

Rose Medill  
Piux X High School, Lincoln, Nebraska  
Mozambique, Factor No. 15  
Securing Equal Property Rights for AIDS Widows in Mozambique

## **Introduction**

As a result of the AIDS crisis, Mozambique has a large number of young widows (“AIDS widows”) and widow-headed households. These AIDS widows live mostly in rural areas where they depend mainly on subsistence farming to feed themselves and their children. Discrimination against women, and particularly against AIDS widows, in the form of unequal property ownership and inheritance rights is a significant factor that causes hunger and extreme poverty in rural areas of Mozambique. Even though the current Constitution and laws of Mozambique guarantee equal property ownership and inheritance rights for women, in practice these laws are not enforced for a variety of reasons. Women continue to suffer discrimination in property rights under customary traditions that date back to the colonization of Mozambique by Portugal. Under these customary traditions, when the husband dies, the family’s land and property is taken from the widow, who is left without the means to produce food or income for her household through farming.

My proposal is to work toward more secure property rights for women at both the national and community levels of Mozambique society. At the national level, the government must educate the population and promote awareness and enforcement of existing laws that give women equal property ownership and inheritance rights. The national government should work to improve the judicial system and should cooperate with nongovernmental organizations (“NGOs”) to fund and train legal advocates to assist women in enforcing their legal rights through the courts. At the community level, the national government and NGOs should work with community leaders to establish Widows’ Land Trusts (“WLTs”). WLTs would consist of large tracts of land that are carved out of community-owned village land and set aside for widows. WLTs would be administered and managed by a board of trustees comprised solely of women from the local village that controls the land. The board of trustees for each WLT would grant long-term lease rights to widows in the community for individual tracts of land. The WLTs would work with other pre-existing programs, such as the national government’s food production program and microfinance programs established by NGOs such as CARE to acquire funding for seeds, equipment, fertilizer, and irrigation systems to make the land held by the WLTs more productive. The WLTs also would participate in the World Food Programme’s (“WFP”) local procurement program. The WFP would provide a market for the crops grown by the WLTs by purchasing the food produced and distributing it as part of food aid activities in Mozambique.

## **The Typical Rural Farm Family in Mozambique**

According to the African Economic Outlook, Mozambique is among the poorest countries on the African continent (Overview). The most recent Human Development Index ranked Mozambique 172 out of 182 underdeveloped countries (African Economic Outlook, Social Context). Mozambique faces multiple challenges due to the HIV/AIDS crisis, illiteracy, and inadequate health care (African Economic Outlook, Overview). In 2009, the per capita gross domestic product for Mozambique was less than \$1,000 in real dollars (African Economic Outlook, Overview).

Over sixty percent of Mozambique's population lives in rural areas and eighty percent of the labor force works in agriculture (Encyclopedia Britannica n.p.; FAO 2005 3). Many rural farm families in Mozambique are headed by widows (Walker 11). Widow-headed households are common in rural areas for two reasons. First, many men leave their homes in rural areas to find work as laborers. This leaves the women as the heads of the households (FAO 2006b 7; FAO 2007a 1). Second, the AIDS crisis has resulted in the death of many husbands, leaving many young AIDS widows with young children (FAO 2007a 37; Hendricks 2-3).

The average age of a head of household is 42 years of age. Estimates of the average size of a rural household range from four to five persons. The typical composition of the household consists of the widowed mother and her three children (Walker 11-12; Encyclopedia Britannica n.p.; FAO 2007b 2).

The diet of the typical rural farm family consists of the foods that they are able to grow on the family's farm. Food crop staples are primarily cassava and maize (corn). Other crops are sorghum, beans, groundnuts, millet and rice (FAO 2005 5). Estimates of the average farm size range from 1.2 to 1.4 hectares (FAO 2005 4; FAO 2007b 2). Agricultural practices are the manually cultivated bush fallow system and hand-hoed farming (FAO 2005 4; Walker 15). This dependence on manual farming methods limits agricultural productivity. Farmers predominantly rely on rainfall and do not irrigate crops. This dependence on rainfall results in wide-ranging fluctuations in annual crop harvests due to drought (FAO 2005 4).

