



Republic of Mozambique

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

**REPORT FROM THE GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE
SUBMITTED IN TERMS OF ARTICLE 62 OF THE
AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS**

(COMBINED REPORT 1999 – 2010)

African Commission on Human and Peoples' Rights

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Introduction

1. This Report from the Government of the Republic of Mozambique covers the period between 1999 and 2010. The Report complies with Article 62 of the African Charter on Human and Peoples' Rights (the Charter), which requires State Parties to submit periodic reports on legislative, judicial, administrative and other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the Charter.
2. This Report is divided into four parts.
3. Part I includes a brief introduction to the country's geography, historic and political background, demographics, and a number of cultural and religious issues. It deals with the Constitutional provisions on the protection of human rights, the political structure of sovereign bodies, administrative division, and the manner in which the State judicial system has been organized to address human rights violations within the framework of access to justice by the country's citizens.
4. Part I of the Report also deals with the legal framework for the protection and promotion of human rights in the country, in line with the main international juridical instruments which Mozambique has ratified and have been incorporated into the country's juridical system, cooperation with international bodies responsible for promoting and protecting human rights bodies, and the institutional and social framework for the protection and promotion of such rights and the mechanisms to bring them into fruition.
5. Part II of the Report deals with the effective implementation, within a Mozambique context, of the rights enshrined in the Charter. It should be pointed out that although the provisions of the Charter have not been subdivided into civic, political, economic, social and cultural rights, the Report has adhered to this order, while taking into account the guidelines for drafting periodic Reports. This has been the methodology used in drafting this Report so as to ensure a sound structuring of its contents.
6. Part III addresses the duties of State Parties. Part IV includes the conclusions and a brief assessment of the level of implementation and compliance with the provisions of the Charter.
7. This Report is a joint effort by various State and Civil Society stakeholders. Information was collected from State institutions responsible for areas such as justice, education, culture, and health, as well as from government bodies which jointly define policies and strategic plans aimed at an effective implementation of the rights enshrined in the Charter.

PART I

I. General Information

A. Geography

8. The Republic of Mozambique is situated on the southeastern coast of Africa. With a total area of 799.380 square kilometers, the country is divided into 11 provinces, namely Niassa, Cabo Delgado, Nampula, Zambézia, Tete, Manica, Sofala, Inhambane, Gaza, Maputo Province and Maputo City. The City of Maputo is the capital of Mozambique.
9. The country borders Tanzania to the north, South Africa (KwaZulu Natal Province) and Swaziland to the south, and Malawi, Zambia, Zimbabwe and South Africa (Mpumalanga Province) to the west. The entire coastal region, extending over 2 470 km, is bound by the Indian Ocean.

B. Brief History and Key Political Developments

10. A former Portuguese colony, Mozambique became independent on 25 June 1975, following a heroic and centuries-old resistance put up by its people with the help of various freedom-loving nations committed to the paramount values of mankind.
11. The first Constitution came into force on Independence Day and was known as the Constitution of the People's Republic of Mozambique, 1975. Although not very explicit, the 1975 Constitution included in 11 of its articles the principles and norms relating to universal human dignity values.
12. Demographically, the people of Mozambique are a diverse cultural, religious and social entity, stemming from relationships and trade exchanges with peoples and cultures from various parts of the world throughout the centuries. Nowadays, the people of Mozambique embody a single and indivisible national identity as a modern nation where the various religious, cultural and political values coexist and interact in a plural and tolerant setting.
13. As part of political and constitutional reforms, the new Constitution of the Republic of Mozambique was approved and enacted in 1990. The 1990 Constitution established a new political and economic order, coinciding with the introduction of a multiparty system and a market economy. This amounted to the setting up of a plural democracy and a qualitative leap in matters related to the promotion and protection of human rights.
14. It was within the framework of the enactment of the 1990 Constitution that foundations were laid down for political and diplomatic initiatives aimed at bringing to an end a 16-year harrowing war of destabilization opposing the legitimate government of the Front for the Liberation of Mozambique (Frelimo) and the rebel Mozambique National Resistance (Renamo) movement. This conflict came to an end only after the signing of the General Peace Accord in Rome in

1992.

15. Since the establishment of a multiparty democracy four presidential and parliamentary elections have been held. There were three local government elections as part of the decentralization program.
16. It is appropriate to underline the fact that the gains from the 1990 Constitution were further strengthened by the constitutional amendments of 2004. In addition to widening the scope of human rights, the amendments expanded the democratic exercise by providing for provincial assemblies. The first provincial elections were held simultaneously with the fourth general elections in October 2009.

C. Demographic Composition

17. Demographic data shows that Mozambique has a population of about 21 854 people.¹ Children represent about 50% of the country's total population.
18. Mozambique's population is predominantly rural. In cities, population density varies, the city of Maputo recording the highest with about 4 509 inhabitants per square kilometer. The Province of Niassa has the lowest population density with about 9 inhabitants per square kilometer. The country's average population density is 27 inhabitants per square kilometer.

D. Culture and Religion

19. In general, Mozambique's cultural identity reflects the customs, practices, beliefs and traditional values of each region and population group. To a large extent, in rural areas the population follows traditional beliefs, practices and cults.
20. Culture is an instrument for promoting patriotic awareness and national unity. Songs, dances, poetry, writing and paintings and other cultural manifestations have always played a relevant role in mobilizing Mozambicans in their quest for dignity and development of Mozambican culture.
21. Portuguese is the official language of Mozambique. There is a diversity of national languages consisting of about 40 native languages. The most widely spoken national languages are Emakhuwa, Xichangana, Elomwé, Cisena and Echuwabo.
22. As for religion, a considerable portion of the population follows Catholicism (23.8%) and other religious practices as a result of contacts with the outside world. Islam (17.8%) is also predominant, particularly in the northern region of the country, including the coastal area. It is worth mentioning that Article 12 of the Constitution provides for the principle of secularity and the separation between the State and denominations. Article 12 says denominations shall be free to organize themselves and to worship in compliance with State laws.

¹ Information available on the National Statistics Bureau webpage: www.ine.gov.mz

II. Constitutional framework

23. The Republic of Mozambique rests on the Constitution adopted by the Assembly of the Republic on 16 November 2004, and enacted on the same day by the president of the Republic. The Constitution came into force on the day after the results of the 2004 General Elections were validated in terms of Article 306 of the Constitution of the Republic of Mozambique (the Constitution or the CRM).
24. The current Constitution says Mozambique shall be a democratic State based on the rule of law and on “*pluralism of expression, democratic political organization, and respect for and guarantee of fundamental rights and freedoms of Man.*”²
25. In its preamble, the CRM mentions respect for human rights by stating in paragraph 4 that “*The present Constitution reaffirms, develops and deepens the fundamental principles of the Mozambican State, and enshrines the sovereign nature of a democratic State based on the rule of law based on pluralism of expression, partisan organisation and on respect for and the guarantee of fundamental rights of citizens.*”
26. Mozambique’s Constitution includes under Chapter III, which is the longest of the Constitution, a wide range of rights, duties, freedoms and fundamental guarantees. These are in line with international principles forming part of various human rights treaties to which Mozambique is a party, including the African Charter on Human and Peoples’ Rights. A large number of rights enshrined in the African Charter are provided under the Mozambique Constitution.
27. Moreover, it is worth mentioning that under Article 43 of the CRM,³ the constitutional and legal provisions relating to fundamental rights have been interpreted and incorporated into Mozambique’s juridical order, pursuant to the Universal Declaration of Human Rights and the African Charter on Human and Peoples’ Rights.⁴

III. Political, Administrative and Judicial Structure

28. A presidential system of government is in force in the Republic of Mozambique. Article 134 of the CRM provides for separate but interdependent powers⁵ whereby allegiance is owed to the Constitution and the law. The exercise of political power is guaranteed by five (5) sovereign bodies, namely: the President of the Republic; the Assembly of the Republic (Parliament); the Government; the Courts and the Constitutional Council.⁶
29. The separation of powers system is enshrined in the Constitution which establishes the mechanism under which powers relate to one another so as to ensure good governance in a context of transparency and impartiality.

