory work often emphasizes psychosocial aspects and preparation for death, it also focuses on preparing for the future. In this regard there have been noticeable links between memory work and inheritance issues. Providing children with information about their family history can include knowledge on how their parents obtained their lands or house, thus strengthening children's understanding of what property belongs to their family. Also, parents are encouraged to make implied or written wills to protect their children's property inheritance and livelihoods. In Mozambique, memory work with people living with HIV and their children has started to develop but has not yet included property and inheritance issues.

A training manual published by Douleurs Sans Frontières on *Resilience and Care of Orphans and Vulnerable Children*⁵³ is used by several organizations in different parts of Mozambique. The manual focuses on how to provide psychosocial support to children in difficult circumstances, in particular those whose parents are living with HIV or children who are infected themselves. The creation of memory books and boxes within a home-based care programme is one of the activities discussed in the manual. Reference is also made to the need to safeguard important documentation such as birth certificates, identity documents and a will in this box. Many of the organizations working with this particular manual, or involved in other memory work, however, were not actually seizing the opportunity to tie in more practical future planning. One of the reasons given for this is a lack of knowledge; many organizations working with people living with HIV do not have enough information themselves on inheritance norms and practices to promote awareness among the communities they work with. This feeling was also echoed by several the smaller NGOs or community-based organizations working on children's rights.

⁵² UNICEF, 2004.

⁵³ Douleurs Sans Frontières, 2007.

Some memory projects – specifically those where will writing is encouraged – have faced some challenges due to cultural factors and beliefs within communities. As discussed in the previous chapter, people’s spiritual beliefs may inhibit them from expressing their wishes as they believe that this could be interpreted as them being ready to die. They fear that this could accelerate their natural death as decided upon by God or the spirit world, or that it could provoke an unnatural death at the hands of family members who are mentioned in their will and therefore stand to benefit from their death.

These beliefs are very strong in many communities and one community-based organization in Gaza admitted to having given up on memory work because they could not find anyone willing to participate. Beneficiaries feared that information written down for their children could somehow be used against them and that the items put into the memory box could be used for witchcraft purposes should they fall into the wrong hands. Representatives of this organization also admitted to their own prejudice playing a role in not being able to convince people living with HIV of the importance of writing a will. These types of problems are often not dealt with in training manuals, even though the belief systems they are based on are common in Mozambique as well as in many other African countries. For example, when the Zimbabwean organization Ntengwe evaluated their property and inheritance rights training for women, they realized that when women returned to their husbands to encourage them to write a will, some of the men felt threatened, assuming that this would encourage their wives to kill them. Ntengwe then decided to involve men in the training courses too.⁵⁴

One widely distributed publication in Mozambique is a magazine published by N’weti as part of a southern Africa regional health communication campaign. The volume on HIV and AIDS⁵⁵ contains a chapter called ‘Things you should do while you are still strong’, which includes information on how parents can prepare for their children’s future. The text draws on the key responsibility of parents towards their loved ones, especially their children. After giving several examples of negative things that can happen to children when their parents die, the advice given to sero-positive parents is to plan for their children’s future to prevent these negative things from happening. Although meant for a literate public, this magazine is a good example of an effective communication tool that uses simple language and drawings to explain difficult concepts. Photo cartoons are used to represent community members asking common questions or expressing doubts regarding the subject that is presented in the text. The illustrations make the text livelier, and seem to be a good way to address common fears and misunderstandings without the risk of being condescending. Also, key words and concepts are translated into three local languages – Changana, Sena and Macua – to help people better understand the messages being conveyed.

Another noteworthy example of a communication tool supporting future planning is a Zimbabwean publication entitled *Future Planning Notebook for Families and Communities*⁵⁶. It is a practical manual that provides Zimbabwean families and communities living with HIV with orientation on planning for their children’s future. Topics covered include: why and how to choose a guardian and how to obtain a guardianship certificate; how to decide who will inherit possessions, including guidance on both customary law and formal law; the benefits of making a will, including a blank form to make one; how to obtain important documents such as birth and death certificates; and information regarding government assistance programmes for orphans, as well as information on how to access them. At the end of the manual there is a list of organizations that offer different kinds of support to people living with HIV and orphaned children. Although this publication too is aimed at a literate public, the manual was also published in Shona and Ndebele, in addition to English, to improve accessibility at local level.

Birth registration

“Birth registration is not only a right in itself, but also contributes to ensuring that children enjoy other rights key for their survival, development and protection.”⁵⁷ Birth registration can also reinforce inheritance rights. Legally, children who do not have a birth certificate cannot inherit from their parents unless the parents made a will appointing them as beneficiaries. Despite the fact that many of these children live in communities where

⁵⁴ Ntengwe for Community Development, 2006.

⁵⁵ N’weti, 2006.

⁵⁶ SAFAIDS and John Snow International (JSI) UK, 2004.

⁵⁷ UNICEF, 2006.

everyone knows each other and where the transmission of assets is unlikely to be formally registered, the most likely perpetrators of property grabbing are related to the children. When children are disadvantaged at community level by relatives, and local leaders do not offer satisfactory solutions, the only way they can defend their right is to seek help through the formal system. Within the formal system, these rights do not exist without a birth certificate that proves their identity.

Although there are no comprehensive national data available on birth registration in Mozambique, evidence indicates that registration levels are very low. UNICEF,⁵⁸ referring to a 2004 study of the National Institute of Statistics, estimates that on average only 6 percent of children under five years of age have a birth certificate. The main reasons mothers gave for not registering their children were the cost of registration (56 percent), distance to registration offices (14 percent) and lack of knowledge about registration (13 percent). However, government efforts to promote birth registration have accelerated in the last few years under the 2003 National Plan of Action on Birth Registration developed by the National Directorate of Registration and Notarial Services (DNRN).⁵⁹

NGOs have played an important role in supporting the implementation of government initiatives at local level. For example, several members of Rede da Criança⁶⁰ (ADDC in Maputo, LDC in Zambézia and Solidariedade Zambézia in Nampula among them) have been involved in birth registration activities. The greatest impact of this work is related to the approach these organizations have taken, more so than the fact that more children are now registered. Before the registration brigade visits a community, NGO representatives talk to local leaders, traditional leaders and state administration to inform them about the upcoming activity and explain the importance of birth registration for children and their families. The local leaders then spread the news and gather their populations on the day the registration brigade arrives. Those organizations involved in the registration process reported that while filling in the forms, they talk to the families about the importance of birth registration – for example, for children to access education (after 5th grade) and to access government support. To date, they have not emphasized the importance of birth registration for access to inheritance, but this seems to offer an opportunity for initial community awareness-raising around children's inheritance rights. Not only do they gather a large crowd upon arrival and during their work, but according to one of the organizations involved, people are more willing to listen to a message and hopefully accept it when they are getting something tangible in return, such as free birth registration.

