

# 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 categories<sup>36</sup>: 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.<sup>37</sup> 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.<sup>38</sup> Networks can integrate different perspectives, and they offer a complementary range of services that respond to widows and orphans' rights and needs, such as

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

<sup>37</sup> Varga, 2006.

<sup>38</sup> 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 Mulher<sup>39</sup> 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.<sup>40</sup>

### **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.

<sup>39</sup> 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.

<sup>40</sup> 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.<sup>41</sup>

Regarding the defence of children's rights, the recently approved legislation on Jurisdictional Organization regarding Minors<sup>42</sup> 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*<sup>43</sup> 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

<sup>41</sup> FAO, 2008b.

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

<sup>43</sup> *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.<sup>44</sup> 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.

<sup>44</sup> 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”<sup>45</sup> 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.<sup>46</sup> 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.<sup>47</sup> 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.

<sup>45</sup> WLSA, 1996.

<sup>46</sup> Knox *et al.*, 2007.

<sup>47</sup> 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 Manica<sup>48</sup> 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.

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<sup>48</sup> 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.<sup>49</sup> 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

<sup>49</sup> 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.<sup>50</sup> 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

<sup>50</sup> 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"<sup>51</sup>.

<sup>51</sup> 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,<sup>52</sup> 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*<sup>53</sup> 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.

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<sup>52</sup> UNICEF, 2004.

<sup>53</sup> 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.<sup>54</sup>

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 AIDS<sup>55</sup> 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*<sup>56</sup>. 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.”<sup>57</sup> 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

<sup>54</sup> Ntengwe for Community Development, 2006.

<sup>55</sup> N’weti, 2006.

<sup>56</sup> SAFAIDS and John Snow International (JSI) UK, 2004.

<sup>57</sup> 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,<sup>58</sup> 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).<sup>59</sup>

NGOs have played an important role in supporting the implementation of government initiatives at local level. For example, several members of Rede da Criança<sup>60</sup> (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 project<sup>61</sup>, 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.

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<sup>58</sup> Ibid.

<sup>59</sup> 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.

<sup>60</sup> 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.

<sup>61</sup> 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 Oppressed<sup>62</sup> 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 technique<sup>63</sup>. 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.

<sup>62</sup> 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.

<sup>63</sup> 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 Mozambique<sup>64</sup>. 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"<sup>65</sup>. 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 schools<sup>66</sup>.

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 way<sup>67</sup>. 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.

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

<sup>65</sup> FAO, 2007.

<sup>66</sup> Izumi, 2006c.

<sup>67</sup> Ntengwe for Community Development, 2006.