² CRM, Article 3.

³ The African Union Charter shall be perceived as the African Charter on Human and Peoples’ Rights.

⁴ Although in this article the CRM the African Union Charter is perceived as the African Charter

⁵ Executive, legislative and judicial.

⁶ CRM, Article 133.

30. The (5) sovereignty bodies which command State power in Mozambique are responsible for protecting human rights within the framework of the respective spheres of competence. The president of the Republic shall be the nation's Supreme Magistrate, who, in this capacity, shall guarantee the constitutional order, and may ask the Constitutional Council for its views on the constitutional legality of bills referred to him by other sovereignty bodies (Assembly of the Republic and Government) in order to make a decision which could include the enactment, referral for harmonization or vetoing of such bills.
31. Article 150(2) of the CRM says the president-elect of the Republic shall take the following oath: *"I do swear on my honor that I shall faithfully carry out the task of President of the Republic of Mozambique, that I shall dedicate all my efforts to the defense, promotion and strengthening of national unity, human rights, democracy and the well-being of the Mozambican people, and do justice to all citizens."*
32. The Assembly of the Republic shall be the legislative body par excellence, its sole function being to legislate and oversee the actions of the executive branch on behalf of the people. The Parliament's operating structures include working committees, the one responsible for the indirect control of constitutional matters as a preventative measure being the Constitutional, Human Rights and Legal Affairs Committee. The duties of this Committee shall include the promotion and protection of human rights. Citizens shall petition the Committee if their fundamental rights have been violated. The government shall be responsible for formulating and implementing policies related to the various fields of the executive branch, which contribute to the well-being of citizens and to the promotion and protection of human rights. The Courts shall be responsible for administering justice within the context of a State based on the rule of law, upholding the interests of citizens in accordance with the law, exacting exemplary penalties on any violation of the law, and mediating disputes between private and/or public entities. The Constitutional Council shall be specifically responsible for directly overseeing the constitutionality of laws and norms adopted by other State institutions.
33. Mozambique shall be a secular State resting on the principle that the State and churches are separate. Nonetheless, the various religions are free to conduct their activities. The State shall recognize and enhance these denominations, and promote tolerance.
34. A civil law legal system in force in Mozambique. It is a legacy from Portuguese Law, which is influenced by Romano-Germanic Law. In addition to the Constitution, Mozambique's legal system is influenced by a number of Codes, namely: Civil Code, Commercial Code, Criminal Code, Code of Civil Procedure, Code of Criminal Procedure, Code of Labour Procedure and other relevant laws.
35. Mozambique is a multi-juridical State where formal conflict resolution mechanisms operate alongside customary mechanisms as long as these do not

contravene the values and principles enshrined in the CRM and the promotion and protection of human rights.

36. Capital punishment is strictly prohibited in terms of Article 40(2) of the CRM. Capital punishment was abolished as the 1990 Constitution came into force. The constitutional amendments of 2004 reiterated this major gain.
37. The CRM reflects the fundamental principles of the criminal justice administration system. The CRM guarantees the principles of legal compliance and of non-retroactivity of laws, except when new provisions are favorable to a defendant. No citizen may be tried more than once for the same crime. The CRM guarantees the right to have sentences reviewed and to compensation in case of unfair decisions. Sentences or measures designed to deprive individuals of freedom, either perpetually or for an unlimited or indefinite period of time are prohibited under the Constitution. Sentences are not transmissible. No sentence may automatically result in the loss of any fundamental rights, save the restrictions inherent to a sentence and the specific requirements applicable to the execution of a sentence. Habeas Corpus is guaranteed under the Constitution, and the Criminal Code recognizes the principles of *nulla poena sine culpa* and proportionality. Under no circumstances may a sentence exceed the provisions of the law for a specific crime.
38. The CRM guarantees freedom of association and the rights of citizens to freely form associations for purposes that they deem fit, provided that such associations do not entail the disruption of the established order or the well-being of other citizens.

IV. Ratification of International Instruments

39. The CRM provides for the domestication of international legal norms. Once ratified, regional and international instruments have the same legal standing as the infra-constitutional norms emanating from the Assembly of the Republic and Government.⁷ This implies that every international human rights instrument to which Mozambique is a State Party shall be applicable to the country as a whole once they have been published in the Republic Gazette [*Boletim da República*]. This implies, therefore, that international norms related to human rights may be directly invoked before the country's courts.
40. Thus, the Mozambique State has made an effort to ratify most regional and international instruments with a view to providing a broad basis for the fulfillment of universal human rights principles. These instruments include:

⁷ CRM, Article 18 (1) and (2)

UN and UA Juridical Instruments

N.º	Convention Name	Year of Ratification
1	African Charter on the Rights and Welfare of the Child	Resolution № 20/98 of the Ministers Council
2	UN Convention on the Rights of the Child; Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Resolution № 19/90 of the Ministers Council; Resolution № 42/2002 of 28 May, Resolution № 43/2002 of 28 May.
3	Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol	Resolution № 4/93 of the Assembly of the Republic of 2 June, and Resolution № 3/ 2008 of 30 May.
4	International Convention on the Elimination of All Forms of Racial Discrimination	Resolution № 4/83 of the Ministers Council
5	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Resolution № 8/91 of the Assembly of the Republic
6	International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	Resolutions № 5 and № 6 of the Assembly of the Republic
7	African Charter on Human and Peoples' Rights	Resolution № 10/88 of the Assembly of the Republic
8	Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa	Resolution № 28/2005 of the Assembly of the Republic
9	International Convention on the Rights of Persons with Disabilities and its Optional Protocol	Resolution № 29/2010 and Resolution № 30 of the Assembly of the Republic

V. Cooperation with International Human Rights Mechanisms

41. Mozambique has been cooperating with a number of international and regional human rights bodies. The Republic of Mozambique is a full member of the United Nations, the African Union, the Commonwealth, SADC (Southern Africa Development Community), CPLP (Community of Portuguese-Speaking Countries) and PALOP (African Countries using Portuguese as the Official Language). In their constitutive charters, these international organizations lay down principles and norms relating to respect, adherence and promotion of human rights to which Mozambique has subscribed. Mozambique has, therefore, undertaken to abide by these principles and norms at national and international levels.

42. As stated earlier, the basis for cooperation between the Republic of Mozambique and the regional and international human rights system entails, within the

constitutional framework, compliance with the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other regional and international human rights instruments to which the country is a State Party.