Awareness-raising and open discussion

So far awareness-raising work on children and women's inheritance rights has mainly been done at the organizational level rather than at community level. In 1996 WLSA had published a comprehensive report on women's right to succession and inheritance in Mozambique as part of a regional research initiative on the application of succession law in six countries. Subsequent work has been the Save the Children's report, *Denied Our Rights*, which led to the current document. Also, as part of their regional Children's Inheritance Rights project⁶¹, the international NGO Lawyers without Borders is currently revisiting a piece of research that started two years ago on the Mozambican legal framework regarding widows and orphans' property and inheritance rights. Several other organizations working in Mozambique have included the issue of inheritance rights in their advocacy-oriented publications. The effects of property grabbing on children and women's livelihoods, as well as the protection risks this exposes them to, are therefore reasonably well known among development practitioners and human rights activists. However, unless this information gets through to community level, change will remain limited and therefore there will be little impact on the lives of women and children whose inheritance rights are being violated.

⁵⁸ Ibid.

⁵⁹ For example, the government initiated a National Birth Registration Campaign in 2005 in an effort to clear the backlog of children who are not registered. Starting in 11 districts across all provinces of the country and extending to 22 new districts in 2006, the aim of the campaign is to register 1.2 million children under 18 years of age. The campaign employs both mobile brigades and fixed registration agents.

⁶⁰ Rede da Criança is a national network of children's rights organizations (with approximately 85 members) working on coordination, advocacy, capacity building and community sensitization.

⁶¹ LWOB's Children's Inheritance Rights Project (CHIRP) is carried out in Mozambique, Rwanda, Tanzania, and Uganda.

Besides informing people of their rights, one of the principal aims of awareness-raising materials and activities should be to encourage people to question certain practices and to engage in open discussion. At the moment, there seems to be widespread acknowledgement among community members that property grabbing from widows and orphaned children is happening and that this is not acceptable behaviour. At the same time, few people openly question property grabbing or support victims in their search for justice. There is therefore a need for materials that provoke discussion, that encourage proactive behaviour and that will lead to people openly condemning the practice.

Printed materials

Very few materials have been produced to date to accompany awareness-raising activities on property and inheritance issues in Mozambique. The few organizations that have compiled written materials to be used in training – ADDC and AMMCJ among them – have focused mainly on the legal aspects of inheritance, reproducing and explaining legal norms. Within existing programming in the areas of HIV, care and protection of orphans and vulnerable children or promotion of human rights, some materials exist that either refer to the question of inheritance or are otherwise related. Fórum Mulher, for example, produced a summarized version of the family law and translated it into six local languages to facilitate dissemination at community level. Also, as previously mentioned, some of the manuals used for memory work with people living with HIV and their children also refer to preparing for the future in more practical ways. There is, however, an important need for more specific training and awareness-raising materials that do not only refer to legal norms but also link their messages to positive customary norms and practices. The main organizations working on children and women's inheritance rights should collaborate to adapt existing material or develop new material to ensure that all actors promote the same messages and do not contradict each other on complicated issues.

Theatre, radio and television

Although written materials can be key tools for training and to sensitize literate community members who are actively involved in programmes, raising awareness among the general public through other methods may be much more effective. Many organizations have developed successful communication strategies based on other media such as radio, television and theatre (see box 5).

Radio has proved to be a very important medium of mass communication in Mozambique and many organizations have used it to reach large audiences, through national, community or rural radio stations. The Directorate for Children within the Ministry of Women and Social Action (MMAS), for example, held a campaign last year on children's rights that was broadcast on national radio. Although the impact of these radio programmes has not been evaluated, the overall impression was that they were successful, because of the active participation of listeners who called in during the programme.

One way of enhancing impact of this approach, as suggested by MMAS, would be to record radio spots or shows in different local languages in order to reach a wider audience through community radio stations. This strategy has already been successfully applied by other organizations in Mozambique. Audio materials are not just for broadcasting on radio though. GROOTS Kenya, for example, recorded four scripts based on interviews with women who had experienced problems related to their property and inheritance rights. The four recordings focused on the causes and consequences of property dispossession as well as ways to prevent it, and other information necessary to realize property and inheritance rights. These recordings were used in community-based listening groups, where community members listened to and discussed each of the tapes. Although this reaches fewer people than airing the shows on the radio, this strategy permitted GROOTS to directly engage listeners in discussion and to reach those communities without radio access.

Box 5: Using film and television to promote property and inheritance rights

Ntengwe for Community Development in Zimbabwe produced 'Voices for Positive Choices', a training, advocacy and documentary film linked to their ongoing work on wills and inheritance. It follows several girls and women who participate in activities organized by Ntengwe over a period of time. It shows how they first started the process of reclaiming property they had lost to their in-laws, and how they continue to help raise awareness among their peers. Alongside their stories the recordings show a process of change taking place in the community. This film is now being used as a tool to set up watchdog groups and to train women as community paralegals*.

Another example of using film and television to promote property and inheritance rights is the Justice for Widows and Orphans Project (JWOP) in Zambia, which produced two 13-week television programmes hosted by a well-known presenter. They featured discussions with widows and orphans, individuals working with them, as well as information on JWOP and its work, including related services such as legal aid for orphans or widows facing problems over property or inheritance. The impact of the series was undeniable. The Victim Support Unit (VSU), part of the JWOP network, reported receiving a significant increase in calls, enquiries and reporting of property grabbing incidents during the time when the shows were aired**.

Theatre of the Oppressed⁶² is another technique that has been used by many organizations trying to achieve behaviour change, as it not only represents scenes but also gives the audience an active role in deciding how the behaviour of certain actors should change to reduce the risk faced or to solve the problem encountered. Theatre of the Oppressed has already been used successfully in Mozambique for HIV awareness-raising. Family Health International, for example, has produced an interesting film documenting the experience of using this technique⁶³. Using Theatre of the Oppressed to raise awareness on property grabbing could lead to more open discussion at community level on the causes and consequences of this problem and how best to address it.

Children's knowledge, life skills and participation

To enhance their knowledge and thereby their capacity to protect themselves, children need support. For many organizations that provide assistance to orphans and vulnerable children in Mozambique, the realization of children's rights is already an integral aspect of their programming. For example, organizations such as Rede da Criança, Rede CAME and Save the Children promote rights-based approaches and improve capacity through training and support. These organizations reach children either through schools or by working with other types of associations created by or for children and young people, such as children's clubs, youth organizations, the Children's Parliament or child committees. The children belonging to these associations have shown considerable effort and success not only in defending their own rights but also those of children who are most vulnerable within their communities. Children are often more creative than adults in coming up with solutions for their own problems, or they prioritize their problems in a different way. A great deal of work with children and young people has focused on the right to education, sexual and reproductive health (including HIV prevention) and the prevention of sexual abuse. Children's inheritance rights is an issue that has not been given much attention by many organizations, either in their work with adults or their work with children.

Traditional school settings have obvious potential to reach large groups of children. So far, however, no tools or materials have been developed to encourage teachers to discuss children's property and inheritance rights in their classrooms. Nonetheless, the so-called "local curriculum", which allows schools to dedicate a certain number of learning hours to skills and knowledge deemed important at local level, could offer an opportunity to include the issue in the curriculum of selected schools or in certain areas.

