

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

Elements for an effective intervention strategy



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**Save the Children**



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



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



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# abbreviations

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

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# executive summary

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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.