43. Accordingly, Mozambique has received UA and UN officials responsible for special mechanisms, including special rapporteurs, within the framework of the evaluation of the human rights situation in the various fields, namely: health, housing, extrajudicial executions, tortures and such like.
44. In the specific context of the African Union, the Republic of Mozambique has been attending the ordinary sessions of the African Commission on Human and Peoples' Rights where it presents reports on the human right situations in the country. Mozambique has also sought to comply with its obligation to submit periodic reports under Article 62 of the African Charter as in the present exercise.
45. Regarding visits by Independent Experts, it is worth mentioning the visit that ACHPR Vice-chairperson Mumba Malila made to Mozambique in February 2011. His report on the visit was submitted to the 49th Session of the African Commission in Banjul, The Gambia.

PART II

Level of Implementation of the Rights Enshrined in Articles 2-26 of the African Charter on Human and Peoples' Rights (the Charter)

46. The Charter includes a set of fundamental rights which are universally recognized. In this context, the Charter is an international juridical instrument which has been ratified by Member States. As parties to the Charter, Member States have undertaken to always adhere to the principles and norms enshrined in the African Charter and ensure that they are thoroughly and effectively applied.
47. As mentioned in the Introduction, this Part of the Report shall deal with the relevant provisions related to the implementation of the rights enshrined in the Charter, notably the level of implementation of the Charter between 1994 and 2010. It is worth stressing that in defining its policies, the Government of the Republic of Mozambique has treated the promotion and protection of human rights as a priority. Thus, the principles and norms enshrined in the various international juridical instruments that Mozambique has ratified have been incorporated into the country's laws and the various government programs, namely the Government's Five-year Program (PQG), the Poverty Reduction Action Plan (PARP), and the Integrated Strategic Plan for the Justice Administration System (PEI), among others.

A. The African Charter's governing principles

Articles 2 and 3: Principle of Universality and Equality

48. In terms of the Charter, the principle of universality and equality implies the recognition of the rights enshrined thereto, without discrimination based on race, colour, sex, language, religion, political opinion, and national or social origin.
49. In the Republic of Mozambique, this principle is clearly stated in Article 35 of the CRM, according to which: "All citizens shall be equal before the law. They shall enjoy the same rights, and shall be subject to the same duties regardless of color, race, sex, ethnic origin, place of birth, religion, educational level, social standing, the legal status of their parents, occupation or political persuasion."
50. Under Article 36, "men and women shall be equal before the law in every aspect of political, economic, social and cultural life".
51. In Mozambique, most of the government's mechanisms geared towards human development are guided by the principles of universality, equality and legality, among others. For instance, the government's five-year plans, which fit into this reporting period, state as a priority the political will to coordinate, ensure and encourage a gender-based approach to defining, planning and implementing sectoral development programs, and endeavoring to put into practice gender issues undertaken by the government. Similarly, PARP includes short- and medium-term government guidelines.

52. In Mozambique's context, the principle of equality becomes more obvious as we speak against the discrimination of women. A number of measures have been put in place to effectively bring about gender equality.
53. In 1999, the government established the Ministry for Women and Social Action. Gender Units have been established at ministerial level and in provincial directorates. Health, Women and Social Action Services have been established in districts to address relevant issues at local government level.
54. A Gender Policy and Implementation Strategy was approved in 2006 and aims at the integrated development of key action programs with a view to promoting gender equality, respect for human rights and strengthening the role of women in the country's development.
55. In 2009, the government approved a Gender Strategy for the Civil Service. It included the adoption of guidelines for promoting gender equality while managing human resources in the public sector.
56. Mozambique has been strengthening institutional mechanisms designed to promote women as a means of effectively guaranteeing equal rights opportunities for men and women.
57. In this context, we single out the establishment of the following mechanisms:
- The National Council for the Advancement of Women (CNAM) was established in 2004. It is responsible for intersectoral coordination, the main goal being to stimulate and monitor the implementation of government policies and programs on women and gender. The CNAM coordinates gender integration in the country, and comes under annual scrutiny from the Ministers Council. The CNAM includes government members and representatives of non-governmental organizations or associations, churches, trade unions and the private sector.
 - The Parliament Committee on Social, Gender and Environment Affairs, which is responsible for integrating environment protection and gender equality issues in the agenda of the Assembly of the Republic.
 - The Office of Women MPs which, among other things, aims at creating a link between women parliamentarians and women organizations so that gender issues and the campaign against poverty may be part of the Assembly of the Republic's deliberations.
 - The Women Ministers and Parliamentarians Network, a nonpartisan forum where women who are or have been cabinet members or parliamentarians may exchange views and map out strategies aimed at ensuring greater participation of women in decision-making and in the country's development.

- The Gender Coordination Group, a forum consisting of cooperation partners, representatives of civil society and government. The forum discusses issues related to gender.

58. Mozambique's laws on the promotion of women's rights include the following:

- **Law № 10/2004 – Family Law**, which includes measures aimed at eradicating stereotypes and discriminatory practices. This Law calls for equal treatment in family relationships. For instance, the law says the suitable marriage age for both girls and boys is 18. The law has done away with the designation *head of family*, which means that families may be represented by any of the spouses. Moreover, married women may register their children without the husband being present, which was not allowed under the old law. Another major change under the new law is the relevance of common law marriages and the patrimonial and paternity rights which they confer to women.
- **Law № 19/97 – Land Law**, which accords equal rights to men and women insofar as the use and development of land is concerned, including succession and title rights.
- **Law № 23/2007 – Labor Law**, which provides for equal rights for both sexes insofar as legal matters, remuneration and career paths are concerned. The Law protects working mothers, by increasing maternity leave from 60 to 90 days, and providing for a specific timetable to child feeding. The dismissal of women without just cause during pregnancy and one year after giving birth is prohibited. The Law provides for penalties in the event of sexual harassment either within or outside the workplace. For the first time, this Law introduced a one-day paternity leave every two years to be enjoyed on the day immediately after the birth of a child
- **Law № 29/2009 – Law on Domestic Violence Against Women**, which provides for the prevention of domestic violence and the punishment of offenders, as well the legal protection of and assistance to victims of domestic violence.
- **Law № 6/2008 – Law on the Prevention and Suppression Against Human Trafficking, Especially Women and Children**, which aims at addressing a world problem to which Mozambique is not immune and is particularly harmful to women and children.
- As part of efforts aimed at reviewing discriminatory laws, amendments have been made to the Commercial Code and the Registrar and Notary Code. The Draft Criminal Code Review Bill has been tabled before the Assembly of Republic. The Law of Descent and Distribution is under review and once approved it shall guarantee the right of women to inherit land.

59. In the quest to heighten the status of women, notably in the executive branch and in the public service, efforts have been made to gradually overcome gender imbalances, especially in government and in Parliament.

60. In Parliament, women currently represent 39.6% of the 250-strong Assembly of the Republic. In 1997, the ratio of women MPs was 28%.

