



**ACHPR**  
African Commission on  
Human and Peoples' Rights

Human Rights our  
Collective Responsibility

**African Commission on Human and Peoples' Rights**

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**Concluding observations on the Periodic Report of the Republic of Mozambique on  
the implementation of the provisions of the African Charter on Human and Peoples'  
Rights (2015-2021)**

**ACHPR, August 2024**

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## Introduction

1. The Republic of Mozambique (Mozambique) has been a State Party to the African Charter on Human and Peoples' Rights (African Charter) since 7<sup>th</sup> March 1990.
2. Mozambique presented its Initial Report to the African Commission on Human and Peoples' Rights (the African Commission) at its 16<sup>th</sup> Ordinary Session (Banjul, October/November 1993). Subsequently, Mozambique presented its Combined Periodic Report (1999-2010), considered by the 55<sup>th</sup> Ordinary Session of the Commission, held in Luanda (Angola) from 28 April to 12 May 2014.
3. The respective Concluding Observations were adopted by the 17<sup>th</sup> Extraordinary Session of the Commission, held from 19 to 28 February 2015, in Banjul, The Gambia.
4. The Commission received this Combined Periodic Report from the National Directorate of Planning and Cooperation of the Ministry of Justice and Constitutional and Religious Affairs of the Republic of Mozambique, in early November 2023.
5. The Report was considered in person on 21 and 22 May 2024, as part of the work of the 79<sup>th</sup> Ordinary (Hybrid) Session of the Commission, held in Banjul from 14 May to 03 June 2024.
6. In this regard, a high-level Mozambican delegation<sup>1</sup> led by H.E. Filimão Joaquim Suaze, Deputy Minister of Justice, Constitutional and Religious Affairs, represented the State Party in the review, which was marked by a frank and constructive dialogue with the members of the Commission.
7. The Mozambican delegation undertook to provide the Commission with further information in writing at the end of the exercise, which it did on 28 June 2024.
8. The Commission notes the inclusive process that characterized the preparation of this Report, as described by the Mozambican authorities, with the involvement and participation of several key actors of the State and civil society. It should also be noted that the Report is well documented and illustrated, with informative and detailed statistical data.
9. Specifically, this Periodic Report summarizes the developments recorded by Mozambique in terms of the promotion and protection of human rights during the period under review.
10. The Commission is aware that limited financial resources constitute an obstacle to the effective implementation of the State's human rights programmes.

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<sup>1</sup> The list of the Mozambican Delegation is attached.

11. These Concluding Observations give an account of the positive aspects and factors that limit the enjoyment of human rights in Mozambique. They also highlight the areas of concern identified through examination of the Report and the additional information provided thereafter.

12. Finally, the Commission makes recommendations to Mozambique on the necessary measures to strengthen the enjoyment of human rights as guaranteed by the African Charter, the Maputo Protocol and other relevant regional and international instruments.

## General Recommendations

### Article 62

13. In its written replies sent to the Commission, the Delegation of Mozambique declares that it is aware of the Guidelines for the preparation of the Periodic Reports, which have been partially observed in the Report submitted, and undertakes to give them due consideration in the future.

14. The Commission recalls that the Periodic Report under review did not include Parts "B" and "C" relating to the implementation of the Maputo Protocol and the Kampala Convention, ratified by Mozambique on 09 December 2005 and 02 December 2019, respectively.

15. In view of the explanations provided by the Delegation of Mozambique, the Commission wishes to make the following recommendations:

#### **Recommendations:**

#### **Mozambique must:**

- Include in the next Periodic Report sections reserved for the implementation of the Maputo Protocol and the Kampala Convention.
- Observe the relevant Commission Guidelines (General Guidelines on the African Charter, Guidelines on Articles 21 and 24 and Guidelines on Economic, Social and Cultural Rights)<sup>2</sup>.
- Provide, in the next periodic report, all information on the application of the recommendations made in this document.

### Ratifications

16. The Commission applauds Mozambique's recent ratification in May 2022 of the two Protocols to the African Charter on the Rights of Persons with Disabilities and the Rights of Older Persons in Africa.

17. The Delegation informed that the public consultation process on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance was ongoing.

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<sup>2</sup> <https://www.achpr.org/statereportingproceduresandguidelines>

18. However, the Commission remains concerned that Mozambique has not ratified the International Covenant on Economic, Social and Cultural Rights, a quasi-universal instrument of proven relevance and reputation.

19. In addition, the Delegation stressed the need for internal reforms before examining the possibility of making the declaration provided for in Article 34 (6) of the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights (ratified on 17 July 2004).

