

Challenges and opportunities in inheritance rights in Mozambique

Summary

- Recent laws, including Mozambique's Family Law and Land Law, provide important protection and opportunities for equitable property and inheritance rights, including for women in so-called de facto unions (cohabitation without marriage).
- A key policy debate in the revision of Mozambique's Succession Law is the legal recognition of inheritance rights of people living in cohabiting and unmarried unions, including polygamous unions. A priority will be to make the legislation's principles and language clear and easy to understand and enact.
- With so many recent laws passed in Mozambique, there has been insufficient awareness and capacity building efforts throughout the country to ensure that these laws are understood and implemented. Practical efforts are required to realise the potential of Mozambique's progress with its statutory law agenda.
- Customary law remains dominant over inheritance practices in many areas of the country; engagement with customary leaders and investment in decentralised access to services is essential to ensure protection of widows' and orphaned children's property rights.

Introduction

Inheritance is a major means for the transfer, or exclusion from the transfer, of people's accumulated physical capital. The transfer of physical assets from the parent to the child generation can provide the start-up material for the younger generation's more independent future livelihoods and economic productivity (Fafchamps and Quisumbing, 2005). However, exclusion from assets inheritance can exacerbate vulnerability to chronic poverty and the intergenerational transmission of poverty (Bird *et al.*, 2004).

In some countries, inheritance laws and customary practices can exclude individuals, and specifically women and orphaned children, from inheriting the property (including land, housing and other productive resources) that they had access to while their husbands or fathers were alive (see Cooper, 2008 and 2010).

This has been linked to economic decline and poverty traps (Bird *et al.*, 2004; Human Rights Watch, 2003; Strickland, 2004). Reforming statutory and customary systems can address gender discrimination in inheritance practices (Benschop and Sait, 2006; Bird *et al.*, 2004; Davies, 2005; Mutangadura, 2004; Rose, 2006). This is happening in many Sub-Saharan African countries, with several states recently amending their statutory laws, and rights-based organisations taking various initiatives to improve equity in inheritance practice. Nevertheless, much remains to be done to address the links between inheritance rights and practices and poverty.

This Policy Note presents findings from a five country study commissioned by the Chronic Poverty Research Centre, which explored how inheritance is practised to enhance or prevent



socio-economic equity and opportunities. Policy Notes for Uganda, Ghana, Rwanda and Kenya, a working paper and a policy brief of key cross-cutting themes are available at: <http://www.chronicpoverty.org/publications/details/challenges-and-opportunities-in-african-societies>. Data were collected through interviews with representatives of governmental and non-governmental agencies working specifically on issues related to inheritance and property rights, as well as a review of research and policy literature.

Who is included and excluded from inheriting particular assets depends on legal property rights, as well as cultural norms concerning social roles and relationships. This Policy Note addresses how Mozambique law currently affects property inheritance, the challenges and opportunities in existing law reform, and the issues surrounding how inheritance is governed and practised in people's lives in Mozambique.

Box 1: Background on Mozambique

Mozambique, at the southeastern coast of Africa, holds a population of over 21 million people, 27 percent of whom live in urban centres. After liberation from Portugal and independence in 1975, the country was governed by a Marxist-Leninist regime which enforced a one party system. Civil conflict as well as conflict with South Africa and then Rhodesia lasted until 1990. In 1990, a multi-party system was put in place and the first elections held in 1994 (the most recent elections were in October 2009). Legislative reform has been a priority, and the country has been recognised for its gender progressive efforts. However, blurring between government, political parties and civil society continues.



Mozambique remains a very poor country, despite domestic economic reforms and international debt relief. Half of the national government's budget is provided by foreign assistance. An estimated 70 percent of Mozambicans live below the poverty line and the majority of the population (81 percent) is engaged in subsistence agriculture. Approximately a third of the country's exports are aluminium, the price of which dropped significantly in the recent global economic crisis.