61. The proportion of women in Mozambique's Parliament is one of the highest not only in southern Africa, but in the world at large. This is in line with the government's pledge to have 30% of women in policy decision-making bodies by 2005, in terms of the SADC Declaration on Gender (1997). In June 2010, the Government of Mozambique ratified the SADC Protocol on Gender and Development, which calls for gender parity.
62. At government level, it should be pointed out that during the period under appraisal, the prime minister's portfolio was once held by a woman. Currently, 8 out of 29 cabinet ministers, five out of 26 deputy ministers, 6 out of 25 permanent secretaries, and 3 out of 11 provincial governors are all women. At professional level, 29% of magistrates, 34% of judges, 30% of advocates, 51.3% of medical doctors, and 37% of teachers are women.
63. Although there has been a larger representation of women in decision-making bodies in general, female representation at local level decision-making bodies remains low.
64. The progress made towards gender equality is self-evident. Yet, this effort is still faced with a number of challenges:
- Strengthening measures aimed at eliminating all forms of discrimination based on sex, by promoting gender equality;
 - Ensuring the establishment and operation of Gender Units within government institutions;
 - Encouraging a greater participation of women in politics and access to influential positions in society;
 - Pursuing the dissemination and establishment of legal instruments on gender, including International Law standards;
 - Promoting women's access and training in areas traditionally designated for men.
65. In Mozambique, most of the government's mechanisms geared towards human development are guided by the principles of universality, equality and legality, among others. For instance, the government's five-year plans, which fit into this reporting period, state as a priority the political will to coordinate, ensure and encourage a gender-based approach to defining, planning and implementing sectoral development programs, and endeavoring to put into practice gender issues undertaken by the government. Similarly, PARP includes short- and medium-term government guidelines.

Article 7: Principle of Access to Justice

66. In terms of the Charter, this principle covers the right to appeal to courts, the guarantee of presumption of innocence while awaiting trial by a competent tribunal, the right of a person charged with an offense to be defended by counsel of his/her choice or by an *ex officio* counsel appointed free of charge in the event of

such person being destitute. The principle also means that no one may be condemned for an act which did not constitute a crime at the time it was committed, and that no penalty may be inflicted for an offence for which no provision was made at the time it was committed.

67. In terms of Article 2(3) of the CRM, “The State shall be subordinate to the Constitution and founded on the rule of law”. According to the same article, the exercise of rights, freedoms and guarantees may only be limited in instances specifically foreseen in the Constitution. These legal restrictions must be of a general nature and may not be applied retroactively.
68. Under Article 72(1) of the CRM, individual freedoms and guarantees may be temporarily limited or suspended in the event of an official declaration of a state of war, state of siege, or state of emergency.
69. In the Republic of Mozambique, the enforcement of criminal law rests on the *nullun crime sine lege* principle, which means that no penalty may be inflicted for an offence for which no provision was made at the time it was committed (Article 60 (1) of the CRM).
70. Furthermore, under Article 59 (1), (2) and (3) of the CRM the *nullun crime sine lege* principle means that “in the Republic of Mozambique everyone shall have the right to security; no one shall be arrested or brought to trial save in terms of the law; defendants shall enjoy the right to be presumed innocent until a final court or tribunal decision; no citizen shall be tried more than once for the same offense, nor shall he or she receive a sentence not foreseen in the law or which is heavier than the one provided in the law at the time the offense was committed”.
71. This principle also means that in the Republic of Mozambique “no one shall be sentenced for an act not classified as an offense at the time it was committed (Article 60 (1) of the CRM); the Criminal Law may be applied retroactively only in favor of the accused (Article 60 (2) of the CRM)”.
72. The aforementioned principle means that “sentences and measures restricting freedom either perpetually or over an unlimited or indefinite period shall be prohibited (Article 61 (1) of the CRM); sentences are personal and shall only be imposed on an offender (Article 61 (2) of the CRM); and no sentence shall imply loss of any civic, professional or political rights, nor shall any sentence deprive a convict of his/her fundamental rights, save the restrictions inherent to the actual sentencing and the specific requirements while a sentence is being served (Article 61 (3) of the CRM)”.
73. Regarding access to courts, Article 62 (1) of the CRM provides that “the State shall guarantee the access of citizens to the courts. It shall guarantee to persons charged with an offense the right to defense and the right to legal assistance and aid”.
74. With a view to improving efficacy and efficiency in the provision of justice, a Legal and Judicial Training Centre (CFJJ) has been established. This State

institution is subordinate to the Ministry of Justice. Since the start of its activities in 2000 and up to December 2010, the CFJJ gave 12 courses for admission to both the Courts and the Public Prosecution Office, training 300 magistrates and prosecutors.

75. In addition to admission and capacitation courses for the Courts and the Public Prosecution Office, the CFJJ gives other courses, namely for Curators and Notaries, experts with the Legal and Judicial Aid Institute (IPAJ), and for Legal Officers and Assistant Legal Officers.
76. Regarding magistrates, these have attended capacitation courses on various issues related to human rights. Between 2009 and 2010, magistrates attended capacitation courses related to the jurisdiction of minors. In 2010 there was a national conference on the rights of children for magistrates from all over the country as well as experts from various institutions. In 2011, the Juridical Training Centre introduced other courses related to human rights, namely: Succession Rights, Gender and Equal Rights, and Human Rights.
77. It is worth mentioning that a program has been launched for the construction of Justice Halls in some of the country's districts. As part of this concept, all branches of the judiciary shall come under the same umbrella, thereby facilitating access to justice by citizens. In the past, justice was viewed as inaccessible due to the long distance separating the various justice institutions.
78. There have been training and capacitation of Judges and Community Leaders, elected judges and other stakeholders in the informal justice system, the aim being to have a more effective informal/community justice system which could complement the role played by the formal justice sector.
79. Moreover, as a means of ensuring the provision of legal aid to needy Mozambicans, the State has created IPAJ.
80. Regarding the number of IPAJ-assisted cases, there was an increase of 32.97% in the number of cases assisted in 2010 (53,184) compared to 39,998 cases in 2009.
81. IPAJ provides satisfactory coverage of the country. IPAJ delegations have been established in every provincial capital. In 2009, IPAJ was active in 81 districts, including 16 on a mobile basis and 65 on a permanent basis, which is equivalent to 60.74% of the country's territory. In 2010, IPAJ covered 111 districts, **22 districts more** than in 2009. This represents a 24.72% increase.
82. Access to justice in Mozambique is based on the constitutional principle of juridical diversity as stipulated in Article 4 of the CRM: "*The State shall recognize the various conflict resolution systems and standards in place in Mozambican society, provided that they are not against the fundamental values and principles of the Constitution*". This means that in Mozambique citizens are free to seek recourse in either formal (Courts) or informal (customary justice) legal instances, as long as informal instances do not undermine the principles of a State based on the rule of law. This principle should be read in conjunction with the

provisions of Article 62 of the CRM which provides for the rights of citizens to free access to courts, legal aid and counsel.