**Recommendations:** The Commission reiterates its recommendation to Mozambique:

- To finalize the ratification process of the International Convention for the Protection of All Persons from Enforced Disappearance.
- To ratify other relevant international instruments, in particular:
  - At continental level:
    - The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Citizens to Social Protection and Social Security;
    - The Protocol on the Statute of the African Court of Justice and Human Rights (signed on November 08, 2011);
    - The Protocol amending the Protocol on the Statute of the African Court of Justice and Human Rights (signed on 29 June 2018);
    - The Cultural Charter for Africa;
    - The African Charter on the Values and Principles of Decentralization, Local Governance and Local Development;
    - Initiate the necessary reforms to make the declaration provided for in Article 34 (6) of the Protocol to the Charter establishing the African Court on Human and Peoples' Rights.
  - At UN level:
    - The International Covenant on Economic, Social and Cultural Rights and its Optional Protocol.

## National Human Rights Framework

20. Article 18 of the Constitution of Mozambique provides for a system for incorporating the rules of international law into the national legal system. Consequently, the ratified regional and international instruments will have the same legal value as the infra-constitutional rules promulgated by the National Assembly and the Government (no. 40).

21. The Commission takes note of the holding of two seminars to disseminate the African Charter and other relevant regional human rights instruments.

22. The Commission also takes note of Presidential Decree 6/2022 of 28 April 2022, which establishes a national coordination mechanism, namely the Interministerial Commission on Human Rights and International Humanitarian Law.

23. The Delegation reported that Mozambique does not have an integrated national action plan, but there are scattered sectoral plans for the promotion and protection of human rights.

**Recommendations:** Mozambique must:

- Continue its efforts to domesticate the provisions of international and regional human rights instruments for better visibility and applicability.
- Continue efforts to disseminate African human rights conventions, in particular the African Charter, the Maputo Protocol and the Kampala Convention.
- Consider the congregation of all sectoral plans and turn them into a comprehensive national human rights strategy/action plan, for better implementation.

## **Article 2: Fight against all forms of discrimination**

24. Equality and non-discrimination are guaranteed by Article 35 of the Constitution of the Republic of Mozambique.

25. Mozambique recently ratified the UNESCO Convention against Discrimination in Education, by Decree No. 20/2022 of 30 December 2022, which constitutes a positive and healthy development.

26. The Commission takes note of Law 19/2014 of 27 August 2014, Article 4 of which punishes discrimination against people living with HIV and AIDS, and information on the (ongoing) adoption of the Multisectoral Action Plan on Albinism (2023-2027).

27. In the absence of relevant statistics on discrimination prosecutions, gaps are likely to persist between the adopted texts on the one hand and their effective application on the ground on the other.

**Recommendations:** Mozambique must:

- Continue efforts towards the adoption of the Multisectoral Action Plan on Albinism (2023-2027).
- Consider adopting a comprehensive national strategy and specific law to combat all forms of discrimination.
- Continue efforts to raise awareness and combat discrimination against people with albinism.
- Implement concrete measures to ensure effective judicial and administrative remedies in case of discrimination.

### **Article 8: Right to freedom of conscience**

28. The Report states that Mozambique is a secular country, where religious freedom is guaranteed by paragraphs 3 and 4 of Article 12 of the Constitution (Paragraph 142). Articles 130, 131 and 135 of the Penal Code provide for penalties for offenders who do not respect religions or religious cults (Paragraph 146).

29. The Mozambican delegation reported the existence of a draft bill and a normative text on freedom of religion and worship, which is in the process of being approved.

30. In addition, the Delegation confirmed that the constitution of religious confessions requires a minimum of 500 members affiliated with a particular religion, which can constitute a considerable obstacle to the recognition of certain religious groups.

**Recommendations:** Mozambique must:

- Pursue efforts to pass the draft bill and regulations on freedom of religion and worship and ensure that they comply with the relevant standards.
- Review the legislative provisions that condition the recognition of a religious group to the existence of a minimum number of 500 members.
- Continue efforts to combat religious extremism in the country.
- Step up efforts to prevent persecution based on religious affiliation and promote religious freedom in the context of counter-terrorism operations.

### **Article 13: Right to participate in public affairs**

31. The report indicates that, since the introduction of multiparty democracy in the country in 1994, Mozambique has already held six general elections (election of the President of the Republic and Members of Parliament to the National Assembly) and five municipal elections (Paragraph 17).

32. The Commission takes note of the explanations provided by the Delegation, concerning the establishment of the electoral rolls and the efforts to ensure citizens' participation in the next electoral process (General Elections of 9 October 2024).