Opportunities and challenges in policy

Since peace was established in 1990, the Government of Mozambique has passed several statutory laws to address citizens' rights and responsibilities. Other key reforms are currently being pursued, including those to address inheritance. This section discusses the opportunities and challenges in existing legislation as well as issues that require further policy consideration.

Soliciting civil society perspectives on proposed legislation through national consultations and NGO position papers, for example, is a responsibility of the government's technical legal drafting unit, UTRAL. However, such steps for opening up the policy debate process have been neglected in recent past; with draft legislation being sent directly to Parliament, thereby obfuscating the transparency of the law making process. In response, some NGOs now send their policy proposals directly to MPs and Ministers.

Thirty-five percent of Mozambique's parliamentarians are women¹, and the Women's Parliamentary Forum, which includes all women Members of Parliament, provides a forum for discussion of women's issues across political party lines. At the same time, however, the predominantly male and patriarchal Parliament and Cabinet are regarded by many civil society actors as major challenges to an agenda to redress gender inequity in Mozambique.

Constitution of Mozambique

The article of non-discrimination based on gender has been retained from Mozambique's first Constitution (1975) through to its third and present Constitution (2004).² In this, the Constitution has enshrined an important foundational principle that other laws, such



as the Land Law and Family Law, have incorporated.

Mozambique's Constitution also states that children, especially orphans and neglected and physically or mentally impaired children, have the right to be protected from any sort of discrimination, mistreatment and abuse from their families and any member of society. Fathers and mothers have the duty to assist their children, whether conceived in or out of wedlock.

Three sectors of property ownership are recognised in the Constitution: the public sector (state); the private sector; and the cooperative and social sector (communities, workers' groups and non-profit legal entities). Land is ultimately owned by the state, but the government has the right to provide long-term use and access rights. The Constitution states that 'In granting titles for the use and enjoyment of land, the State shall recognise and protect rights acquired through inheritance.'

The Constitution recognises the plurality of legal systems that co-exist in Mozambique, including customary legal systems, but only as far as these do not conflict with the fundamental values and principles of the Constitution. In the event of any conflict, all other law is subordinate to the Constitution.

Succession Law

Mozambique's statutory law on inheritance is far out of date. The governing law remains a chapter on succession from the 1966 Portuguese Civil Code (Article 2024-2174), which is based on a patrilineal system of inheritance, and is supplemented by the Tax Code on Succession and Gifts (2007) and provisions in other statutes, such as the Land Law (1997) and the Family Law (2004).

UTRAL, the government's law reform technical unit, has recently engaged in policy reform for intestate succession³ to try to keep pace with changes in society and with other laws, such as the Family Law, and to uphold Mozambique's commitments to domesticate international agreements. Forum Mulher, an NGO with close links to the government, has already outlined policy recommendations based on their consultations around the country. It is anticipated that after review and endorsement by politicians, a draft revised law will be circulated among civil society and public discussions will be promoted through NGOs and the media.⁴ This process may provide important opportunities for promoting legal protection, as well as public awareness of the inheritance rights of women and children.

There is a standardised hierarchy of heirs under the existing succession law which dictates that 50 percent of a deceased person's property will be inherited by a person's legally registered spouse, while the remaining 50 percent will be inherited by the children of the deceased. If there is no spouse or children, the allocated portion of the property will be inherited by the parents of the deceased; if there are no parents, the portion will be inherited by the deceased's brothers, then by male cousins, and finally by other female relatives. While seemingly straightforward, the requirement to divide estates into halves is difficult in practice, particularly when the estate involves one house and the land is socially recognised to belong to the lineage, rather than to any individuals. The ways in which customary systems of governance, as well as local perceptions of 'common sense', dominate inheritance practices are discussed in the section on 'Opportunities and challenges in practice'.