83. Studies⁸ undertaken in Mozambique concluded that the majority of the population does not use the formal justice administration system, seeking instead recourse to informal systems as these are normally adapted to situations faced by most Mozambicans and are cheaper and simple to access.
84. The introduction of community courts was an attempt by the government to establish a connection between formal and informal justice administration systems. Community tribunals are still experiencing operating problems. It would be necessary to harmonize the procedure followed by Community Tribunals and provide them with human and material support.
85. As for constitutional guarantees, it is worth mentioning that in Mozambique laws can only be applied retroactively in favor of the accused and other legal entities as stipulated in Article 57 of the Constitution.
86. It is also worth mentioning that citizens are entitled to a writ of *habeas corpus* in the event of unlawful imprisonment or detention, as stated in Article 66 of the CRM. Article 67 (1) and (3) of the CRM says extradition may only take place by court decision. Extradition is not permissible for offenses punishable by either death or life imprisonment in the State seeking extradition. The protection of the right to life is enshrined in this provision of the Constitution.
87. Article 58 of the Constitution guarantees the right to demand compensation for damages arising from the violation of fundamental rights.
88. In terms of Article 58(2), the State shall be responsible for unlawful acts perpetrated by its agents while on duty. This means State agents shall not be above the law.
89. Article 69 of the Constitution provides for the possibility of citizens challenging actions which violate constitutional rights. In terms of Article 70, citizens shall be entitled to seek recourse in courts if their constitutional rights have been violated.

B. Civic and Political Rights

Articles 4 and 5: Right to Life, Prohibition of Torture, Slavery and Human Trafficking

90. In terms of the Charter, every individual shall have the right to respect to dignity, the recognition of his legal status, to life, and physical and moral integrity, and no one shall be arbitrarily deprived of this right. The Charter says all forms of

⁸ Sousa Santos et al, "Paisagens Jurídicas"

exploitation of man, particularly slavery, torture and trafficking shall be prohibited.

91. An individual's human dignity, that is, the right to live and to be treated with dignity is intrinsic to his very being. The recognition of an individual's dignity thus amounts to the recognition of his status and respect for his life.
92. In terms of Article 40 (1) of the CRM, "every citizen shall have the right to life and to physical and moral integrity, and shall not be subject to torture or to cruel and inhuman treatment".
93. The right to life is protected under Article 40 (2), where it is stated that there shall be no death penalty in Mozambique.
94. The right to life and physical integrity rests on the recognition and promotion of rights inherent to the fundamental freedoms of citizens, and of the need to define concrete actions aimed at preventing and eradicating all forms of violence.
95. Thus, cruel treatment, use of excessive of force, summary executions, whether judicial or extrajudicial, torture, slavery and human trafficking have not been institutionalized. That is, it is not government's policy to resort to such practices precisely because they represent serious violations of human rights.
96. Lately, there have been reports of use of excessive force, torture, extrajudicial executions and other human rights violations by law enforcement agents (policemen and prison wardens). There have also been cases of people who take the law unto their own hands, lynching alleged criminals.
97. As stated earlier, resorting to such practices, either by individuals or by law enforcement agents and prison agents is regarded as a crime because everyone shall be subject to the law and to strict respect of human rights, as provided in the Constitution.
98. Human rights violations by law enforcement agents shall result either in criminal or administrative action. Police agents and prison wardens are also subject to disciplinary action. Thus, crimes committed by law enforcement agents, including prison wardens, have been referred to judicial instances and dealt with in accordance with the law. If investigations prove to be conclusive, criminal, civil and disciplinary action is taken against the agents concerned. It should be pointed out that as a rule, the victims' families monitor cases of this nature.
99. Moreover, throughout their careers, law enforcement agents and prison wardens undergo training and receive specific instructions on how to respect human rights, the right to life and security while on duty. Law enforcement agents and prison wardens are aware of the use of force and of the constitutional and legal principles relating to what should be done adequately and proportionally as required.
100. Regarding prison staff, their training relates to: imprisonment and human rights, key national, regional and international mechanisms for the protection of rights of

individuals deprived of freedom, as well as behavioral issues such as managing conflict in interpersonal relationships.

101. The government has been making efforts with a view to overcoming torture in the country. It is worth mentioning that the government itself has publicly reported cases of torture in jails, giving details of measures taken and which led to the expulsion, and criminal and disciplinary action against agents found guilty.
102. In terms of the Charter, the ban on slavery includes the prohibition of slave trade, people in bondage, and forced or compulsory labor not provided for in law.
103. In terms of Article 84 of the CRM, work shall be a right and a duty of all citizens who shall have the right to free choice of occupation. Article 84(3) says forced labor shall be forbidden, with the exception of work performed in the context of criminal law.
104. In Mozambique, some of these practices have been linked to human trafficking where victims are mainly children, girls and adolescents from rural areas and who are lured into training and working in cities and in neighboring countries, often with the connivance of their relatives, ending up in new forms of slavery, including sex slavery.
105. As stated above, in 2008 the Mozambique Government approved Law № 6/2008 of 9 July, which penalizes human trafficking, especially of women and children.
106. The country's trafficking law is quite recent and is still being disseminated within society in general. In particular, training has been provided to stakeholders contemplated in Law № 6/2008, namely immigration and criminal investigation officers, border guards and customs officials. The law has been disseminated in provinces and districts as a means of encouraging people to expose trafficking. This has been a difficult task since people fear reprisals from outlaws.
107. Nonetheless, the law has been implemented. It has not been a widespread implementation, judging by the number of people tried and sentenced under Law № 6/2008 of 9 July by the Provincial Courts of Zambézia and Manica in 2010 for involvement in human trafficking.
108. In Zambézia, the local court tried and sentenced several people to 20 years in jail for involvement in the trafficking of a minor with the intent to extract his eyes and genitals. The defendants had been charged with trafficking, including transport and kidnapping (Article 13 of the Law on human trafficking), and inflicting grievous bodily harm which resulted in illness and inability to work (Article 360 of the Criminal Code). A similar lawsuit has been under way since then.
109. Four cases of human trafficking were heard in Manica under Article 10 of the Trafficking Law. The defendants, who were all sentenced to jail terms between 2 and 12 years, had been charged with attempted kidnapping and trading of minors into neighboring countries. Fortunately, the police thwarted the crimes.

110. Other alleged cases of trafficking have been referred to the country's courts. Families of victims as well as individuals have reported cases to the authorities.
111. In addition to the legislative measures aimed at reducing trafficking, the Mozambique Government has embarked on training and capacitation of the relevant authorities, namely policemen, judges, and border personnel. The government has also been working with communities with a view to identifying recruiters and reporting cases of trafficking. These measures have been introduced in partnership with a number of NGOs and civil society organizations.
112. It is worth mentioning that a Specialized Brigade to deal with human trafficking issues has been established. It operates under the National Directorate of the Criminal Investigation Police and liaises with the Offices and Departments catering for Women and Children who are Victims of Violence.
113. Thus, it has been demonstrated that the State has renewed efforts with a view to protecting the right to life, including the introduction of reforms within the justice sector (an example being the criminalization of human trafficking) and improved public security thanks to the allocation of human and material resources to the Republic of Mozambique Police.
114. It is worth mentioning that the government has set as one of its priorities the registration of births within the context of recognizing an individual's dignity and juridical personality.
115. Juridical personality entitles an individual to acquire rights and to be subject to obligations. In terms of Article 66 of the Civil Code, juridical personality begins at birth.
116. Birth entails a series of rights, starting at the onset with the right to life, a name and nationality and hence the right to be registered.
117. The CRM does not specifically provide for the recognition of an individual's personality. However, it regulates the right to a nationality, namely the acquisition, loss and reacquisition of nationality.
118. It is important to mention the registration of a child's birth as a means of acquiring identification, hence the registration of the commencement of personality.
119. Nonetheless, due to cultural and financial problems, a great many parents fail to register their children at birth. With a view to encouraging the civil registration of children, the government has extended to 120 days the period of grace for free civil registration.
120. It is important to add that static units have been established next to maternity homes for the registration of newborn children. Nonetheless, there have been shortcomings either because mothers give birth in places other than maternity homes or parents are absent.