According to the International Food Policy Research Institute, Mozambique was one of 29 countries world-wide that was ranked as "alarming" based on the results of the 2009 Global Hunger Index (2009 Global Hunger Index n.p.). In Mozambique, 38% of the population is undernourished and consumes less than 1,800 calories daily (Encyclopedia Britannica n.p.). Forty-one percent of children under the age of five are chronically malnourished (WHO n.p.).

The typical rural farm family in Mozambique has very limited access to health care. Mozambique has only one physician per 30,525 persons (Encyclopedia Britannica n.p.). According to the World Health Organization, only 36% of the population have access to a health facility within 30 minutes of their homes. About 30% of the population are not able to access health services and only 50% have access to an acceptable level of health care. Overall, the health status of the population is lower than average for African countries and far below international standards (WHO n.p.).

Literacy rates in Mozambique are low due in part to a lengthy internal civil war that began in the late 1970s and finally ended in 1992. This civil war destroyed the country's educational system and left many adults illiterate (UNICEF n.p.). On average, only 53% of the population over age 15 is literate. Literacy rates are significantly higher for males than for females. Among males, the literacy rate is 67.9%. For females, the literacy rate is only 38.6% (Encyclopedia Britannica n.p.). The low literacy rate for females limits the ability of widows to earn an income through employment other than as agricultural laborers. In Mozambique, widow-

headed households have 30% less income than male-headed households, and also are significantly poorer in crop income (Walker iv, 23, 30).

### **Gender Discrimination in Property Ownership and Inheritance Rights for Women in Mozambique**

Discrimination against women, and particularly against AIDS widows, in the form of unequal property ownership and inheritance rights is a significant factor that causes hunger and extreme poverty in rural areas of Mozambique. Legal rights to property, especially the land used for farming, are a mixture of Constitutional and statutory law and customary traditions that date back to the colonization of Mozambique by Portugal beginning in the mid-17th century. Although Mozambique's modern Constitution and statutes guarantee equal property ownership and inheritance rights for women, these rights often are not enforced due to customary traditions that discriminate against women in the ownership and inheritance of land and other property (OECD 1; International Federation for Human Rights 1-3).

When Portuguese settlers colonized Mozambique, they created two customary systems for land property rights. In the northern areas of Mozambique, under the *prazo* system land rights were given to a woman if the woman married a Portuguese man, and land was inherited through a matrilineal system. In the southern areas of Mozambique, land rights were acquired only by men and land was inherited through a patrilineal system (Ik Dahl 47-48). Over time, these customary traditions have evolved so that “[w]hether in the patrilineal systems of Southern Mozambique or the matrilineal systems of the North, property is largely controlled by the men in the family (the wife’s family in the North, the husband’s in the South)” (Hendricks 2).

The modern legal system of land rights in Mozambique began in 1975 when the independent People’s Republic of Mozambique was established. The country’s new Constitution gave men and women equal property rights and made all land state property. Legislation implementing the country’s new Constitution expressly provided that women were permitted to own land as individuals in their own right (Ik Dahl 48). Regulations implementing this legislation, however, continued to recognize the customary traditions of land ownership (Hendricks 4). The effect “in practice [was to] marginali[ze] the majority of women from the right to independent and individual land titles” (Ik Dahl 48).

In 1990, after many years of civil war Mozambique adopted a new Constitution. Under the 1990 Constitution, again all land became the property of the state and women again were guaranteed equal property rights. In addition, the 1990 Constitution provided that land in Mozambique could not be sold or mortgaged. In 1997 and 2004, Mozambique adopted new laws that guaranteed equal rights for women concerning the ownership of land and abolished discriminatory customs that prevented women from inheriting land when their husbands died (Ik Dahl 48-52; Hendricks 4).

Implementation and enforcement of these laws granting equal property ownership and inheritance rights for women has been difficult for three reasons. First, despite a campaign to educate its population, many women are illiterate and ignorant of the laws that guarantee them equal property rights and continue to accept discrimination under customary traditions (Hendricks 2; Ik Dahl 52; OECD 1; Save the Children 19). Second, the judicial system in Mozambique is corrupt, expensive, and difficult for women in rural areas to access to enforce their equal rights to property ownership and inheritance (Ik Dahl 54-55; Hendricks 4-5). Inheritance disputes are

viewed as a private family matter and traditionally are not litigated in court (Save the Children 22). Third, even if an AIDS widow knows that she has legal rights to the land, she may be reluctant to enforce her rights in a public fight with her deceased husband's family due to the social stigma of AIDS. It is not uncommon for the deceased husband's family to accuse an AIDS widow of killing her husband through witchcraft (Save the Children 14). An AIDS widow may not want to fight for her legal inheritance rights by explaining that her husband died of AIDS (not witchcraft) because she may have to reveal that she too is infected with the HIV virus (Hendricks 1-2).