**Recommendations:** Mozambique must:

- Strengthen concrete measures to create a political environment conducive to the exercise of all fundamental freedoms, in the context of the preparation of the general elections scheduled for October 9, 2024, for the election of the President and Members of Parliament.
- Strengthen measures to promote the inclusion and effective participation of young people in the management of public affairs, in elected bodies and in decision-making bodies.
- Spare no effort to ensure the smooth running and transparency of the upcoming elections.
- Ensure full respect for freedom of expression, assembly, association and opinion during the upcoming elections.

### **Article 25: NHRIs and other institutions**

33. The Delegation informs that the National Commission on Human Rights (CNDH) was created by Law No. 33/2009 of 22 December 2009, namely, to promote a culture of peace and strengthen the national system for the promotion, protection, defense and improvement of the human rights situation of citizens.

34. The Commission takes note of the information on the selection process of the members of the National Human Rights Commission.

35. However, the Government's responses did not include any information on the concrete measures taken to ensure the effective functioning and full independence of the National Commission, nor even on the human and financial resources granted to the National Commission to fulfil its mandate.

36. The Commission notes that the CNDH has applied for affiliate status with the ACHPR but regrets that this institution has not made a substantial contribution to the examination of Mozambique's periodic report, in particular through active participation in the preparation of the national report or the submission of additional information (shadow report).

**Recommendations:** Mozambique must:

- Provide the CNDH with the human and financial resources necessary for the execution of its mandate.
- Take the necessary measures to ensure the effective functioning and full independence of the CNDH.
- Involve the CNDH in the process of monitoring the implementation of recommendations addressed to the Government by regional and international human rights bodies.
- Invite the CNDH to strengthen its cooperation with ACHPR.

**Cooperation with the Commission**

37. The Delegation did not provide any information on obstacles or impediments to carrying out the ACHPR promotion mission in Mozambique.

**Recommendation:** Mozambique should strengthen its cooperation with the Commission, by carrying out a promotion mission.

## Civil and political rights

### Mandate of the Working Group on the Death Penalty and Extrajudicial, Summary or Arbitrary killings and Forced Disappearances (Article 4: Right to life)

38. Capital punishment was abolished in Mozambique by the 1990 Constitution. This abolition was subsequently confirmed by the 2004 review.

39. The Commission takes note of the investigations launched by the Mozambican authorities following allegations of extrajudicial executions.

40. The Delegation did not provide further information on the questions raised by the Commission regarding the death penalty and extrajudicial, summary or arbitrary executions.

#### **Recommendations:** Mozambique must:

- As an abolitionist state, support the draft Protocol to the African Charter on the Abolition of the Death Penalty.
- Disseminate and popularize the African Commission's General Comment No. 3 (2016) on the right to life<sup>3</sup>.
- Take all measures to ensure the protection of the right to life, in the context of military instability in northern Mozambique, as already recommended by resolution ACHPR/Res. 477 (LXVIII) 2021.
- Accelerate the ratification process of the International Convention for the Protection of All Persons from Enforced Disappearance and adopt a comprehensive law on enforced disappearances.
- Disseminate and popularize the Guidelines of the Commission for the Protection of All Persons from Enforced Disappearances in Africa<sup>4</sup>.

<sup>3</sup> Document available at: <https://achpr.au.int/fr/node/851>

<sup>4</sup> Document available at: <https://achpr.au.int/fr/documents/2022-10-25/lignes-directrices-protection-personnes-disparitions-forcees-afrique>

## **Mandate of the Committee for the Prevention of Torture in Africa (Article 5 Prohibition of torture and cruel, inhuman and degrading treatment)**

41. The Commission takes due note of Mozambique's ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in September 1999 and its Optional Protocol in July 2014.

42. The revised Criminal Code defines and criminalizes torture, but the Report under review acknowledges that cases of excessive use of force or torture by law enforcement authorities (Police and prison guards) have been recorded in the country (Paragraph 95).

### **Recommendations:** Mozambique must:

- Adopt specific legislation on the prevention and prohibition of torture, as already recommended by the Commission in 2015.
- Strengthen the capacity of the CNDH, designated as the National Prevention Mechanism, and equip it to carry out regular monitoring of places of deprivation of liberty.
- Continue awareness-raising and training efforts of the competent authorities on the Robben Island guidelines.
- Ensure that the national mechanism and civil society apply the Commission's "Abidjan Rules" on the mechanism for alerting and reporting cases of torture to the Commission.
- Continue efforts to raise awareness of the illegality of public lynchings and prosecute the perpetrators.
- Strengthen the capacity and role of independent bodies responsible for receiving complaints and investigating allegations of torture.
- Strengthen free legal assistance measures for victims of torture and redress mechanisms for victims of torture, including through compensation and rehabilitation, in line with ACHPR Resolution/Res.303 (LVI) 2015 on the right to rehabilitation of victims of torture.

