

# HIV/AIDS, hunger and vulnerability in Southern Africa

**BRIEF NO.2**

**8 June 2006**

## Mozambique Land Law: An Opportunity for Sustainable Livelihoods

A number of Concern Worldwide and Oxfam-International projects were visited in Mozambique between the 9<sup>th</sup> and 17<sup>th</sup> of April as part of the collaborative project on strengthening responses to food and nutrition security and HIV/AIDS in the Southern African region. A major issue raised by a number of partners, including the Food and Agricultural Organization of the UN and the União Nacional de Camponeses (UNAC), was that of the Mozambique Land Law.

### Provisions of the Land Law

According to Dr Chris Tanner, one of the architects of the Land Law, the vast majority of rural households have customarily acquired land rights, which are now legally recognised as equivalent to an official state land use right. When necessary, they can be proven through an analysis of local land management and production systems, which can result in very large areas being registered in the name of 'local communities'. With their rights recognised and recorded, communities are then able to enter into negotiations with investors and the state on a more equal footing and secure agreements that bring real benefits to promote local development and reduce poverty.

### Intended benefits

These benefits include more secure livelihoods, which are increasingly important in a context where there are multiple stresses affecting communities. These stresses, such as climate variability with recent low rainfall or flooding, are often compounded by HIV/AIDS. More robust, diversified livelihoods enable communities to become more resilient in the face of these stresses and to decrease vulnerability to HIV infection. Thus the Land Law can become an important opportunity for community development through new livelihood options opening up as the local economy evolves. Through consultations with investors, they can choose to keep their rights, or strike deals that generate resources for local development.

### Application of the LL

Discussions with a number of key respondents in the field indicated that the Land Law implementation has been partial, with a neglect of community aspects by the public sector especially. Recalling experiences in Manica, some Concern partners emphasised that relations between new land investors and communities were not good. In some instances this was because the state recognised the rights of the investors more than those of the community. Contradictory understanding of the Land Law was a major hindrance for the rights of communities over their existing resources becoming a reality.

In many instances the progressive mechanism of the community consultation is being applied but in a way that does not bring real benefits to local communities. Sometimes the unintended Consequences of fast-tracking true consultation and community engagement are likely to fuel conflicts over resources in years to come. This is proving to be an emerging challenge for development partners in rural areas such as Manica: to ensure that the rights of people are protected and that the existing legal framework be harnessed to ensure long-term rural livelihoods in a context of social justice.

This clearly highlights a difference between policy and practise in rural Mozambique. However, it also raises challenges for NGOs and their partners operating in these areas to understand the existing legal framework in order to ensure communities are able to realise their rights. A progressive enabling legal framework, such as that which exists in Mozambique, requires mechanisms to "draw down community rights", which need to be facilitated by civil society organisations

### Opportunities

*Awareness raising (can be split into the generalised and one targeted specifically to women)*

The challenge for Concern, Oxfam and their local partners is to help communities understand that their rights are private and exclusive, and that they can say 'no' to the investor if they do not want to cede their land.

### *Negotiation skills*

If they are prepared to cede their rights, they should be able to negotiate with the investor or the state, on the basis of real knowledge of the value of their resources and the potential return that the investor can expect.

*Participation (can be split into the generalised and one targeted specifically to women)*

Another major challenge is the participation of women in the consultation process, which is allegedly very weak. Rural women are not aware of the specific rights that they enjoy in the context of the Land Law and its constitutional backdrop.

Existing laws in Mozambique, such as the Land Law, provide real opportunities to build community resilience, diversify livelihoods and to make local people true partners in economic development. As such, these laws become important elements in the fight against HIV/AIDS and food insecurity.

*Strengthening responses to HIV/AIDS, hunger & vulnerability in the Southern African region - learning from field experiences*

*Brief No.2: Mozambique: Land Law: An Opportunity for Sustainable Livelihoods*

*Mozambique*

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