Another aspect of discrimination in property rights for women in Mozambique involves community-owned tracts of land under customary traditions (Hendricks 4). The current Constitution of Mozambique recognizes that the village community itself may register its ownership of community land under customary law (Ik Dahl 48, 57). For community-owned land, a local committee authorizes and assigns to individuals the right to use portions of the community tract to farm (Hendricks 4). In practice, women are not represented on these local committees and have little influence in how the community land is allocated for individual farming use (Hendricks 4, 6).

Gender discrimination against women in Mozambique results in a lack of property rights for widow-headed households, particularly AIDS widows in rural areas. Many researchers have documented that widows in Mozambique are being evicted from the family's house and having the family land and other property seized upon the husband's death (FAO 2006a n.p.; FAO 2007a 37; Save the Children v, 2; Chapoto 1-2; International Federation of Human Rights 2; Ik Dahl 56). Researchers have found that widow-headed households are the ones least likely to increase their landholding size and the most likely to suffer a greater than 50% decline in land-holding size (Chapoto 2). Another problem is that if a woman works to improve land that is of marginal productivity, such as by installing an irrigation system, the improved land may be taken by men in the rural community (FAO 2006b 2). This insecurity in property rights removes the incentive to invest to make the land more productive.

The ability to access and control the land necessary to engage in productive farming is essential to improving income levels and food security for women in rural areas. Having secure property rights provides women with an incentive to make long-term improvements to improve the productivity of the land and to engage in sustainable farming practices that do not degrade the land (FAO 2006a n.p. ; Meinzen-Dick 1; FAO 2006b 9).

### **Broader Trends: The HIV/AIDS Crisis**

The HIV/AIDS crisis in Mozambique makes the challenges that women face in securing equal property rights more difficult (Save the Children iv, 1; FAO 2007a 37). HIV/AIDS infection and death rates are the highest among young persons between the ages of 18 and 35. Young men in Africa have the highest rates of infection and death from HIV/AIDS. As a result, the pandemic has caused a huge increase in the number of young women who are AIDS widows and heads of households (Save the Children iv, 1; Chapoto 1; Hendricks 2).

The HIV/AIDS crisis forms a vicious cycle with insecure property rights for women. When a woman is widowed, she is at risk of losing the family's land and property. To gain economic security, she may have to abandon her children to her husband's family and remarry, particularly if she is a young widow (Hendricks 1-2). If her property is taken from her, then she may be left homeless and without the means to farm to produce food (Hendricks 2). Prostitution may be the only way she can produce income to feed herself and her children (Hendricks 2). If

the widow is infected with HIV/AIDS, then with either remarriage or prostitution the disease spreads.

## **Securing Equal Property Rights for Women in Mozambique**

Although Mozambique law guarantees women equal property rights, a culture of discrimination against women is difficult to change. My proposal is to work toward social change in the form of more secure property rights for women at both the national and community levels of Mozambique society.

### **Reforms at the National Level**

Researchers who have studied how legal systems and social relations prevent women from exercising their property rights have suggested that one way to counteract these social forces is to give disadvantaged women more authority to obtain and claim property rights (Meinzen-Dick; FAO 2006a).

Clearly, the national government of Mozambique must continue its efforts to educate women about their equal rights to own and inherit property under the modern Constitution and implementing laws. Experts who have studied this problem emphasize that the national government needs to have exercise its authority to overrule local customs and traditions in order to enforce the country's modern property laws (Meinzen-Dick 3-5; International Federation for Human Rights 1-4; OECD 1-2).

The national government of Mozambique also must work to improve its judicial system so that it is less corrupt and more accessible to women whose property has been taken from them in violation of the law. The national government should cooperate with NGOs to train legal advocates to assist women in enforcing their property rights through the judicial system. For example, CARE currently sponsors a program to train legal advocates to help women bring claims to the courts (Hendricks 7). Legal advocate programs for women should be expanded throughout the country.