Apart from the Family Law, there is currently no legal recognition of inheritance rights of partners in cohabitating relationships, including those living in polygamous unions. This is a key gap that leaves the legislation mismatched with society, where over 55 percent of women live in unmarried but cohabiting relationships and a third of women live in polygamous unions.⁵ It has been recommended that the revised Succession Law establish a wider definition of spouse that will encompass different types of marriages (e.g. customary marriages) and so-called *de facto* (cohabitating) unions. This definition of a spouse should be recognised as the automatic first heir in the hierarchy of heirs. Adoption of this recommendation, however, is expected to face debate as legal recognition of *de facto* unions is resisted in UTRAL and among some parliamentarians.

A shift in public sentiments may be influential in persuading parliamentarians to extend legal protection to people in *de facto* unions. Over recent years, media coverage of women in *de facto* unions left without any legal protection of their property rights has provoked public discussion (which was spurred by NGOs) on the practicalities of such unjust situations. The possible effects of this may be a change in public attitudes to recognise the rights of women in *de facto* unions.

Addressing the legal protection of women in polygamous unions faces further challenges, particularly as women's organisations in Mozambique seem uncertain and uncomfortable with the issue of polygamy. Three leading women's organisations, for



instance, oppose polygamy and do not advocate for the legal protection of polygamous unions in the revised succession law. Women's rights organisations in Mozambique note that under the law, children of all unions have equal inheritance rights, so mothers can access property through their children. Still, this leaves the property rights of women in polygamous unions without children at risk.

The position of the parents of the deceased in the law's hierarchy of heirs is another concern. The argument is that the elderly are often dependent on adult sons for their livelihoods and therefore vulnerable if those sons die. There is the potential for conflict between the parents and the children of the deceased over their respective property interests. Hence, it is proposed that property rights for parents should be managed in the law with clear principles and language. Similarly, enhancing the property inheritance rights of orphaned children under the age of majority requires the use of clearer language in inheritance legislation. In particular, the role and accountability of an appointed guardian, as well as how minor children must be reasonably provided for from the estate, should be more clearly laid out.

Family Law (2004)

After eight years of policy debate, public consultations and media attention, the Family Law was passed in 2004, providing an important piece of legislation for women and children. This will play an important role in influencing policy debates on the forthcoming revision of the Succession Law.

According to the Family Law, a male is no longer automatically assumed head of household, but rather, either spouse may represent the household legally. The law defines a household as a 'set of people living in the same household under the authority of the head of the household, married or in *de facto* union'. All children are granted equal rights under the Family Law, regardless of whether they were born out of wedlock or under traditional, customary, religious or civil marriages. As well, the law contains the first recognition in Mozambique of the concept of the 'foster family', which is especially pertinent due to the high numbers of orphaned children fostered into families headed by non-biological parents. However, there is no elaboration of the legal rights and responsibilities attached to this definition (nor a child's guardian) and the Children's Act (2008) has not addressed these either. This is an important gap in Mozambique's body of law.

The rights of people in cohabiting and polygamous unions which are not registered as marriages, has been a contentious issue during the development of the Family Law up until today. The Family Law provides the first legal recognition of so-called *de facto* unions (cohabitation without legal registration of a marriage); however, there is no recognition of polygamous unions. Unions between a man and a woman achieve legal recognition after one year of cohabitation, with the implication that upon dissolution of the partnership, claims to shared property can be made and recognised under the law. These unions are not, however, afforded equal status to a registered marriage. For example, there is no requirement to obtain the consent of a partner in a cohabiting relationship before transferring property. As well, being in a *de facto* union does not prevent either partner from entering into a civil marriage with its attendant expansion of legal rights to property and inheritance.⁶ Legal recognition of marriage is extended to traditional and religious marriages, but only if such marriages are registered; if not, a marriage is considered a *de facto* union without the full legal recognition of marriage. The national government has tried to make it easier for couples to register their traditional or religious marriages, yet uptake remains minimal.