⁶² Theatre of the Oppressed is a method that began in Brazil in the early 1970s and aims to use theatre as a tool for social activism in addressing local problems.

⁶³ Family Health International, 2007.

* Ntengwe for Community Development, 2006.

** Varga, 2006.

In response to the growing number of children orphaned by AIDS, the Food and Agriculture Organization of the United Nations (FAO), the World Food Programme (WFP) and other partners have launched Junior Farmer Field and Life Schools (JFFLS) in several regions of Mozambique⁶⁴. These schools are designed to empower orphaned and vulnerable children aged 12 to 18 years through agricultural knowledge and life skills education and offer an excellent entry point for discussing property and inheritance rights. A manual recently published by FAO, which offers guidance on running a JFFLS, refers to the importance of including sessions on children's property and inheritance rights in the curriculum as these are considered "crucial to children's protection now and in the future"⁶⁵. FAO has also developed a JFFLS facilitators manual (forthcoming), which has a specific module on land and property rights, in the context of Mozambique. This module includes a specific focus on women and children's rights.

Peer education has also been a very successful tool through which children and young people have been able to pass on knowledge and life-skills messages. Although it has been successful mainly in the area of sexual and reproductive health, it can also be used for other topics, including property and inheritance rights. Within their 'Prepare for Us!' project, Ntengwe for Community Development in Zimbabwe trained peer youth educators on property and inheritance rights so that they could work with children and young people in their communities. Their approach reflects good practice, in that they did not only train the youth educators on directly relevant content such as inheritance law and the importance of will writing; they also equipped them with basic skills of counselling, behavioural change and advocacy to allow them to effectively convey messages, and to respond to peers facing difficult situations. Another example is the Zambian Law and Development Association (LADA), which set up a Paralegal Kids Programme where children were trained to give legal advice within their own level of understanding and created legal advice centres in their schools⁶⁶.

Although empowering children and young people is important, there need to be strong ties with adults working on these same issues, such as paralegals or community leaders who have been trained on inheritance rights, to guarantee that violations of children's rights are adequately addressed. When children, as rights-holders, are encouraged to speak out about the difficulties they are facing, they need to know where they can find support in the realization of their rights. In this regard, the experience of Ntengwe in Zimbabwe provides another valuable example in the way they organized a workshop on legal rights pertaining to property and inheritance that was attended by both young people and adults. In this workshop, the opening and closing sessions involved all participants, while for the remainder of the sessions adults and young people worked separately to enable the facilitators to address each group in the most appropriate way⁶⁷. The shared sessions increased mutual respect and understanding between the adults and young people based on a common goal, and this facilitated setting up a community referral system in which children and young people were included as key stakeholders.

⁶⁴ JFFLS in Mozambique were first established in 2003/2004. There are now nearly 60 JFFLS across the country.

⁶⁵ FAO, 2007.

⁶⁶ Izumi, 2006c.

⁶⁷ Ntengwe for Community Development, 2006.

4 conclusions and recommendations

The organizations directly addressing the problem of property grabbing from widows and orphaned children in Mozambique mainly focus on the legal aspects of succession, advocating for legal reform or training stakeholders on legal standards regarding property and inheritance. There is an urgent need to look beyond legal arguments when promoting children and women's inheritance rights at community level, and to develop more culturally appropriate communication strategies.

There is a definite interest among organizations working with women and orphaned or vulnerable children to integrate aspects relating to property and inheritance rights into their programming. Several organizations working with orphaned children, for example, admitted that their response mainly deals with the symptoms of children's vulnerability (such as poor nutrition or lack of education) rather than tackling the root causes, which could be related to their or their mothers' lack of access to land and livelihoods. There are plenty of activities underway to which property and inheritance rights could easily be linked. These include, for example, (para)legal aid, memory work with people living with HIV and the strengthening of community committees to improve the protection of orphaned children. One of the main constraints NGOs and community-based organizations face in integrating property and inheritance issues into their work is the lack of good training and awareness-raising materials on children and women's property and inheritance rights, and related issues such as future planning.

The way forward

Based on the findings of the study, this section outlines a number of recommendations that could strengthen children and women's rights to property and inheritance in Mozambique. It does not attempt to cover all possible interventions by all actors (e.g. NGOs, Government, Community leaders) but rather seeks to propose possible entry points for action, where different actors could intervene depending on their specific mandate and capacities. The proposed activities focus on three strategic areas: assessing the extent of property grabbing from children and widows in Mozambique; the prevention of property grabbing; and ensuring that widows and their children receive justice, either through local conflict resolution mechanisms or within the formal legal system.

Generating evidence on children and women's property and inheritance rights

There is a lack of quantitative data on the status of children and women's property and inheritance rights in Mozambique. Most studies that have been carried out on the issue tend to focus more on the legal and cultural aspects of property and inheritance rights and on the impacts of property grabbing. The Save the Children study, *Denied our rights: Children, women and inheritance in Mozambique*, for example, substantially looks at cultural issues around inheritance. Such studies provide valuable insights into the issue, however, need to be complemented by quantitative evidence in order to capture the scale of the problem and trends. Only a

few studies undertaken in other countries⁶⁸ have quantitatively assessed property grabbing from women and orphans. Such research needs to be enhanced in order to build a case for action.

Collect data to document the scale of property grabbing

Further research should be conducted to collect data on the status of women and children's property and inheritance rights and on cases of property grabbing. This is a necessary step to better understand and fully assess the extent of the problem. Better data can help raise awareness on the issue and is important in order to support advocacy efforts. It can also lead to better, evidence-informed policies and programming.

Conduct further analysis on reported cases of property grabbing

The evidence from the study indicates that some cases of property grabbing from widows and children are being reported and that there are redress mechanisms in place to seek justice. Data, however, is lacking on the extent to which these cases are reported (whether it be through the formal system or through local mechanisms) and the outcome of disputes. Further research should be conducted to analyse these dynamics and trends and to assess the effectiveness of various mechanisms. Such an analysis could also better inform interventions that aim to support women and children who seek justice.

Providing justice for victims within the formal legal framework

Advocate for the revision of relevant national legislation and policies

Advocacy efforts with the government's Technical Unit for Legal Reform (UTREL) and other government institutions need to be strengthened to speed up the legal reform of succession law. So far the main focus has been on women's property and inheritance rights. Children's rights networks and organizations should, however, participate more actively in this advocacy work. A joint effort could strengthen the legitimacy of the demands as well as place more urgency on these legal reforms. Key advocacy points are the need for rapid reform of succession law to comply with constitutional principles and family law, as well as to Mozambican reality; and the need for continued dialogue with civil society on the issue of property and inheritance rights, including women and children. The counterproposal already presented by Fórum Mulher could be the starting point for technical discussions with UTREL. This document could be complemented by a technical legal analysis of the specific protection needs of orphaned children in the new legislation and in subsequent government policies.

Improve capacity to implement and enforce existing legislation

The training of Mozambican judges, magistrates, court officials, police officers and other law enforcement officials on property and inheritance rights is essential to improve legal protection of women and children. Some existing training programmes were highlighted in the previous chapter, however, these need to be enhanced and built upon in order to enhance awareness and improve capacity to implement and enforce legislation.