### **Reforms at the Local Community Level: Widows' Land Trusts**

The problem of securing property rights for women also must be addressed at the local level. Local support requires the participation of women in the village community. This approach is consistent with the World Food Programme's Gender Policy ("WFP Gender Policy"). The WFP Gender Policy is to ensure that women are equally involved in food distribution committees and local governing bodies that influence food production, and that women benefit equally from WFP activities and financial support.

At the community level, the national government should work with community leaders to establish Widows' Land Trusts ("WLTs"). Under the current Constitution of Mozambique, all land is state property and cannot be mortgaged or sold. Therefore, if local community leaders do not want to establish a WLT for their widows, then the national government itself can take the land and establish WLTs.

WLTs would consist of large tracts of land that are carved out of community-owned village land and set aside for widows. WLTs would be administered and managed by a board of trustees comprised solely of women from the local village that controls the land. The board of trustees for each WLT would grant long-term lease rights to widows in the community for

individual tracts of land. By giving long-term lease rights to an individual tract, the widow has an incentive to use sustainable agricultural methods on her tract. The widows who form the WLT also have an incentive to work together to invest in irrigation systems to make their land more productive.

Due to the long-standing custom of discrimination against women, and particularly AIDS widows, village leaders may cooperate reluctantly and set aside the most marginal land to establish the WLTs. The WLTs should work with other pre-existing programs, such as the national government's food production program and microfinance programs established by NGOs, to acquire funding for seeds, equipment, fertilizer, and irrigation systems to make the land held by the WLTs more productive (African Economic Outlook, Structural Issues; Hendricks 6-7). For example, in parts of rural Mozambique CARE already has established a microloan financing program known as "Village Savings & Loan Associations" or "VSLAs" (Hendricks 1). These types of microfinance programs should be expanded and used to support the improvement of land held by WLTs.

The WLTs also may partner with the pre-existing local procurement program that is part of the WFP's activities in Mozambique (Local Procurement n.p.). The WFP can provide a market for the local crops grown by the WLTs by purchasing the food produced and distributing it as part of the WFP's food aid program in Mozambique. This will produce a cash income to supplement the food that the WLTs produce for consumption.

## **Conclusion**

Women in Mozambique have faced discrimination in property rights for centuries. This proposal takes a comprehensive approach by focusing simultaneously at both the national level and at the community level to give women, and particularly AIDS widows, secure property rights so that they can feed and support their families. It is not enough to give women equal property rights on paper. These rights must be real and they must be enforceable.

The national government of Mozambique must educate women about their equal rights to own and inherit property. Education, however, is only a first step. The national government, with the help of NGOs, must provide women with the legal assistance they need to enforce these rights in the courts. Such assistance is meaningless if the judicial system itself is unfair and corrupt. Therefore, the national government must take steps to improve the quality of its judges and its court system.

Truly equal legal rights are a long-term solution, but at present AIDS widows in Mozambique are desperate and destitute, and their children are starving. Immediate action is needed at the local community level to reverse the vicious cycle of HIV/AIDS and insecure property rights for women. Community land ownership with use rights decided by local leaders is a strong tradition in rural Mozambique. WLTs build on this pre-existing tradition and custom by setting aside community land for widows, but also empower women in the community by making women the decision-makers concerning who will use the land.

Long-term lease rights under a WLT have several advantages. Long-term rights provide security and create an incentive to invest, encourage sustainable farming practices, and provide economic stability for AIDS widows in the community. WLTs can help to break the vicious HIV/AIDS cycle that leads young AIDS widows to remarry or engage in prostitution that further spreads the disease.

WLTs also build upon and support the WFP's local procurement policy and its Gender Policy. By dealing with the group production power of WLTs instead of buying from individual farmers, the WFP will have a larger and more stable local procurement supply source in Mozambique. The WLTs will benefit because the widows will have a stable cash market for the sale of their crops. Finally, the WLTs will ensure that women are benefiting equally from WFP resources and activities in Mozambique.