## **Mandate of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (Articles 3, 6 and 7)**

43. The Commission takes note of the additional information on the legal guarantees of access to justice and the right to a fair trial, as well as the details on the Community courts, which are extrajudicial/alternative dispute resolution mechanisms, in accordance with Law No. 4/92 of 6 May 1992.

44. The Delegation also provided information on the legal assistance provided by the "Institute for Sponsorship and Legal Assistance (IPAJ)" and about women and minors in conflict with the law.

45. However, the delegation did not provide any information on the concern, already expressed by the Commission in 2015, regarding the lack of separation between detainees in pre-trial detention and convicted prisoners, as well as the non-compliance with the legal duration of pre-trial detention.

46. In addition, the delegation did not provide information on the existence of alternative or non-custodial sentences for petty offences.

**Recommendations:** Mozambique must:

- Speed up the process of adopting the Community Courts Review Act, ensuring that the rules governing them meet the relevant standards in terms of access to justice, the right to a fair trial and respect for human rights in general.
- Strengthen the human and financial capacity of the Institute of Sponsorship and Legal Assistance to ensure better legal assistance to the poor.
- Grant the National Human Rights Commission unlimited access to prisons.
- Take concrete measures to ensure that prisoners are separated into categories (detained and convicted; men and women; youth and adults) and that the terms of pre-trial detention are respected.
- Establish a legal framework for the application of alternative sentences to imprisonment (alternative, non-custodial measures) for petty offenses.
- Ensure the initiation of investigations, the initiation of criminal proceedings and the rehabilitation of victims of excessive detention.
- Continue efforts to disseminate and train law enforcement officials, in particular with regard to relevant standards, such as the Luanda Guidelines, relating to detention, police custody and pre-trial detention.
- Improve health care for prisoners.
- Also improve the provision of food to prisoners, namely by increasing the budget for this item.
- Continue to apply measures aimed at paying special attention to the situation of minors in conflict with the law.

## Mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa (Article 9)

47. Mozambique adopted Law No. 34/2014 that regulates the exercise of the right to information. The Commission notes the existence of the Southern African Media Institute (MISA-Mozambique), with the aim of promoting freedom of expression, access to information and the free exercise of journalism.

48. The Delegation also informed that the Criminal Code in force in the Republic of Mozambique does not provide for press crimes and that the provisions of articles 403 and 405 of the Criminal Code were repealed by Law No. 24/2019 of 24 December 2019.

49. However, the Delegation did not provide information on the measures taken to implement the recommendations of the Joint Urgent Letter of Appeal on violations of freedom of expression, including a violent attack, perpetrated on 23 August 2020, in the city of Maputo, against the offices of a press body known as the "Canal de Moçambique".

50. Nor was any information provided on the measures to implement the SIM card registration Act and the guarantees provided in this regard, nor on the safeguards against abusive blocking of the internet network.

### **Recommendations:** Mozambique must:

- Strengthen the diversity of the media landscape by promoting private sector access to launch audiovisual media.
- Ensure equitable access to public grants for all media, including private media.
- Ensure the decriminalization of press offenses and review legislative provisions that may affect freedom of expression.
- Strengthen the protection of journalists, ensuring the application of existing texts, in particular with regard to the confidentiality of information sources, and adopting new measures against harassment and reprisals they may be victims of due to the exercise of their profession.
- Strengthen citizens' equitable access to the Internet, access to information and freedom of expression on the Internet and prevent abusive blockages in this area.

## **Mandate of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa (Articles 10 and 11, right to freedom of association and demonstration)**

51. The Commission takes note of the legal regimes concerning the formation of associations (prior registration) and public demonstrations (prior authorization).

52. The Delegation informed the Commission that the process of reviewing the normative framework of civil society organizations was ongoing and in the process of being approved by the National Assembly.

53. With regard to the protection of human rights defenders, the Delegation invoked the general provisions of Articles 40 and 41 of the Constitution, by virtue of which the State protects and guarantees the exercise of the fundamental rights to freedom.

54. However, human rights defenders, given their role and the risks that threaten them, require specific, adapted and strengthened protection.

55. The Delegation did not give any response regarding the implementation of the recommendations of the Urgent Letter of Appeal of 28 August 2022, addressed to the Republic of Mozambique<sup>5</sup>.