In particular, key messages that should be promoted are:

- Property grabbing from widows and orphaned children is a crime.
- Although reform of succession law is pending, the compilation of legal norms from the Constitution, family law, land law, the penal code and the current succession law show there is a legal cause and a legal obligation to respect women and children's property and inheritance rights.

The different partners involved in legal training should work collaboratively in order to ensure that they are promoting the same interpretation of existing legal norms.

⁶⁸ See for example Chapoto *et al.*, 2007 and FAO/IP, 2003.

Providing justice for victims within the customary framework

Build capacity of community leaders and judges

Community leaders and judges are the main actors involved in local conflict resolution. They are in a position to ensure recognition of positive aspects of both formal and customary law, and to apply this in their mediation with family councils or in community courts, where inheritance disputes are most commonly handled. It is therefore essential that they be trained and sensitized on women and children's property and inheritance rights. This, however, should be based on mutual respect and a two-way dialogue to agree on strategies that are acceptable both from a customary point of view as well as from a human rights perspective. The ideas and actions of local community leaders also serve as examples for other community members and therefore have the potential to promote behaviour change in the community as a whole. In addition, involving local leaders in community programme will help ensure their success and will promote a sense of ownership at local level.

Build capacity of religious leaders

Religious leaders are respected individuals within their congregations and often also in their communities. Many churches and faith-based organizations are already involved in helping vulnerable groups in their community. Excerpts from sacred texts regarding people's duty to care for widows and orphaned children can be vehicles to engage religious leaders and to persuade them of their responsibility to play a more proactive role in protecting widows and orphans. Sensitizing religious leaders on these issues could potentially prevent cases of property grabbing, since churches are often involved in funeral ceremonies and can therefore closely accompany a family's mourning process. Thus, they may also be able to influence decisions regarding the division of assets and the responsibilities of the deceased's family towards the widow and orphaned children.

Build capacity of *curandeiros*

Traditional healers are the main spiritual leaders at local level. Given the wide range of spiritual beliefs and practices that relate to inheritance – including those related to witchcraft – it is important that *curandeiros* be sensitized on women and children's property and inheritance rights. As mentioned in the previous chapter, the Ministry of Health in Mozambique has already established a collaboration with the Mozambican Association of Traditional Healers. This should be used as an entry point for addressing issues of women and children's rights. Community-based organizations should also collaborate with *curandeiros* at the local level to enhance dialogue and raise awareness on these issues. Alternative purification rituals that have been introduced by some *curandeiros* could also be promoted among their peers.

Community monitoring, support and services

Community-based organizations are essential partners to implement work with local communities and local leaders on children and women's inheritance rights. Since they are based in communities and have a better understanding of local realities, these organizations are well positioned to promote discussion on these issues, provoke behaviour change and provide support and services to community members. In this regard, however, it is important that members are sensitized and trained on issues related to property and inheritance rights. Some possible interventions by community-based organizations include:

Engage families in succession planning

More effort needs to be made to encourage and assist families – especially but not only people living with HIV – to plan for the future of their surviving spouse and children. This could include obtaining necessary legal documents such as birth certificates and land deeds, expressing their wishes through oral or written wills and making guardianship arrangements for children. Future planning work could be integrated into home-based care programmes or promoted as a separate activity implemented by other community actors.

Key messages to promote include:

- 'Prepare for us': people have an obligation towards their surviving spouse and children.
- Respect for the last wishes of the dying.

Open discussion will be necessary to demystify common traditional beliefs relating to the perceived risks of a person expressing their will regarding what will happen after their death while they are still alive.

Encourage community committees to act as watchdogs and to make referrals

Training existing community committees on issues around women and children's property and inheritance rights will improve community monitoring of vulnerable individuals such as recently widowed women and orphaned children. Such training could be undertaken or initiated by NGOs working on orphans and widow's rights. For example, World Vision and ActionAid are (as previously mentioned) already employing the services of AMMCJ to train their community activist on family, land and succession law. This type of training could be built upon to include issues related to community monitoring and service referral. The Ministry of Women and Social Action (MMAS) also has a role to play in promoting training, stemming from their commitment to strengthen community support groups for OVCs. As key actors in community referral mechanisms, these committees can also facilitate widows and orphans' access to different types of services provided by government and NGOs, according to their needs.

Expand paralegal assistance for victims of property grabbing

Paralegals have proven to be invaluable in bridging the gap between legal and customary systems, as well as being an effective and affordable resource for women and children involved in inheritance disputes. Several organizations in Mozambique already employ paralegals to support women and, to a lesser extent, children, to secure their rights. Additional training for paralegals on women and children's property and inheritance rights is fundamental. The number of paralegals who receive training should also be increased so that they reach wider population in terms of both number of people and geographical scope. In addition to providing assistance to victims of property grabbing, a next step could be for paralegals to be trained to provide advice on procedures regarding future planning such as how to obtain necessary legal documents (birth registration, land titles, etc), how to communicate wishes in a written or oral will, or how to arrange formal or informal guardianship for children.

Changing community attitudes

Key messages for communities

To change attitudes and bring about effective behaviour change, messages for communities should build on positive values already evident. While social protection is important, these messages should also focus on empowering women and children. Although these can differ from one place to another, the following are some of the general key positive values identified regarding children and women's rights to inheritance and property at community level:

- Property grabbing is not tradition; traditionally, men owned and administered property but it was also their duty to guarantee care and protection for widows and orphaned children.
- Women need access to land and property to support their livelihoods and to take care of their children.
- Women have a right to part of the spousal property after their husband dies because of the work they put into the household.
- Women can manage the inheritance for their children until they reach adulthood.
- Children are their parents' first heirs under customary and formal law.
- Those family members that assume care of orphaned children should also be the ones administering their inheritance to ensure that it sustains and educates the children.
- Property grabbing goes against the religious obligation to take care of widows and orphans.
- When people express oral or written wishes on how their direct family members should be provided for after their death, extended family members should respect these wishes.

Open discussion

Open dialogue should be encouraged to bring the issue of inheritance rights out of the private, family sphere and into the public sphere. This can promote critical discussion of abusive behaviour by relatives of widows and orphaned children, as well as guardians. This could also encourage people to openly condemn different types of property grabbing and lead to more proactive community behaviour. Open discussion will also help to create an environment in which women and children feel they can pursue their rights and stand up against relatives.

Key discussion points are:

- Property grabbing is a crime, not a private, family matter.
- Definitions of property grabbing – to include more invisible acts such as the abuse of guardianship.
- The need for women and children to participate in family councils that decide over succession and inheritance.
- The need for guardians of orphaned children to be accountable.
- The need for equal inheritance rights for orphaned boys and girls.
- Positive and non-harmful ways of dealing with witchcraft accusations.

Appropriate methodology to transmit messages

Awareness-raising activities should be participatory, creative and provocative. Where possible, messages should be presented in local languages. Theatre of the Oppressed and community listening and discussion groups are valuable methods to actively engage community members and are likely to be more effective than merely transmitting one-way, instructional messages.