## Works Cited

- African Economic Outlook. *Mozambique*. N.d. Web. 26 July 2010.
- Chapoto, A., Jayne, T., and Mason, N. *Agricultural Consultative Forum, Michigan State University, Policy Synthesis, Food Security Research Project – Zambia, Security of Widows' Access to Land in the Era of HIV/AIDS: Panel Survey Evidence from Zambia*. Sept. 2007. Web. 3 Sept. 2010.
- Encyclopedia Britannica. *Mozambique*. N.d. Web. 25 July 2010.
- Food and Agriculture Organization of the United Nations. *Gender and Law: Women's Rights in Agriculture*. 2007. Web. 15 Aug. 2010.
- . *Improving People's Access to Resources Through Property Rights*. 2006a. Web. 15 Aug. 2010.
- . *Land Tenure Notes: Improving Gender Equity in Access to Land*. 2006b. Web. 14 Aug. 2010.
- . *Mozambique*. July 2007. Web. 14 Aug. 2010.
- . *Special Report: FAO/WFP Crop and Food Supply Assessment Mission to Mozambique*. June 2005. Web. 15 Aug. 2010.
- Hendricks, L. and Meagher, P. *Women's Property Rights and Inheritance in Mozambique: Report of Research and Fieldwork*. CARE USA. N.d. Web. 3 Sept. 2010.
- Ikdahl, I., Hellum, A., Kaarhus, R., Benjaminsen, I.A., Kameri-Mbote, P. *Human rights, formalization and women's land rights in southern and eastern Africa*. 2005. Web. 26 July 2010.
- International Federation for Human Rights. *Dossier of Claims: Mozambique*. March 5, 2010. Web. 26 July 2010.
- International Food Policy Institute. *2009 Global Hunger Index*. N.d. Web. 4 Sept. 2010.
- Meinzen-Dick, R. *Property Rights for Poverty Reduction?* United Nations Department of Economic and Social Affairs. 2009. Web. 25 July 2010.
- Organization for Economic Co-operation and Development. *Social Institutions Gender Index. Gender Equality and Social Institutions in Mozambique*. N.d. Web. 26 July 2010.
- Save the Children. *Children and Women's Rights to Property and Inheritance in Mozambique*. 2009. Web. 26 July 2010.
- United Nations Children's Fund. *Mozambique*. N.d. Web. 14 Aug. 2010.
- Walker, T., et al. *Determinants of Rural Income, Poverty, and Perceived Well-Being in Mozambique in 2001-2004*. May 2004. Web. 15 Aug. 2010.



World Food Programme. *Local Procurement*. 2009a. Web. 15 July 2010.

---. *WFP Gender Policy*. 2009b. Web. 26 July 2010.

World Health Organization. *Mozambique's Health System*. N.d. Web. 3 Sept. 2010.

#### **Additional Works Consulted**

Bakhtiari, S. "Microfinance and Poverty Reduction: Some International Evidence." *International Business & Economics Research Journal*. 5.12 (2006): n. pag. Web. 14 Aug. 2010.

Destiny Rescue. *Mozambique*. N.d. Web. 3 Sept. 2010.

Food and Agriculture Organization of the United Nations. *Bridging the Gap: FAO's Program for Gender Equality in Agriculture and Rural Development*. 2009. Web. 14 Aug. 2010.

---. *The State of Food Insecurity in the World*. 2006. Web. 25 July 2010.

Magner, M. "Microfinance: A Platform for Social Change." *Grameen Foundation Publication Series*. 2007. Web. 15 Aug. 2010.

United Nations Development Programme. *Gender Equality Strategy 2008-2011*. 2007. Web. 26 July 2010.

---. *Millennial Development Goals Map*. 2007. Web. 25 July 2010.

---. *Participatory Approaches*. 20 Sept. 2000. Web. 26 July 2010.

---. *Promoting Gender Equality and the Empowerment of Women in Addressing Food and Nutrition Challenges*. 16 Jan. 2009. Web. 26 July 2010.

World Food Programme. *2004 Survey on the Enhanced Commitments to Women: Main Findings on HIV/AIDS*. N.d. Web. 26 July 2010.

---. *2009 Hunger Map*. N.d. Web. 25 July 2010.

---. *Countries*. N.d. Web. 25 July 2010.

---. *Hunger Stats*. N.d. Web. 25 July 2010.

---. *Mozambique*. N.d. Web. 25 July 2010.