### **Recommendations:** Mozambique shall:

- Guarantee the right to peaceful assembly without any spatial or temporal restrictions that may limit the meaning of this right.
- Ensure that the principles and provisions of the Commission's Guidelines on Freedom of Association and Assembly in Africa are incorporated into the process of reviewing the normative framework of civil society organizations.
- Ensure the dissemination and implementation of the Commission's guidelines on Policing of Assemblies by Law Enforcement Officers in Africa.
- Adopt a specific law on the protection of human rights defenders, which includes, among other provisions, the creation of an independent mechanism for the protection of human rights defenders.
- Strengthen the independence of the country's judicial system.

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<sup>5</sup> Regarding the death threats against Professor Adriano Nuvuga, a human rights defender, due to his regular criticism of the government and the FRELIMO party

## Economic, Social and Cultural Rights

### Mandate of the Working Group on Economic, Social and Cultural Rights in Africa

56. Mozambique is one of three State Parties to the African Charter on Human and Peoples' Rights that have not ratified the International Covenant on Economic, Social and Cultural Rights and one of two State Parties that have not even signed it. In 2015, the Commission recommended that Mozambique ratify this important instrument. The Commission welcomes the fact that the ratification process of the Covenant is ongoing.

57. The Commission is aware of the financial constraints that constitute the main obstacle to the implementation of economic, social and cultural rights in Mozambique, as is the case in developing countries in general.

#### **Recommendations:** Mozambique must:

- Accelerate ratification of the International Covenant on Economic, Social and Cultural Rights and consider ratification of its Optional Protocol.
- Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Right of Citizens to Social Protection and Social Security (open for ratification in early 2022).

### Article 14: Right to property / right to housing

58. The Delegation informed the Commission that the revision of the Land Act is at a very advanced stage and is in the process of being approved by the National Assembly. The Commission has taken good note of the Safe Land initiative, which provides for 40% of property titles to be issued to women and/or in a co-ownership system.

59. The Commission notes that the Delegation's responses do not address the questions raised on the right to housing.

#### **Recommendations:** Mozambique must:

- Ensure that the implementation of the revised Land Act gives effect to property and housing rights in accordance with the provisions of Article 14 of the Charter.
- Strengthen guarantees of non-discrimination in access to housing for disadvantaged groups.

## Article 15: The right to work

60. The Commission takes note of the employment information contained in the Household Budget Survey (IOF 2022), which shows differences in employment rates between men and women and between urban and rural areas.

61. The Commission also takes note of the modalities of implementation of the formal provisions concerning the minimum working age as defined in Article 29 of Law No. 13/2023 of 25 August 2023.

62. In addition, the Commission takes note of the detailed information on the proportion of informal employment in Mozambique.

### **Recommendations:** Mozambique must:

- Step up efforts to combat discrimination and sexual harassment in the workplace, non-compliance by employers with the Working Hours Act and health and safety standards.
- Strengthen the implementation of measures to extend social protection to people working in the informal sector.
- Pursue efforts to combat child labor and forced labor.
- Strengthen measures to support the private sector in job creation, including through entrepreneurship.
- Ratify ILO Convention 189 (2011) on Domestic Workers.

## Article 16: Right to health

63. The Commission notes Mozambique's efforts to improve access to health care and to bring health services closer to the population.

64. The Report acknowledges that the health sector budget ranged between 9% and 10% of the overall state budget, which is still far from the 15% envisaged in the Abuja Declaration.

**Recommendations:** Mozambique must:

- Continue efforts to ensure that the budget allocated to the health sector is in line with the standards required by the 2001 Abuja Declaration (15% of the annual state budget).
- Continue efforts to bring the population closer to health centers and increase the level of use of health services, in accordance with international standards.
- Ensure free health care for all children under the age of 5, within the framework of universal health coverage.
- Invest more in the training of doctors, nurses, pharmacists and social workers.

### **Article 17: Right to education**

65. The Commission takes good note of the information provided by the Delegation, relating to Law No. 18/2018 of 28 December 2018, which stipulates in its Article 7(1) that compulsory schooling extends from the first to the ninth year, and in its Article 8 that basic education is free in public schools, without payment of fees.

66. The Commission welcomes the Government's efforts to combat sexual harassment and violence in schools and the teaching of human rights.

**Recommendations:** Mozambique must:

- Continue efforts to achieve free education at all levels in public schools.
- Strengthen respect for compulsory schooling for all children of both sexes between the ages of 6 and 16, including through the adoption of coercive measures against parents/guardians who do not comply with it.
- Ensure equal access to education for all, especially for girls in rural areas.
- Strengthen teacher training.

### **Article 22 - Right to economic, social and cultural development**

67. The Commission takes due note of the Government's efforts in favor of vulnerable people, particularly the Basic Social Allowances Programme, the Direct Social Assistance Programme, the Productive Social Action Programme and the Care in Social Units Programme.