Children's knowledge and participation**Train peer educators**

Peer education has proved to be a very effective way of improving knowledge among children and young people on different issues that affect their lives. Training peer educators on children's property and inheritance rights as well as norms regarding guardianship will empower children to participate more proactively in their own protection. Some of the good examples of peer education mentioned in the previous chapter could be taken up by organizations engaged in similar work in Mozambique. However, it is important that this work be linked to adult initiatives on property and inheritance rights, such as community monitoring mechanisms and paralegals, which are essential for children to effectively claim their rights.

Support formal and informal education programmes

Formal and informal school settings have obvious potential to reach large groups of children. Teachers and facilitators, however, need appropriate tools and materials to discuss children's and property and inheritance rights with their students. In the case of formal school settings this should be taken up by the Ministry of Education in Mozambique to ensure not only that appropriate materials are developed (or adapted), but that these issues are given space to be addressed in school. In terms of informal school settings involving children and young people, Junior Farmer Field and Life Schools (JFFLS), for example, provide a good opportunity to address these issues. While a module on land and property rights has been included in the JFFLS facilitators manual that is currently being completed, the next step is to ensure that it is taken up by field schools and included in the curriculum.

Promote children's participation

Children should be encouraged to effectively and meaningfully participate in all activities aimed at helping them claim their property and inheritance rights. Thus, organizations working on these issues – in addition to, for example, community committees and community leaders – should ensure that children are given the space to do this. In particular, family councils that decide upon issues related to succession and inheritance should encourage and empower children's participation. They should also be consulted about and involved in choosing a trustworthy guardian who will provide for them should both their parents die.

Key materials to be developed

There is an urgent need for materials that deal with the issues around inheritance and promote respect for women and children's inheritance rights. These materials need to look beyond legal arguments and focus on locally acceptable norms and practices that promote respect for the property and inheritance rights of widows and orphans. All resources should be carefully designed for different audiences, to promote the most appropriate messages in an easily accessible way. Ideally, materials should be translated into all major local languages.

Recognizing the significant amount of work that developing these materials would entail, the proposed list is merely meant to (1) draw attention to some of the gaps in the available material, and (2) highlight the areas in which stakeholders (e.g. government, organizations) could focus future efforts in this regard. The following materials would be useful for different aspects of work on women and children's inheritance rights:

- **Legal manual**⁶⁹ on property and inheritance rights that compiles legal norms from the Constitution, family law, land law, the penal code and the current succession law, proving that there is a legal cause and a legal obligation to respect women and children's property and inheritance rights.
- **Paralegal manual** that provides accessible, concise information on the principal legal norms regarding property and inheritance rights, how these relate to customary norms, and where common ground for acceptable conflict resolution is most likely to be found. It should also provide specific information on inheritance norms in complicated cases such as polygamous marriages, the situation of illegitimate children, and guardianship for orphaned children. Finally, it should include an explanation of how to forward cases to the legal system when family mediation fails.
- **Community booklet** that explains in accessible terms and local languages, complemented by clear drawings and cartoons, the rights and duties of widows and orphaned children and their relatives, emphasising the positive norms within customary and formal law. It should encourage families to accept the help of local leaders or community paralegals in inheritance disputes and also provide information on the rights of all widows and children in the case of polygamous marriages or extra-marital relations.
- **Child-friendly magazine** that explains children's rights to inheritance and the rights and duties of guardians. It should promote discussion on the equal rights of boys and girls within the family and non-discrimination of orphaned children. It should also give suggestions on how children can help other children who may be facing problems with their relatives or guardians, and where to go for help from adults. A complementary short facilitator's guide could encourage its use in formal and informal education settings.
- **Future planning booklet** that includes accessible information for families and communities on how to prepare for the future of their children and surviving spouse to prevent them from becoming victims of property grabbing. This should include: easily accessible and practical information on customary and formal law regarding property and inheritance; norms for establishing guardianship of under-age children; ways of expressing wishes through oral or written wills; how to obtain certain necessary documents such as birth certificates; and a list of organizations that can provide help.
- **Audio material** in local languages for radio broadcasting or community listening and discussion groups, in particular in rural areas.
- **Theatre of the Oppressed scenarios** to be developed through a participatory process with actors selected from the target communities.

⁶⁹ A good resource for developing such a manual is the Gender and Land Database being developed by FAO. For each country in the database information is included on the national legal framework, international treaties and conventions, customary law, land tenure and related institutions, civil society organizations and land ownership in agriculture and rural holdings.

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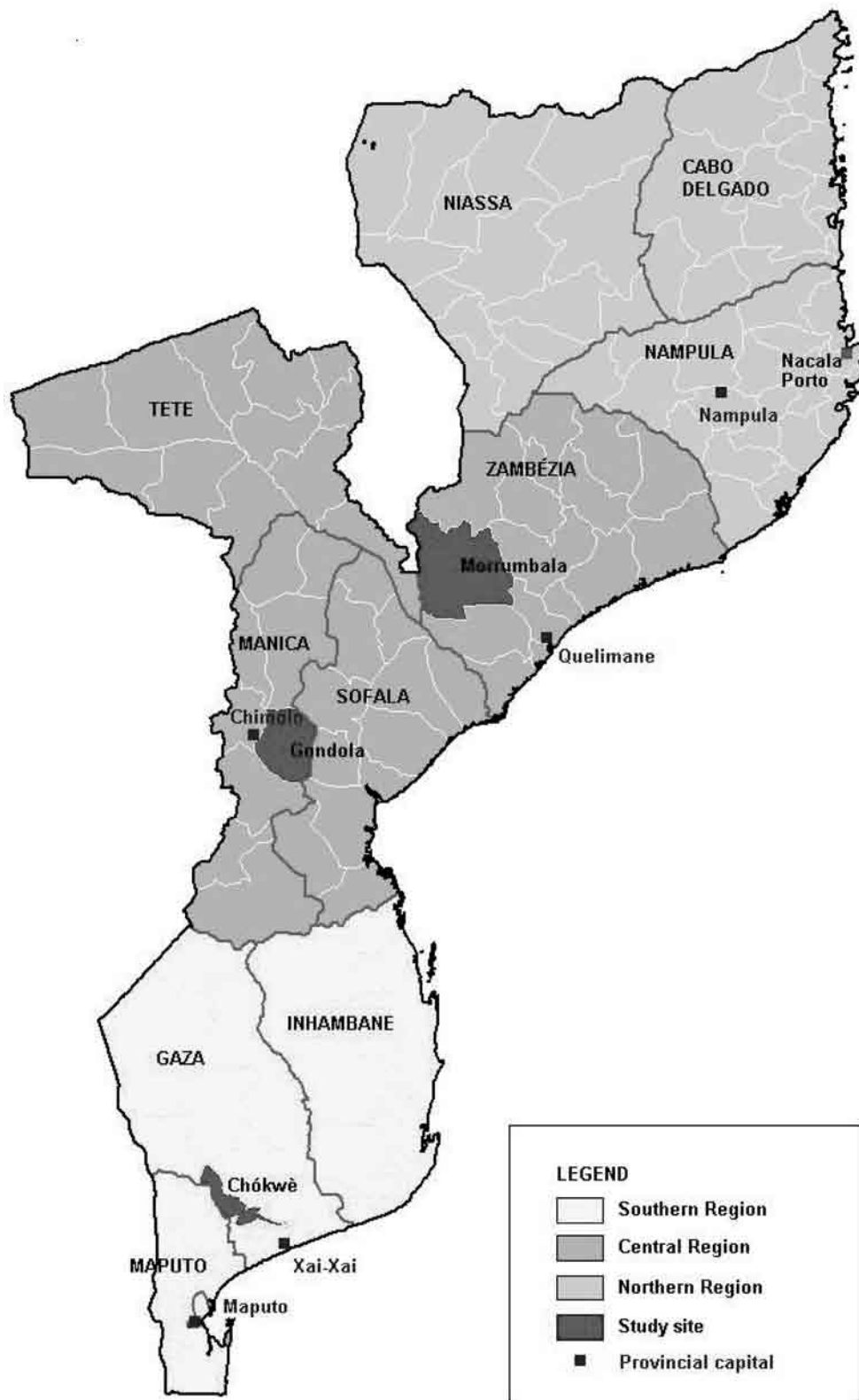
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Appendix 1: Reference map