121. In order to increase the number of registered children, in 2005 the government launched free registration campaigns. A total of 7.025.099 children and 657.209 adults were registered between 2005 and 31 December 2010. This represents a total of 7.682.308 registered citizens. The registration of adults has been necessitated by the fact that unregistered parents had sought to register their children. Thus, parents were first registered followed by their children.

122. During the registration campaigns, which took place mainly in rural communities, families were impressed on the need to give a name to their children prior to birth to allow their registration even when the parents are absent. Families were also advised on registration procedures to be followed in other circumstances, for instance by single mothers.

123. Progress has been made in this area, but challenges remain:

- Strengthening crime prevention and suppression;
- Strengthening of measures and mechanisms to prevent, monitor and curb the excessive use of force, torture and other action taken by law enforcement agents, which constitute an attempt on the physical integrity of citizens;
- Establishing strategies to reduce lynching;
- Promoting the continual training of law enforcement agents in human rights issues;
- Ratification of the Optional Protocol on the *Convention Against Torture*;
- Strengthening of mechanisms aimed at implementing the Law on the Prevention and Suppression Against Human Trafficking, Especially Women and Children;
- Establishing effective judicial and administrative mechanisms aimed at implementing laws and policies banning slavery, bondage and forced labor;
- Undertaking a study on the possibility of extending the period of grace for the civil registration of every individual at birth; and
- Undertaking a study on how to facilitate access to identity documents.

Article 6: The Right to Freedom and Personal Security

124. In terms of the Charter, every individual shall have the right to liberty and to the security of his person, and no one may be arbitrarily deprived of such right. That is, an individual may not be arbitrarily imprisoned or detained.

125. In the Republic of Mozambique, this principle is enshrined in Article 59 (1) of the CRM, in terms of which: “1. In the Republic of Mozambique everyone shall have the right to security, and no one shall be arrested and taken to Court except in terms of the Law. 2. Defendants shall enjoy the prerogative of presumption of innocence, pending a final court decision. 3. No citizen shall be tried more than once for the same crime, nor shall he be condemned to a sentence not provided in the law or a sentence which is heavier than the one provided in law at the time the offense was committed”.

126. Regarding protection and security, it is worth mentioning the role of the police and of the prison system insofar as the right to freedom and to security is concerned.
127. Law № 19/92 of 31 December established the Republic of Mozambique Police. Article 254 (1) of the Constitution says the role of the Police shall be to guarantee law and order, the security of individuals and property, tranquility, respect for a democratic State based on the rule of law and strict adherence to the fundamental rights and freedoms of citizens. While adhering to the principle of a multiparty State, Article 254 (2) says the Police shall be nonpartisan.
128. A number of measures have been put in place to modernize the Police force, including the adoption of Decree № 24/99 of 18 May, establishing the Police Science Academy (ACIPOL) and the development of the Strategic Plan of the Republic of Mozambique Police (PEPRM, 2003-2012). ACIPOL is geared towards intensive and professional training of police personnel by means of higher level courses of up to 3 and 4 years, and continual training for senior police officers. ACIPOL's curriculum includes courses on human rights.
129. As part of the implementation of one of the strategic goals of the PEPRM, in 2011 the Ministry of the Interior, which oversees the police force, embarked on an initiative aimed at building relationships with communities to involve them in the campaign against crime and in the promotion of social stability. As a result of this effort, Community Policing Councils have been established. By 2005, there were 1,125 Councils throughout the country.
130. Being a southern African country, the Republic of Mozambique Police have joined SAPCCO (Southern Africa Police Chiefs' Cooperation Organization). SAPCCO has developed a code of conduct, regulating adherence by its members to human rights standards. Mozambique is a signatory to the Code of Conduct. Moreover, when we refer to security guarantees, we must take the prison system into account. The prison system is one of the pillars of the administration of penal justice in Mozambique.
131. Having acknowledged the problems the prison system has been facing, in the 1990s Mozambique embark on a series of reforms with the backing of international partners, including the UNDP, Ireland, Portugal, and the EU, among others. This led to the unification of the police force in 2007.
132. Although the law governing the police sector is obsolete, going back to the colonial, i.e. 1936, progress has been made from a legal standpoint, following the coming into force of a new Constitution. Specifically:
- The approval of the Legality and Justice Protection Policy (Ministers Council Resolution № 16/2001 of 24 April), underlining correctional measures (respect for the dignity of the human person) to the detriment of punitive treatment based on confinement to police cells;
 - Approval of the Prison Policy and Implementation Strategy (Ministers Council Resolution № 65/2002 of 27 August), supplementing the provisions

of the Legality and Justice Protection Policy and defining more clearly the role of prisons; and

- Unification of the prison system, following the establishment of the National Prison Service (SNAPRI) under the umbrella of the Ministry of Justice in line with the implementation of the Prison Policy.

133. Despite these gains and the few improvements observed within certain units, the fact remains that conditions in prisons and detention centres remain a problem. This is reflected mainly in prison overcrowding, often three times more than the normal capacity of prison establishments. For instance, the Maputo Central Prison, Mozambique's main prison establishment, at times harbors 3 200 inmates, whereas it was built for 800 inmates. As a result of overcrowding, inmates are exposed to infectious-contagious diseases such as diarrhoea, cholera, tuberculosis and HIV/AIDS, and endemic diseases like malaria.

134. Prison establishments are also faced with infrastructural problems. Most of the prison infrastructure dates back to the colonial era. Given the country's poor economic situation, some of this infrastructure has not been renovated. The state of disrepair of some of the infrastructure has had a negative impact on the accommodation of the prison population. Nonetheless, despite all these shortcomings, new prisons have been built, mainly at district level. Central, provincial and regional prisons have been rehabilitated. Attention has also been given to open prisons and rehabilitation centres for youths who disregard the law.

135. Regarding assistance provided to prisoners, in general they are entitled to medical care, two to three daily meals and physical exercise. Prisoners have the right to practice their faith as long as it does not disrupt good order and discipline, and to be visited by relatives as well as access to information (newspapers, magazines, books and letters). Prisoners take part in recreational and sporting activities, and attend classes as well as technical and professional training courses. Prisoners have also benefitted from legal assistance provided by IPAJ experts.

136. There have been several cases of prisoners whose preventive detention periods have been largely exceeded,⁹ thereby contributing to jail overcrowding and to the worsening of related problems.

137. It is expected that sentences other than imprisonment, as included in the draft revision of the Criminal Code bill, which has been approved by the Ministers Council and tabled before the Assembly of the Republic, will go a long way towards reducing overcrowding in prison establishments.

138. Challenges involving the guarantee of the right to liberty and security:

- Encouraging people to report criminal offenses and to cooperate in police investigation and criminal procedure;

⁹ Preventive detention periods are governed by Article 308 of the Code of Criminal Procedure (CPP) and other legal provisions, namely Law № 3/97 otherwise known as the Drug Law. The periods range from 20 to 90 days (No. 1, 2 and 3 of Paragraph 1, and No. 1 and 2 of Paragraph 2 of Article 308 of the CPP).