There are extensive provisions for the protection of children in the Family Law. This law stipulates that parents must support their children financially until the children complete their education and can maintain their own means of living. If either parent dies, the other parent remains entitled to exercise parental rights. Relatives such as grandparents, siblings, uncles, aunts and cousins have a duty to care for younger relatives who are orphans or abandoned by their parents. A parent or guardian is not allowed to dispose of, or otherwise manage, the assets of a child's estate without specific judicial authorisation to do so. In judging estate or guardianship cases, a court must consult a child if s/he is mature enough to evaluate and opine on such matters.

Children's Act (2008)

The Children's Act contains general principles, but not provisions for implementation or enforcement. It does not provide additional legal protection for children whose parents have died or are absent; therefore, the property and inheritance rights of orphaned children remain extremely vulnerable in Mozambique, despite Constitutional provisions.⁷



Property grabbing from children in Mozambique has been documented as widespread (Save the Children, 2007). Legislation to protect children's property and inheritance rights by making property grabbing illegal, and to outline procedures for appointing and making accountable the role of a legal guardian for children's property rights, is required. Innovations in Rwandan legislation are worthwhile to consider, although implementation and enforcement require much decentralised effort (Rose, 2006; Cooper, 2010). Implementation strategies can be developed in Mozambique's subsequent National Plans of Action on Orphans and Vulnerable Children. As well, the Children's Act provides for the establishment of a National Council of Children's Rights, which pulls together the five key ministries of Women, Youth, Justice, Education and Health to coordinate actions to address children's issues.

Land Law (1997)

Land in Mozambique belongs to the state, however, the state can allocate rights to private investors for 50 year renewable periods and to communities for indeterminate periods. Mozambique's land legislation recognises both individual and collective tenure rights and acknowledges customary norms and practice, such as customary inheritance of land rights. Mozambique's Land Law allows women to own and register land either jointly with others or independently and the National Survey and Mapping Department, which oversees the process of land registration, allows women to apply for land titles; however, such action is predicated on agreements

with local representatives of customary governance systems. Since the process of formal land registration is not well systematised, registration reflects a choice made by individuals who want to formalise and document their rights. The process for registering interests in land is reportedly slow and expensive, which can discourage people from using it. A 2007 survey of 104 beneficiaries of programmes for the poor in several Mozambican urban neighbourhoods found that the majority of people had not tried to register their residential land holdings because they were unaware of the importance of registration and did not know the procedures required to carry out the registration (Alfai, 2007).

At present, many in Mozambique argue that in the country's rural areas, and especially in coastal areas, the priority is not on individual land titling, but on the protection of collective land rights of local communities, given the immediate risks of land expropriations or registration by business ventures. NGOs have been at the forefront of assisting rural communities, including farmer associations, to ensure their access to land through obtaining collective titles.⁸

In this, women's land rights are often subsumed in collective rights. Even if collectives, such as peasant associations, include men and women, it is usually men who manage them and administer resources (Osório and Mejia, 2006, cited in AMCS *et al.*, 2007). Recommendations to rectify these inequalities include the encouragement of co-registration of land, integration of women in local decision-making bodies, formation of women-only associations, and government leadership in setting expectations for gender equity in land holdings.

Opportunities and challenges in practice

Despite the useful provisions on inheritance rights in Mozambique's statutory law, application remains limited. Much of this is due to a lack of implementation action, including building the necessary capacity among decentralised institutions which include the judiciary, legal aid, police, alternative dispute resolution (ADR) bodies and administrative offices. Public awareness of the laws is also extremely limited. For example, a study by Save the Children in 2007 found that only 43 percent of 384 people interviewed knew about the laws protecting orphaned children's rights to inherit. Moreover, only 68 percent of justice officials were aware of these laws. A review by CEDAW summarises that 'Until today, spreading

information about the law has been left to the civil society organisations.' (AMCS *et al.*, 2007: 38)