Appendix 2: Socio-economic background information⁷⁰

Gaza province

Chókwè district is located in the south of Gaza province in the southern region of Mozambique. Agriculture is the main livelihood activity but insufficient to ensure food security all year round. Livestock, small trade and remittances from male family members who work in the mines in South Africa are important additional sources of household income. Land is mostly unregistered and owned by extended families that engage in subsistence farming. The socio-cultural family structure is patrilineal and traditional marriage is confirmed through the payment of *lobolo* (bridewealth) by the family of the groom to the family of the bride. It is common for men and women to be involved in polygamous marriages. The HIV prevalence rate in Gaza province is estimated to be 19.9 percent. The anthropological fieldwork for this study was carried out in two communities: Lhate in the administrative post of Macarretene and Hokwe in Xilembene. These communities both belong to the Changana ethnic group. Organizations were interviewed in the district capital, Chókwè town, as well as in the capital of the province, Xai-Xai.

Manica province

Gondola district is located in the central eastern part of Manica province, in the central region of Mozambique. Although the district borders with the provincial capital, Chimoio, with an urbanization rate of 14 percent it is predominantly rural and dominated by small family agricultural production. The district is prone to seasonal flooding. Families are structured along patrilineal lines and traditional marriages are validated through the payment of *lobolo* (bridewealth). It is common for men and women to be involved in polygamous marriages. The majority of the district's population belongs to Zionist churches that mix Christian and traditional religious beliefs. Manica province has an HIV prevalence of 19.7 percent. Community fieldwork was carried out in the administrative posts of Gondola Town, Cafumbe, Inchope and Amatongas. Most of the interviews and focus group discussions were held among people belonging to the Tewe ethnic group (also referred to as Chitué) and some individuals belonged to the Ndau or Sena. Additional information from organizations and community stakeholders was gathered in Bárúè district in the eastern part of Manica province, on the border with Zimbabwe.

Zambézia province

Zambézia province is the second most-populous province of Mozambique and located in the coastal, central region of the country. It has an HIV prevalence of 18.4 percent. Morrumbala district is located in the eastern part of the province, bordering with Malawi. The eastern boundary of the district is partly formed by the river Chire, which makes the area highly vulnerable to seasonal floods. Morrumbala is predominantly rural with an urbanization rate of just 4 percent. The main agricultural crops are rice, maize and cassava, which are cultivated manually on small family plots. Commercial cotton production is on the increase. Local traders often cross the border to Malawi to sell their products. Kinship systems are patrilineal and *lobolo* marriages are common, as is polygamy. The ethnic and linguistic background of its inhabitants is predominantly Sena, with smaller groups of people belonging to Lolo and Lomué ethnic groups. The anthropological fieldwork was carried out in the district capital, Morrumbala Town, and in Pinda, in the administrative post of Megaza. All interviews and focus group discussions were held in Sena. Interviews with representatives of national and international NGOs took place in Quelimane, the provincial capital.

⁷⁰ Statistical information obtained from MAE (2005) and UNDP (2007)

Nampula province

Nampula province belongs to the northern region of Mozambique and the municipality of Nacala Porto is an independent administrative unit that borders with Memba, Nacala-a-Velha and Mossuril districts. Nacala Porto is situated on the east coast and is one of Mozambique's main ports. It is part of the Nacala corridor that links the coastal region to the city of Nampula, Niassa province and neighbouring Malawi. This has brought a relatively high degree of economic activity and commerce in comparison to the other three study sites. However, for the peri-urban and rural populations living outside the town centre, fishery and small-scale agriculture (cassava, rice, cashew and coconut) remain the main sources of family income. Traditionally the northern parts of the country are characterized by matrilineal kinship systems. The majority of the population adheres to Islam and the Macua are the principal ethnic group. HIV prevalence is significantly lower in comparison with the central and southern regions of the country. Nampula province has a prevalence rate of 9.4 percent. Fieldwork was carried out in three peri-urban communities of Nacala Porto: Matapue, Minhawene and Matola. Interviews and focus group discussions were mostly carried out in the local language, Macua, although some were conducted in Portuguese.

Appendix 3: Methodological framework

This report is based on three main areas of research: a background literature review; community fieldwork; and consultation with representatives from various organizations working on children and women's rights.

Background literature review

A literature review was carried out to identify recent research and developments in the field of women and children's rights to inheritance and property in Mozambique, and to identify examples of good practice at the regional level (east and southern Africa). Please refer to the References for an overview of consulted texts.

Community fieldwork

The objective of the community fieldwork was to identify traditional norms, values and customs that affect children and women's rights to property and inheritance, especially those positive norms and practices that can be reinforced to enhance the protection of widows and orphaned children. Four experienced researchers from the fields of anthropology and social sciences were selected to carry out the fieldwork in the selected provinces. One team covered Gaza and Nampula, the other team covered Manica and Zambézia.

In all four sites, focus group discussions and individual semi-structured interviews were held with community stakeholders, including:

- children, especially orphaned children
- women, especially widows and single mothers
- traditional leaders and community judges
- religious leaders

With the support of local facilitators/translators, 48 focus group discussions were held in the four provinces, as well as 96 individual interviews. Table 1 gives an overview of the focus group discussions and interviews held, divided per district and town or neighbourhood.