- Enhancing the technical skills of *Community Policing Councils*;
- Reducing disregard for preventive detention periods;
- Introducing sentences other than imprisonment, for instance community service, so that one is deprived of liberty in the event of serious offenses.

Article 8: Freedom of conscience, occupation and religion

139. Freedom of conscience and the freedom to profess and practice a religion are principles enshrined in the Charter.

140. Mozambique is a secular State. Freedom of religion is a constitutional guarantee provided for in Articles 12 (3) and (4) and 54 of the Constitution:

“Religious bodies shall be free to organize themselves and to worship in compliance with with State laws (Article 12 (3) of the CRM); the State shall recognize and enhance the activities of religious bodies with a view to promoting a climate of understanding, tolerance and peace, and to strengthening national unity, spiritual and material well-being of citizens and socioeconomic development (Article 12 (4); citizens shall have the freedom to practice or not to practice a religion (Article 54 (1) of the CRM); no one shall be discriminated against, persecuted, prejudiced, deprived of rights or exempt of obligations because of his faith, belief or religious practice (Article 54 (2)); religious bodies shall have the right to pursue their goals, and own and acquire property to fulfill their goals ((Article 54 (3)); the protection of places of worship shall be guaranteed (Article 54 (4)); and the right of conscientious objection shall be guaranteed in terms of the Law (Article 54 (5))”.

141. Citizens shall, therefore, enjoy the freedom to practice or not to practice a religion, and no one shall be discriminated against, persecuted, prejudiced, deprived of his rights, or be exempt of his obligations because of his faith, belief or religious practice.

142. As for religious bodies, these shall enjoy the right to freely pursue their religious goals, own and acquire property to fulfill such goals, and the protection of every place of worship shall be guaranteed. Moreover, religious bodies shall abide by the State’s laws. The State shall recognize and develop the activities of religious bodies with a view to promoting a climate of understanding, tolerance and peace, and to strengthening national unity, spiritual and material well-being of citizens and socioeconomic development.

143. Religious bodies have ample freedom to operate in Mozambique within the framework of freedom of religion and the secular nature of the State. Statistics show that about 500 (five hundred) religious bodies have been officially registered in the country, working in perfect harmony.

144. Articles 130, 131 and 135 of the Criminal Code include a number of penalties for those who disrespect religion or places of worship. Penalties for offenses committed within the framework of activities carried out by political parties are regulated by the Electoral Law, Law № 7/2004 of 17 June and Law № 7/91 of 23

January. Law № 7/91 provides for the formation of political parties and partisan activity.

145. Freedom of conscience is not restricted to the activities of religious bodies. It includes the right of citizens to freely establish and join political parties as provided for in Article 53 of the CRM.
146. The CRM and the Law on Political Parties prohibits at the outset religious bodies and political parties from organizing activities or forming blocks with a view to sponsoring religious propaganda likely to undermine public order and security and to endanger national unity.
147. A major challenge in this area has been the introduction of studies into the diversity and history of religions in the public school curricula, underlining the recognition of cultural differences, the promotion of tolerance, and the assertion of Mozambique as a secular State.
148. Regarding the freedom to choose an occupation, Article 84 (2) of the CRM states that “every citizen shall have the right to free choice of profession”. In Mozambique’s context, this right has evolved peacefully in that individuals are not obliged to follow a profession to which they object. Individuals are free to opt for courses which will enable them to follow a specific career.

Article 9: Freedom of Expression

149. In terms of the Charter, freedom of expression entails the right to information and to express one’s opinion within the law.
150. In terms of Article 48 of the CRM: “1. Every citizen shall have the right to freedom of expression, a free press and the right to information. 2. Freedom of expression entails the right to disseminate one’s ideas by all legal means. The right to information shall not be restricted by censorship. 3. Freedom of the press includes the freedom of journalistic expression and creativity, access to sources of information, protection of professional independence and confidentiality, and the right to publish newspapers and other publications. 4. In public media outlets the right to freedom of expression and exchange of ideas shall be guaranteed. 5. The State shall guarantee the impartiality of public sector media outlets as well as the independence of journalists in relation to government, management and other political authorities. 6. The exercise of the rights and freedoms referred to in Article 48 shall be governed by law, on the basis of respect for the Constitution and the dignity of the human person.”
151. In Mozambique, the right to freedom of expression and information entails freedom of journalistic expression and creativity, access to sources of information, protection of professional independence and confidentiality, and the right to establish newspapers and other publications as well as other news media outlets. In line with this principle, a News Media Higher Council has been established in Mozambique. This is a disciplinary and consultative body which ensures access to information, freedom of the press as well as the right to air time and the right of

reply. Practical and recent examples of how press freedom has evolved in Mozambique: A total of 43 licenses were granted to private news media outlets in the first semester of 2009 alone; the drafting of the Rules for Media Attaches, permitting the smooth flow of information from government to the media.

152. A basic legal framework governing the exercise of freedom of opinion, expression and information is in place in Mozambique. A legal reviewing process has been under way within the press and radio broadcasting sector.
153. As a gain for this sector, it is important to mention that over the past few years, Mozambique's news media has expanded and diversified extensively.
154. Community radio services have been an important alternative to news dissemination for people living in rural areas. The scope of these services is yet limited.
155. We are faced with a number of challenges in this area, including:
 - Expanding the news media to the vast majority of Mozambicans;
 - Improving access to information by various sources by adopting the Law on access to sources of information;
 - Widening and facilitating freedom of expression and press freedom as well as access to information by promoting the use of native languages in radio and TV programs, and setting quotas for local content; and
 - Expanding community radio services.

Articles 10 and 11: Freedom of Association and Assembly

156. In terms of the Charter, freedom of association and of assembly means that every individual shall have the right to assemble freely with others, and to establish and join unions for the protection of their rights.
157. The right to freedom of association and freedom of assembly has been enshrined in Articles 51 and 52 of the CRM: "Every citizen shall have the right to freedom of assembly and demonstration in terms of the Law (Article 51 of the CRM); every citizen shall enjoy the right to freedom of association (Article 52 (1) of the CRM); social organizations and associations shall, in accordance with the law (Article 52 (2)), have the right to pursue their goals, set up institutions designed to achieve their specific objectives and to own property in order to carry out their activities; armed associations, either military or paramilitary, and associations which promote violence, racism, xenophobia or which pursue goals contravening the law (Article 52 (3)) shall be prohibited".
158. Civil Society Organizations (CSOs) have been established in the country and their activities conform to freedom of assembly rights in force in the country. The Mozambique Government and CSOs have been working closely together towards human development. This is demonstrated by the reports CSOs have drafted for human rights mechanisms, detailing the level of implementation of human rights

programs agreed upon between the government and the mechanisms. CSOs have been consulted during meetings open to individuals and organizations.

159. The framework within which CSOs operate has been under review with a view to facilitating the registration and operation of organizations still faced with bureaucratic constraints.
160. Disruption of public order and any demonstrations which disregard the law, crimes against the security of the State (Article 175 of the Criminal Code) and preparations thereof (Article 172 of the Criminal Code) are punishable by law. Offenses subject to penalty in terms of Articles 177, 178, 179 and 180 of the Criminal Code include Illegal Meetings, Armed Meetings, Sedition and Rioting
161. Article 71 (9) of the Criminal Code specifically refers to security measures applicable to anyone sentenced for being part of a criminal association (Article 263 of the Criminal Code), a gang or mob, unauthorized associations (Article 282 of the Criminal Code), and Secret Associations (Article 283 of the Criminal Code).
162. Laws № 8/91 and № 9/91 of 18 July deal with the requirements for meeting, assembly or demonstration. Law № 8/91, also known as the Assembly Law, lays down the requirements for establishing national NGOs.
163. Associations shall be recognized either by the government or a provincial representative, and their statutes published in the Republic Gazette [*Boletim da República*].