Customary governance

Another major challenge that undermines the impact of Mozambique's statutory laws is the persistence of customary governance over family-related matters, including marriage and inheritance practices. Generally, kinship, marital and inheritance systems in Mozambique are organised along patrilineal or matrilineal descent principles. Under both customary systems, men are regarded as the heads of families and the custodians of all family assets.⁹ In the north of the country, there are matrilineal and matrilocal



societies, which means that children and property are regarded to belong to the lineage of one's mother, and husbands move to live among their wives' family and community. This may provide more power to women in situations of domestic abuse (e.g. husbands can be expelled for violence against their wives) and marriage dissolution, especially concerning custody of the children (i.e. the social father of these children is their mother's brother); however, property is still primarily regarded as owned by men. In matrilineal societies, the property of a deceased man is customarily inherited by his closest matrilineal male relation(s), usually maternal nephews (i.e. sons of the deceased man's sister). Daughters may inherit their mothers' personal property.

In southern and central Mozambique, societies are primarily organised along patrilineal and patrilocal principles, which means that children and property are regarded to belong to the father's family and wives move to live among their husband's family and community. If a woman's husband dies, some customs instruct that she should be 'inherited' by a brother or other male family member of her husband so that she and her children remain affiliated to the family and are provided with the security of a male household head. Women can be especially vulnerable in patrilineal societies because they may be regarded as temporary guardians of assets, whereas male heirs are understood to assure the continuation of the family. According to Islamic governance, males receive portions double that of daughters of their father's property. However, Muslim daughters do not always receive this share of inheritance when such distribution patterns clash with the customary hierarchy of heirs, which privilege male descendants (sons, nephews), male ascendants (fathers, uncles) and male collaterals (siblings, cousins) over any female relations.

Community Courts in Mozambique operate as informal fora to resolve minor disputes, including those relating to family, housing and land. Disputes are resolved by traditional leaders or chieftans (*régulos*), who govern according to uncodified customary law principles. A 2007 study shows that of about 100 Mozambicans who had benefited from programmes for the poor in urban centres, almost all chose to turn first to traditional or local leaders to mediate and resolve their conflicts (Alfai, 2007). The role of local customary leaders is not well defined in a unified legal hierarchy, but draft legislation aims to bring Community Courts within the formal legal framework and allow for appeals from the Community Courts to

be referred to district and provincial courts, which can reconcile inconsistencies between customary law and statutory law.

It is sometimes considered that equal inheritance for men and women exists in customary practices. A study by Save the Children Mozambique in 2005-06 found that more than half of 384 people (children, women, justice officials, etc.¹⁰) from four different districts believe that existing social norms allow land and money to be equally inherited by men and women. In practice, however, the study recorded that in both patrilineal and matrilineal communities, men are more likely to inherit the more valuable items, such as the house and commercial assets, while women and children inherit crockery, clothing, some furniture, and some money.

Legal system

The capacity of the legal system is a major challenge in Mozambique. Personnel are often poorly qualified to fulfil their roles and infrastructure is insufficient. There is also poor national coverage, which severely limits people's access, particularly rural people without sufficient resources (e.g. time and money) to travel to administrative centres. There are some ongoing initiatives to address these challenges. The Centre for Legal Training of Magistrates provides eight months of post-law school mandatory training of judges, magistrates and new lawyers, which includes two days of study on gender sensitisation. As well, more women are entering the legal profession and qualifying as judges.

The Constitution makes provision for the legal recognition of community tribunals to resolve conflicts. There is a wide diversity in the composition and functioning of community tribunals, and resolutions are often reached by applying 'common sense', which does not necessarily coincide with existing laws or with the principle of equality between women and men (Arthur and Mejia, 2006, cited in AMCS *et al.*, 2007). Mozambican NGOs report that local court members often lack understanding of the laws, thereby reducing their potential and consistent application. The lack of consistency is not surprising as community courts have originated and developed differently according to local histories, politics and actors. Community court members are locally elected, hence, members may be more interested in upholding their own popularity rather than upholding the law. An approach to improving the capacity of community courts has been to place trained paralegals in the



courts as 'consultants' to advise on the regulations for community tribunals. It is recommended that all community court members be trained along with paralegals.