Table 1: Overview of focus group discussions and individual interviews held per district

| | Focus group discussions | Individual interviews |
|--|-------------------------|-----------------------|
| Chókwè district (Gaza province) | | |
| Macarretane - Lhate | 4 | 25 |
| Chilembene - Hokwe | 4 | 25 |
| Gondola district (Manica province) | | |
| Cafumbe - Mudima | 5 | 2 |
| Gondola Sede | 7 | 4 |
| Inchope | 7 | 0 |
| Amatongas | 0 | 6 |
| Morrumbala district (Zambézia province) | | |
| Megaza - Pinda | 7 | 0 |
| Morrumbala Sede | 2 | 4 |
| Nacala Porto district (Nampula province) | | |
| Bairro Matapue | 4 | 10 |
| Bairro Minhawene | 4 | 10 |
| Bairro Matola | 4 | 10 |
| TOTAL | 48 | 96 |

Both teams of anthropologists presented their findings independently in a final report. The outcomes of these two reports were analysed and combined into a single text, which forms Chapter 2 of the current document, highlighting commonalities and differences in cultural norms and practices in the four provinces, as well as the strategies proposed at community level to prevent and address property grabbing.

Consultation with organizations

The third research component involved a series of semi-structured interviews with representatives from government institutions, national and international NGOs, community-based organizations and United Nations agencies to map out activities currently being undertaken to protect women and children's rights to inheritance and to identify best practice at an organizational level. Individual meetings were held in Maputo and in the provinces of Gaza, Zambézia and Nampula. In Manica province, a participatory workshop with several community actors, and governmental and non-governmental organizations provided input to the research. These meetings also served to identify possible partner organizations for the implementation of the intervention strategy being developed. Also, telephone and email contact was established with some organizations abroad to include their experiences in the consultation.

Table 2: Overview of individual interviews held

| | N° interviews |
|-------------------|---------------|
| Maputo | |
| Maputo | 18 |
| Gaza province | |
| Xai-Xai | 6 |
| Chókwè | 5 |
| Zambézia province | |
| Quelimane | 7 |
| Nampula province | |
| Nampula | 5 |
| Nacala Porto | 5 |
| TOTAL | 47 |

Please refer to Appendix 4 for a complete list of organizations and individuals that participated in the consultation, as well as a brief description of their main activities.

Limitations of the study

Practical limitations

The early arrival of heavy rains in the region forced the National Disaster Management Institute to declare a red alert in various parts of Mozambique in January 2008 and a major disaster ensued. These adverse circumstances affected the fieldwork because it made certain communities and areas inaccessible and because it meant stakeholders – community members as well as organizations – had different priorities.

Methodological limitations

Organizations working with women and vulnerable children are widespread in Mozambique, and it was difficult to identify community-based organizations and local associations in a short period of time. Most community-based organizations that participated in the consultation were identified during interviews with network organizations or intermediary NGOs, which may have led to a selection bias. Also, because of the limited time available, it was not possible to involve all national organizations in the consultation and the results are therefore not fully inclusive.

Response-related limitations

Monitoring and evaluation as well as measuring impact are still not widely carried out by many organizations. Identifying best practice is therefore often based on subjective perceptions of the organizations involved rather than on objective indicators.

Appendix 4: Database of organizations⁷¹

| Organization | Contact person | Location | Contact details | Description |
|--|------------------------------|------------------------|---|--|
| ACADER - Associação de Camponeses para o Desenvolvimento Rural – Núcleo de Género de Nampula | Augusto José Maevela | Nampula (Nampula) | T: 825467959 E: acader_npl@yahoo.com.br | Community-based organization (CBO) (peasants' association) working on alphabetisation, human rights and women's rights promotion; community sensitisation |
| ADDC - Associação dos Defensores dos Direitos da Criança | Bruno de Castro | Maputo | T: 824325900 E: legal.adviser.law@gmail.com | National children's rights NGO that works on legal aid, advocacy, birth registration, civic education, children's rights trainings community sensitisation |
| ADDP - Ajuda de Desenvolvimento de Povo a Povo (Ajude as Crianças project) | Omar Suale; Gonzalo Bello | Nacala Porto (Nampula) | T: 823037821 | International NGO that works in the areas of education, food security, preschool, income-generating projects for women, youth clubs |
| African Muslim Agency | Ally Adam Ally | Nacala Porto (Nampula) | T: 827064940 | International religious NGO that provides shelter (orphanage) and education to orphans and vulnerable children |
| AMMCJ – Associação Moçambicana de Mulheres de Carreira Jurídica | Tânia Waty | Maputo | T: 21408232 / 824694370 E: ammcjm@tdm.co.mz | National NGO working in the areas of legal aid, research, lobbying and advocacy, legal civic education, human and women's rights training; community sensitisation |
| AMMCJ Zambézia | Sara Khan | Quelimane (Zambézia) | T: 24214987 / 825609470 E: ammcj.zambezia@teledata.mz | Provincial representation of the national NGO provides legal aid, human and women's rights training, community sensitisation |
| AMR - Associação das Mulheres Rurais | Costa Vasco; Serafina Carlos | Nampula (Nampula) | T: 826354657 / 824550570 E: celestinoevs@yahoo.com.br; serafinacarlos@yahoo.com.br | CBO formed by rural women working on women's rights, access to justice, training, and HIV and AIDS sensitisation |
| Centro de Apoio Materno-Infantil | Sister Pilar Izquierdo | Nacala Porto (Nampula) | T: 827066150 | International religious organization running a rehabilitation centre for malnourished children, nutritional support for seropositive mothers, alphabetisation, typing and sewing classes for women |

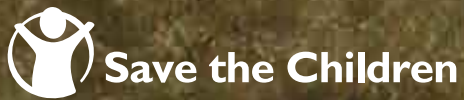
⁷¹ This table lists organizations that have participated in the consultation on ongoing activities and good practice regarding children and women's inheritance rights in Mozambique undertaken during the course of this project; it does not claim to be exhaustive. Also, the description of each organization is not necessarily representative for their entire field of work but relates to the activities discussed during the interviews and those with possible relevance for the current project.

| Organization | Contact person | Location | Contact details | Description |
|---|--|-----------------|--|---|
| Centro de Formação Jurídica e Judiciária (CFJJ) / FAO | Christopher Tanner; João Paulo Azevedo | Matola (Maputo) | T: 823179510 E: ctanner@cfjj.org.mz | Government institution responsible for legal training for judiciary, police and government officials and civil society organizations, paralegal training, research |
| Centro de Formação Jurídica e Judiciária (CFJJ) | Felipe Júlio Mahajane; Júlio Natangane Maela; Horácio António Matavela | Xai-Xai (Gaza) | T: 827436380 | Paralegals belonging to different CBOs trained by CFJJ, paralegal aid, community sensitisation |
| CNCS - Conselho Nacional do Combate ao SIDA | Diogo Milagre | Maputo | T: 823056530 E: diogo.milagre@cncs.org.mz W: www.cncs.org.mz | Government institution responsible for multi-sectoral coordination of HIV and AIDS response; finances civil society programmes |
| CRIC - Centro de Reabilitação Infantil Chókúwè | Gildo Milagre Malhusa; Belarmina Gomes | Chókúwè (Gaza) | T: 823052320 / 828584450 | National NGO working in the areas of psychosocial support; home-based care for people living with HIV and AIDS, memory work, training of community members and CBOs |
| Direcção Nacional da Mulher | Ana Loforte | Maputo | T: 823085450 E: analoforte8@hotmail.com | Government agency responsible for the promotion of women's rights and gender equality in government programmes and society in general |
| DPMAS - Direcção Provincial da Mulher e Acção Social | Rufina Pedro | Xai-Xai (Gaza) | T: 827852600 | Provincial representation of MMAS, government agency responsible for implementation of policies directed at women and vulnerable groups in society (orphaned and vulnerable children, the elderly, people with disabilities); community sensitisation |