**Recommendations:** Mozambique must:

- Continue efforts to combat social inequalities.
- Continue to work to reduce poverty, promote socio-economic development, and address regional disparities in development.

## Rights of the family and vulnerable groups

### Mandate of the Working Group on the Rights of Older Persons and Persons with Disabilities (Article 18 (4) of the Charter)

68. Article 95 of the Constitution of Mozambique provides that: "1. all citizens have the right to assistance in case of disability and old age; 2. the State promotes and encourages the creation of conditions for the realization of this right".

69. The Commission reiterates its compliments to the Government of Mozambique on the ratification, in May 2022, of the two Protocols to the African Charter on the Rights of Older Persons and Persons with Disabilities and takes note of the adoption of the law and the Action Plan on the promotion and protection of the rights of persons with disabilities.

70. The Delegation was kind enough to provide in its responses disaggregated statistics on persons with disabilities, as well as on the efforts undertaken to develop sign language.

71. The Commission welcomes the disaggregated statistics provided by the Delegation and the information on social policies for the elderly.

#### **Recommendations:** Mozambique must:

- Ensure that the implementation of the provisions of the law and the measures set out in the Action Plan can make a concrete contribution to the promotion and protection of the rights of persons with disabilities.
- Continue efforts to promote inclusion in the education system and employability of people with disabilities.
- Pursue efforts to promote accessibility for people with disabilities to public and private infrastructure and services.
- Strengthen the participation of older people and people with disabilities in all decision-making processes that affect them.
- Consider extending social protection in Mozambique to all older people (the system currently benefits 300,000 older people, i.e. 25% of the total, leaving 75% excluded).

## **Mandate of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa (Article 12 of the Charter on freedom of movement and the right to seek asylum)**

72. The Republic of Mozambique acceded to the United Nations Convention relating to the Status of Refugees on 16 December 1983. In 2015, the Commission recommended that the State Party consider lifting its reservations to certain provisions of the Convention.

73. The Commission takes note of information on the legal and institutional frameworks relating to refugees and asylum seekers, which incorporate the principle of non-refoulement.

74. However, the Delegation did not provide any information on the measures concerning the Joint Letter of Urgent Appeal on the allegations of arbitrary detention of 16 refugees and migrants in the Republic of Mozambique.

75. Furthermore, the Commission recalls that the periodic report under review does not contain a section "C" on the application of the provisions of the Kampala Convention. In addition, the Delegation did not provide any information regarding the questions raised on the situation of internally displaced persons in the country.

76. The Commission notes the legal framework and measures taken to combat discrimination against migrants.

### **Recommendations:** Mozambique shall:

- Consider the Commission's 2015 recommendation on the lifting of reservations to the United Nations Convention relating to the Status of Refugees.
- Include section "C" on the implementation of the provisions of the Kampala Convention in the next Periodic Report.
- Take concrete steps to respond to the challenges resulting from the displacement crisis in Cabo Delgado, in terms of protecting the displaced, particularly the most vulnerable, providing adequate humanitarian assistance and ensuring access to documents.
- Take concrete measures to ensure the protection of IDPs in the context of climate change.
- Ensure that the human rights dimension is considered in the application of the Migration Act (Law No. 023/2022 of 29 December 2022) and any national policy on migration.
- Further simplify the procedures for registering births and issuing identity documents to prevent new cases of statelessness.
- Consider adopting a law on the prevention and reduction of statelessness.

## Mandate of the Committee on the Protection of the Rights of Persons Living with HIV/AIDS

77. The Commission takes note of the information provided on the national awareness and screening campaigns carried out under the Accelerated HIV and AIDS Response Plan or the five-year plans to combat HIV/AIDS PEN V (2021-2025).

78. As in many countries in the region, the proportion of women aged 15-49 living with HIV/AIDS in Mozambique is higher than that of men. This is likely to increase their vulnerability.

79. In addition, the high prevalence of HIV/AIDS in prisons (24.6% for men and 32.8% for women) is a source of concern for the Commission.

### **Recommendations:** Mozambique must:

- Strengthen efforts to reach the targets of 95% (Knowledge of status), 95% (Patients on treatment), 95% (Viral load suppression) by 2025.
- Redouble efforts to reduce the high prevalence of HIV/AIDS in prisons and combat this scourge in the prison environment.
- Strengthen efforts to combat the stigmatization of people living with HIV/AIDS.
- Disseminate and implement the recommendations of the Commission's study on HIV, law and human rights in the African human rights system (2017)<sup>6</sup>.