Access to the legal system can be restricted due to several issues. It is common practice to pay fees in order to proceed with a court case and paying fees can influence outcomes. Portuguese is the official language used, and people who are less familiar with the language or those who are illiterate are at a greater disadvantage in understanding legal procedures. Moreover, fear is reported as the main reason that women and children do not pursue complaints of their inheritance rights being violated (Save the Children, 2007). There is often fear among vulnerable members of society, such as widowed women and orphaned children, to pursue complaints or claims, especially against their extended family members, because of threats of physical violence or social discrimination.

Legal aid is not widely available in Mozambique and its quality is inconsistent. The national government's Institute for Legal Aid (IPAJ) has recently been restructured to improve the availability of free legal assistance to all poor Mozambicans. Nevertheless, there are reports of corruption and that assistance is often not given free of charge. Additionally, there is no full geographic coverage and human resources capacity remains low. While legal aid has also been sponsored by NGOs in Mozambique, capacity is also found to be inconsistent and awareness of human rights inadequate. There is currently no centralised approach to standardising legal aid access or quality, and as a result of such inconsistencies, the potential of Alternative Dispute Resolution (ADR) bodies is in question.

An initiative with potential for upholding inheritance rights is the recent establishment of domestic violence (DV) units in each police station, following passage of the Family Law in 2004. Staff in DV units are trained by civil society organisations with similar service experience. However, the DV units are presently outside of the structure of the Ministry of Home Affairs which oversees the police. They remain without adequate budgets and often cannot follow up cases due to lack of means of transport. Staff are often considered of a lower status than other police; for example, DV unit staff reportedly have little access to a police commander and few opportunities for promotion. There are reports that there is lack

of support of DV units among local police and the establishment of DV units has been opposed by heads of the police force. It is important and recommended by civil society that there should be full recognition of DV units in the Home Affairs Ministry, formalisation and assignment of adequate budgets, and additional training of all police officers. It is also observed that the location of DV units within police stations may be intimidating and uncomfortable for women. For these reasons, some advocate the relocation of DV units from police stations, but their continued availability in all locations.

Marriage and birth registration

Marriage registration ensures a spouse's right to be the first heir of the deceased spouse's property. Both the government and civil society organisations have focused on making registration of births, marriages and property easier for people so as to extend the legal protections available through registration. A marriage can now be registered, for example, by a priest who presides over a marriage ceremony: the priest writes a summary that the ceremony has been performed, which three witnesses sign, and the couple takes this summary along with their identification cards to a local administrative office. Despite these provisions, however, few couples have pursued marriage registration. This appears to be a result of a lack of awareness of the registration processes and its benefits and the lack of means to travel to administrative offices. As well, women who pursue registration of their marriage may be criticised in their local communities for demonstrating distrust of the marriage's strength.

Birth registration can be critical support for a child claiming the right to inherit from a parent. In Mozambique, hospital births are automatically registered and there is a government campaign to encourage hospital births. As well, school enrolment requires a child's birth certificate, which creates an incentive for parents to apply for this registration (although it could also be argued that the absence of a birth certificate may create an obstacle to children's school enrolment). Seeking faster progress on this front, UNICEF has undertaken its own national birth registration campaign; however, children's rights advocates comment that the Mozambican government should not neglect its own responsibility to provide easy access to birth registration processes across the country.