| Organization | Contact person | Location | Contact details | Description |
|--|--|-----------------------------|--|---|
| Fórum Mulher | Graça Júlio; Nzira de Deus | Maputo | T: 21493437 / 21490255 E: forum@forumulher.org.mz; gracajulio@forumulher.org.mz W: www.forumulher.org.mz/ | National network of women's groups and women's rights organizations that works on coordination, advocacy, women's rights training, community sensitisation |
| Gabinete de Atendimento a Mulheres e Crianças Vítimas de Violência | Arlete Jamaui | Xai-Xai (Gaza) | T: 824526120 | Police department specialised in dealing with women and children who are victims of violence |
| Lado Lado | Natércia Rosa Duvane; Felizmina Chissano | Xai-Xai (Gaza) | T: 829556290 | CBO working with orphaned and vulnerable children and people living with HIV and AIDS in the areas of home-based care, prevention of abuse, community sensitisation |
| Lawyers without Borders (LWOB) | Christina Storm | Hartford, Connecticut (USA) | T: (+1) 860-541-2288 Ext. 14 E: cstorm@lwob.org W: www.lwob.org | International NGO involved in legal research on children's inheritance rights; pro-bono legal aid |
| LDC - Liga dos Direitos da Criança | Gregório Ulisses | Quelimane (Zambézia) | T: 24216627 / 827403492 | National NGO defending and promoting children's rights; provides training, community sensitisation, support to orphaned and vulnerable children, birth registration |
| Liga Moçambicana dos Direitos Humanos (LDH) | Custódio Duma | Maputo | T: 21401256 / 821401256 E: custodiaduma@yahoo.com.br W: www.ldh.org.mz/ | National human rights NGO working in the area of legal and paralegal aid, legal training, civic education, advocacy |
| Liga Moçambicana dos Direitos Humanos (LDH) | Carlos Mhula | Xai-Xai (Gaza) | T: 827634190 | Provincial paralegal centre of the LDH working on legal and paralegal aid, civic education, community sensitisation |
| Liga Moçambicana dos Direitos Humanos (LDH) | Kátia Vanencia; Silvestre Mazuze; Nacerdino Morais | Chokwè (Gaza) | T: 825727574 | Community volunteers of the LDH working on paralegal aid, community sensitisation |

| Organization | Contact person | Location | Contact details | Description |
|---|------------------------------------|------------------------|--|--|
| Mães de Caridade | Rosa Davide Siguate | Nacala Porto (Nampula) | T: 826658670 | CBO providing assistance to orphaned and vulnerable children such as school uniforms and materials and food aid |
| MMAS - Ministério da Mulher e de Ação Social, Área da Criança | Francisca Sales | Maputo | T: 823177930 W: www.mmas.gov.mz/ | Government ministry responsible for design and implementation of policies directed at women and vulnerable groups in society |
| MULEIDE - Associação Mulher Lei e Desenvolvimento | Rafa Valente Machava | Maputo | T: 21325580 / 82305590 E: muleide@tvcabo.co.mz | National NGO working on women's rights, dissemination of laws, legal aid, training, community sensitisation |
| NAFEZA - Núcleo das Associações Femininas da Zambézia | Cándida Luis Quintano; Arturo Choe | Quelimane (Zambézia) | T: 24216051 E: nafeza@teledata.mz | Provincial network of women's rights organizations working on coordination, advocacy, training, community sensitisation |
| Ntengwe for Community Development | Elizabeth Markham | Binga (Zimbabwe) | E: ntengwe@mweb.co.zw | National NGO (Zimbabwe) working on property and inheritance rights of widows and orphans, training, community sensitisation, peer education, will writing |
| Núcleo Provincial de Combate ao HIV/SIDA | Manuela Dallas; Dulce Pereira | Quelimane (Zambézia) | T: 825617038 / 826904820 E: manueladallas@teledata.mz; dulcepereira2003@yahoo.com.br | Government institution, provincial representation of the CNCS; responsible for multi-sectoral coordination of HIV and AIDS response; finances civil society programmes |
| Oxfam Australia - Joint Oxfam Advocacy Programme | Gloria Nyamuzuwe | Maputo | T: 826120060 E: glorian@oxfam.org.au | International NGO working on women's rights and HIV and AIDS, capacity building and advocacy |
| PEDALAR | Carla Eulália Chungo | Chokwè (Gaza) | T: 823809015 / 28120308 | CBO that works with people living with HIV and AIDS, home-based care, training, community sensitisation |
| Rede da Criança | Amélia Fernanda | Maputo | T: 21314215 / 826915740 E: crianca@tvcabo.co.mz W: www.rededacrianca.org.mz/ | National network of children's rights organizations that works on coordination, advocacy, capacity building, community sensitisation |

| Organization | Contact person | Location | Contact details | Description |
|---|--|----------------------|--|---|
| SDSMAS - Serviço Distrital de Saúde, da Mulher e Acção Social | Generosa José Chongo | Chokwè (Gaza) | T: 828378850 | Government institution, district representation of MMAS |
| Solidariedade Zambézia | Manuel Conta; Miguel Gonçalves | Nampula (Nampula) | T: 26215861 / 824193039 | National NGO working on children's rights, training, community sensitisation, support to orphaned and vulnerable children, birth registration |
| UNICEF | Úrsula Pais | Maputo | T: 21481100 / 823179110 E: maputo@unicef.org; upais@unicef.org W: www.unicef.org/mozambique/ | UN agency engaged in advocacy, promoting children and women's rights, legal training, programming for orphaned and vulnerable children |
| Universidade Lúrio, Faculdade de Ciências da Saúde, Núcleo Estudantil | Nércio Malumbe | Nampula (Nampula) | T: 826235583 | Student association working on community sensitisation on hygiene and HIV and AIDS, and support to orphaned and vulnerable children |
| Visão Mundial | Teresa Mendoza; Ernesto Cardoso (OVC); Jaime Chivite; Adriano Chicuamba (Advocacy) | Quelimane (Zambézia) | T: 24212075 / 823033660 W: www.worldvision.org/ | International religious NGO; basic services for orphaned and vulnerable children, community care coalitions, community training and sensitisation, and advocacy |
| Vukoxa | Israel Fernando Cuna | Chokwè (Gaza) | T: 828187470 / 28220744 | CBO defending the rights of older people; paralegal aid, psychosocial support, community sensitisation |
| Women and Law in Southern Africa (WLSA) | Terezinha da Silva | Maputo | T: 21415811 / 823058100 E: wlsamoz@tropical.co.mz; coord.wlsa@tropical.co.mz; W: www.wlsa.org.mz/ | National NGO working on women's rights; research, advocacy and training |



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