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<sup>6</sup> <https://achpr.au.int/index.php/en/special-mechanisms-reports/hiv-law-human-rights-key-challenges-opportunities-rights-based-responses>

## Peoples' rights or collective rights

### Mandate of the Working Group on Extractive Industries, Environment and Human Rights in Africa (Articles 21 and 24)

80. The Commission takes good note of the general information provided by the Delegation of Mozambique and the written responses on the types of natural resources exploited or available and the legal guarantees of participation of local communities in the context of extractive industries activities.

81. In Mozambique, Laws 15/2022 and 16/2022, of December 19, 2022, stipulate that 10% of the revenues generated by taxes on mining and oil production must be channeled to the development of the provinces, districts and local communities where the respective projects are implemented, which is a positive development to highlight.

82. The Commission notes the measures taken by the Government of Mozambique to address the problem of the disappearance of indigenous forests.

#### **Recommendations: Mozambique must:**

- Observe the Commission Guidelines for the preparation of Periodic Reports regarding Articles 21 and 24 of the Charter.
- Strengthen existing measures and ensure that private and public companies operating in extractive industries comply with them.
- Provide specific guarantees that enable people, and women in particular, to live, access, develop and use land, vegetation, water sources and aquatic resources in territories affected by extractive activities.
- Integrate a human rights dimension into the development of all policies and legislation related to extractive activities.
- Continue efforts to update and modernize the legal framework governing the management and use of forest resources.
- Organize public awareness campaigns to encourage people to adopt more responsible behavior in terms of preserving the environment.

## **Mandate of the Working Group on the Rights of Indigenous Populations/Communities and Minorities (Article 19 on the rights of peoples)**

83. The Commission notes that this periodic report does not contain substantial information on issues related to the rights of indigenous peoples/communities and minorities.

84. In its written answers, the Delegation of Mozambique stated that there were no indigenous peoples in the country and drew attention to Article 35 of the Constitution, which enshrines equality and non-discrimination.

85. The delegation did not answer the other questions raised by the Commission on the issue of indigenous peoples and minorities.

### **Recommendations:** Mozambique must:

- Consolidate the measures taken to ensure the harmonious coexistence of the populations.
- Take measures to ensure the effective participation of all communities in decision-making bodies, if necessary, through the introduction of quotas.
- Take specific measures to protect ancestral lands, including by issuing a collective property title that can be defended in court.
- Strengthen and improve access to essential services such as education and health for all communities.

## Maputo Protocol

### Mandate of the Special Rapporteur on the Rights of Women in Africa (Article 18 (3) of the Charter)

#### Article 26 of the Maputo Protocol

86. Mozambique ratified the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol) on 5 December 2005. The Commission recalls that the Report under review does not include a section "B" on the implementation of this Protocol.

87. In 2009, the Commission adopted the "Guidelines for State Reporting under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa" with a view to facilitating regular reporting by States Parties.

**Recommendations:** The Commission reiterates its recommendations on the need to:

- Include in the next Periodic Report a detailed Section "B" on the implementation of the provisions of the Maputo Protocol.
- Observe the Guidelines for the Preparation of State Reports on the Maputo Protocol when preparing the next Report.
- Continue efforts to domesticate, disseminate and popularize the provisions of the Maputo Protocol.
- Disclose and apply the Commission's General Observations on the Maputo Protocol.

#### Equality, non-discrimination and participation (Articles 2, 8 and 9)

88. The delegation recognizes that there is a gap between the Family Code's provisions on non-discrimination, on the one hand, and their actual implementation on the ground, on the other.

89. The Commission also notes with satisfaction the information provided by the Delegation on the representation of women in the political sphere and in decision-making positions.

**Recommendations:** Mozambique must:

- Raise awareness on discrimination against women.
- Strengthen women's access to justice and legal assistance.
- Continue efforts to promote women's representation, particularly at the local level, for the positions of Mayor of Municipalities and Municipal Assemblies.
- Facilitate the participation of women in the electoral process that is being prepared (general elections scheduled for 9 October 2024).

### Protection of women from violence (Articles 3, 4 and 5)

90. The Commission notes that the Delegation has not provided any information on the measures taken to implement the Commission's Urgent Letter of Appeal of 29 July 2021<sup>7</sup>.

**Recommendations:** Mozambique must:

- Strengthen access to justice and assistance to the medical and psychological needs of survivors or victims of violence.
- Disseminate and implement the Commission Guidelines on combating sexual violence and its consequences in Africa.
- Adequately fund victim support units to investigate violations and provide support to victims of gender-based violence.
- Ensure that marital rape is considered a crime under national law.
- Raise awareness of harmful practices, including initiation rites that contribute to girls' absenteeism or dropping out of school, as well as early marriage and pregnancy.
- Ensure dissemination and use of the Joint General Comment of the Commission and the African Committee of Experts on the Rights and Welfare of the Child on Female Genital Mutilation - FGM<sup>8</sup>.

