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.

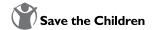
Improve capacity to implement and enforce existing legislation

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 nondiscrimination 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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