Agenda for practical change

The reality in Mozambique is that, despite good progress in developing statutory law, most people live in total disregard of legislation, and their lives, including their access to property, are governed by local customary practices. Existing laws contain provisions to protect women and children, and there is a need for investment to be focused on enhancing understanding of, and access to these laws at the local level. At present, there is insufficient implementation action and therefore little impact of the laws on people's lives. Public awareness, local leaders' capacities and monitoring of outcomes is primarily organised by NGOs, rather than state institutions. With the increasing trend towards foreign donors providing funding through the government, there are concerns among Mozambican civil society actors

that initiatives and accountability to the provisions of the laws will remain limited.

The current revision of the succession law provides an important opportunity for public dialogue about inheritance rights and the risks of disinheritance. Civil society organisations and the media will most likely remain integral to facilitating this public dialogue, but the national government can also play an important leadership role in broadening the discussion of how gender inequality in property and inheritance rights is economically damaging. With so many new laws in the country, it is also past time that major investments are made in raising the capacity of the judiciary, police and decentralised administrative offices to help the general population, and particularly the most vulnerable people, to access their rights of inheritance.

This policy note was written by Elizabeth Cooper

Notes

- 1 The two major political parties in Mozambique, Frelimo and Renamo, have policies that women are to make up 30 percent of their elected representatives.
- 2 The second constitution was established in 1990. Demands for democratic system led to the 2004 constitution.
- 3 UTRAL's work on this legislation reportedly started before the October 2009 national elections and has been resumed since the outcome of that election.
- 4 Domestic NGOs report that their participation in this policy review process is largely dependent on availability of financial resources.
- 5 According to Mozambique's National Institute of Statistics from 2003-04, 54.8 percent of women declared living in *de facto* union, compared to 30.8 percent of men. The discrepancy is likely due to more women living in polygamous unions. Women's rights organisations have population and programme specific data indicating higher proportions of women living in *de facto* unions.
- 6 The implication of this is that a woman who has been in a *de facto* relationship with a man may lose her claims to their shared property if the man registers his marriage to another woman.
- 7 There are an estimated 1.6 million children in Mozambique who have lost one or both of their parents. An estimated 400,000 of these children are orphaned due to HIV/AIDS and this number is predicted to rise. HIV and AIDS national prevalence rate in Mozambique is over 16 percent (Save the Children, 2007).
- 8 An IIED (2006) study records that between 1997 and mid-2005 there were 10,070 requests for land by investors, of which 66 percent were approved for over three million hectares. These were for large tracts of land for agriculture, forestry, tourism and other economic activities. During the same period, community land delimitation was conducted for 185 communities (ranging in size from 1,000 to 10,000 people) and 88 land use certificates were granted, with 24 applications pending. These community holdings cover thousands of hectares of land. The land legislation contains a provision requiring those seeking to use individual land registration processes for business to consult the local community, which is supposed to have the right of refusal. The intent is to encourage investors to take responsibility for local development through employment and infrastructure. However, there have been many reported cases of poor enforcement of this provision, with accusations of bribery of a few local community representatives, private businesses not upholding their agreements, and enduring hostilities between private land users and local communities (IIED, 2006). In 2007, the UK, Netherlands, Ireland, Sweden and Switzerland established the five-year 'Community Land Initiative' (ITC) in three provinces (Gaza, Manica and Cabo Delgado) to support community land delimitations, land registration, land use planning, micro project activity, and legal support to communities (project value = GBP 6 million). The United States has funded a five year programme to upgrade national land administration (project value = USD40 million).
- 9 An estimated 25 percent of households are headed by women in Mozambique, however even these women have insecure tenure due to customary 'ownership' of land rights by men (CEDAW, 2005).
- 10 The sample was made up of 40 percent orphans and vulnerable children, 20 percent widows and/or women heads of households, 15 percent general population, 15 percent carers of orphans, 10 percent justice officials (Save the Children, 2007).



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This document is an output from Chronic Poverty Research Centre (CPRC) which is funded by UKaid from the UK Department for International Development (DFID) for the benefit of developing countries. The views expressed are not necessarily those of DFID.