### Rights related to marriage (Articles 6 and 7)

91. Law No. 22/2019 of December 11, 2019 - Family Law repealing Law No. 10/2004 of August 25, 2004, sets the marriage age for girls and boys at 18 years. However, civil society organizations report that the rate of early marriages remains high in Mozambique.

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<sup>7</sup> Regarding the existence of a network of sex workers consisting of staff members from the Ndlavela women's prison (Maputo), involved in the sexual exploitation of imprisoned women.

<sup>8</sup> <https://achpr.au.int/fr/special-mechanisms-reports/observation-generale-conjointe-de-la-commission-africaine>

**Recommendations:** Mozambique must:

- Adopt a new approach to renew the National Strategy to Prevent and Combat Early Marriage (2016-2019).
- Continue awareness-raising efforts on the negative effects of early marriage.
- Ensure that judicial and non-judicial procedures that determine, in practice, the division of matrimonial property in the event of dissolution of marriage do not discriminate against women.
- Ensure dissemination and use of the Joint General Comment of the Commission and the African Committee of Experts on the Rights and Welfare of the Child on the eradication of child marriage<sup>9</sup>.

### Right to peace (Article 10)

92. The Delegation reported that Mozambique has a National Action Plan on Women, Peace and Security (2018-2022) in line with United Nations Security Council Resolution 1325.

**Recommendations:** Mozambique must:

- Adopt a new Action Plan, to renew the National Action Plan on Women, Peace and Security (2018-2022).
- Intensify concrete actions in the framework of the implementation of Article 10 (3) of the Maputo Protocol, with a view to reducing military expenditure in favor of social development in general and the advancement of women in particular.

### Economic, social and cultural rights (Articles 12-17)

93. The Commission has taken good note of the information provided by the Delegation on the proportion of girls at the various levels of the education system.

94. The Government of Mozambique has taken several measures to combat maternal and child mortality.

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<sup>9</sup> <https://achpr.au.int/fr/special-mechanisms-reports/observation-generale-conjointe-de-la-commission-africaine>

**Recommendations:** Mozambique must:

- Continue efforts to improve the entry of girls, who currently account for 49% of school enrolment.
- Continue efforts to protect pregnant students from dropping out of school and facilitate the return of young mothers to school.
- Continue to apply existing measures to reduce maternal and child mortality and HIV rates amongst women.

**Rights of specially protected groups of women (Articles 20 to 24)**

**Recommendations:** Mozambique must:

- Continue efforts to address the specific needs of women in prison, particularly pregnant women and breastfeeding mothers.
- Continue to pay special attention to women and girls with disabilities, in the context of addressing the specific needs of this category.

## Conclusion

95. Consideration of the Periodic Reports submitted by State Parties is an important part of the mandate of the African Commission on Human and Peoples' Rights.

96. This procedure is an effective instrument for assessing the application of the provisions of the Charter and other relevant instruments by States Parties.

97. The Commission reiterates its compliments to the Government of the Republic of Mozambique for its constructive participation in the review of the State Party Periodic Report (2015-2021) on the implementation of the provisions of the Charter.

98. Mozambique is now up to date with its obligations under Article 62 of the Charter.

99. Mozambique is strongly encouraged to continue its constructive engagement with the Commission regarding the submission of Periodic Reports.

100. The Commission expects these recommendations to be considered and implemented by Mozambique.

101. In accordance with the provisions of Resolution ACHPR/Res.517 (LXX), of March 9, 2022, on the methods for calculating the deadlines for the submission of Periodic Reports:

The Government of Mozambique should submit its next Report on the implementation of the African Charter and the Maputo Protocol in **August 2026**, i.e. two years from the date of notification of these Concluding Observations.

**Adopted at the 80<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, held virtually from 23<sup>rd</sup> July to 2<sup>nd</sup> August 2024.**

## Appendix

### List of Delegation of the Republic of Mozambique

- H.E. Mr. Filimão Joaquim Suaze, Deputy Minister of Justice, Constitutional and Religious Affairs (Head of Delegation);
- Dr. Angelo Manuel Paunde, National Director of Human Rights, Ministry of Justice, Constitutional and Religious Affairs;
- Mr. Domingo André Bulule, Advisor to the Minister; and:
- Fermino José Mujovo, Head of Department, Ministry of Justice, Constitutional and Religious Affairs.

**ACHPR, August 2024**