Article 12: The Right to Freedom of Movement

164. In terms of the Charter, the right to freedom of movement literally means that every individual shall have the right to freedom of movement and residence of his choice within the borders of a State. It also means that a non-national legally admitted in a territory of a State party may only be expelled from it by virtue of a decision taken in accordance with the law.
165. In the Republic of Mozambique, this right is enshrined in Article 55 of the CRM, which says: “1. Every citizen shall have the right to fix his residence in any part of the country. 2. Every citizen shall be free to move within and outside the country, except those legally deprived of such right”.
166. It is important to mention in this Report the right of asylum that Mozambique accords to citizens of other countries and the constraints that it entails, bearing in mind that each State must comply with international obligations within the framework of shared responsibilities in providing assistance and protection to citizens seeking asylum.
167. Article 20 (2) of the Constitution says: “(...) 2. *The Republic of Mozambique shall grant asylum to foreigners who are persecuted because of their struggle for national liberation, democracy, peace and human rights*”. The relevant regional and international instruments ratified by the Republic of Mozambique provide a

legal basis for recognizing the need to grant asylum and refugee status to foreign nationals and stateless persons.

168. The Republic of Mozambique ratified the 31 January 1967 Protocol Relating to the Status of Refugees and the OAU Convention of 10 September 1969 relating to specific aspects of refugee problems in Africa. Having been incorporated into the country's juridical framework, these instruments form the legal basis for recognizing the grant of asylum and refugee status to foreign nationals and stateless persons by the State of Mozambique.
169. Given its strategic geographic position, and its sound coexistence and receptivity policy, Mozambique has been a privileged country for the wave of refugees from conflict zones in the Horn of Africa, the Great Lakes Region and Zimbabwe. The government has been cooperating with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, providing assistance to refugees and asylum seekers. Mozambique harbors about 8,737 refugees and exiles from Burundi, Democratic Republic of Congo, Rwanda, Ethiopia and Somalia. The refugees live in the Marratane Refugee Centre, Nampula. Once asylum and refugee status is granted, the government supplies food and medicine to exiles and refugees, while guaranteeing to their children the right to education and employment.
170. Mozambique is faced with major challenges in this area:
- Improving sheltering conditions and the screening of refugees and asylum seekers;
 - Creating conditions for sheltering Mozambique nationals repatriated from neighboring countries;
 - Expanding protection of refugees.

Article 13: The Right to Participate in Public Affairs

171. In terms of the Charter, citizens shall have the right to participate in the public affairs of their country, either directly or through freely chosen representatives; citizens shall have the right of equal access to the public service of their country, and to access public property and services in equality of all persons before the law.
172. This is a right and duty of every citizen, enshrined in Articles 53 and 73 of the CRM, whereby the State promotes and supports the active participation of citizens in the development and strengthening of the economy: "1. Every citizen shall be free to establish or belong to political parties. 2. Membership of political parties shall be voluntary and stems from the right of citizens to espouse the same political ideals" (Article 53) and "1. Political parties shall reflect political pluralism, contribute towards the shaping and expression of the will of the people, and operate as a fundamental instrument for the democratic participation of citizens in the running of the country. 2. Political parties shall be structured and operate under democratic principles".

173. In line with the implementation of the Government's Five-Year Program, 2000 – 2004, Mozambique adopted a broad strategy aimed at stimulating a new drive in governance and national democratization, otherwise known as Public Sector Reform. This strategy, which lasted until 2011, was officially launched on 25 June 2001 to revamp the operation of public institutions. The strategy was designed for implementation in two stages, the first from 2001 to 2005 and the second from 2005 to 2011.
174. The Public Sector Reform strategy aims at enhancing, modernizing and simplifying Public Services. These used to be characterized by excessive centralization, bureaucracy, sluggish administrative procedure, inability to effectively manage public policies and human resources, shortcomings in human resources training, ineffective budget planning and financial administration, lack of sound mechanisms to ensure transparency and accountability, and corruption.
175. The Central Government is directly responsible for drawing up political guidelines on the coordination, management and implementation of the Public Sector Reform program and in particular the curbing of corruption. This is done through CIRES (Interministerial Commission for Public Sector Reform), which was established by Presidential Decree Nº 5/2000 of 28 March and is chaired by the Prime Minister.
176. CIRES is assisted by UTRES (Public Sector Reform Technical Unit), which was established by Ministers Council Decree Nº 6/2000 of 4 April. UTRES is a standing technical body which executes the Public Sector Reform program, providing assistance to CIRES's operations and ensuring integrated planning, coordination, liaising, and monitoring of reform programs and projects.
177. As a challenge, the government shall continue to make efforts to implement the public sector reform program so as to provide better services and work closely with citizens.

C. Economic, Social and Cultural Rights

Article 14: Right to Property

178. The Charter guarantees the right to property, and that it may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.
179. In the Republic of Mozambique, this right is recognized in Article 82 of the CRM: *"1. The State shall recognize and guarantee the right to property; 2. Expropriation shall only take place in case of need, for utility purposes or public interest as stipulated by law, and shall entail the right to fair compensation"*.
180. The right to property is governed by Articles 1302, 1303, 1304 and 1305 of the Civil Code and covers corporeal property, movable and immovable assets; applies to intellectual property rights (including copyrights and industrial property), property belonging to the State and any other artificial persons if no specific law

on property rights applies; and the right to property entitling the owner to full and exclusive utilization, fruition and rights of disposal over his/her property within the parameters of the law.

181. From the above provisions of the law one may conclude that this is a very complex right. One would include the right to use and develop land, the right to housing, access to potable water and basic sanitation, and intellectual property which includes industrial property and copyrights (artistic and literary rights).

182. There is a specific aspect insofar as the right to use and develop land is concerned. A citizen applying for this right cannot be regarded as the owner because land belongs to the State and cannot be alienated. A citizen enjoys usufructuary rights over State land. Full and exclusive property rights are, however, conferred to a citizen who holds property by usufruct, and who can use it as he wishes within the parameters of the law.

183. In terms of Article 109 of the CRM, *“1. Land belongs to the State; 2. Land may not be sold, alienated, or mortgaged, or otherwise pledged; 3. As a universal means for the creation of wealth and social well-being, the use and development of land shall be the right of all the Mozambican people.*

184. Regarding the use and development of land, Article 110 says: *“1. The State shall determine the conditions for using and developing land. 2. The right to use and develop land shall be granted to physical or artificial persons, taking into account its social or economic purpose.”*

185. Access to land is regulated by Land Law № 19/97 of 1 October, and the respective rules of procedure (Decree № 66/98 of 8 December). This law is innovative in that it includes features of customary and traditional law, thereby protecting peasant farmers who work the land, while conferring broad guarantees and real possibilities to all those who would be interested in developing land commercially.

186. Current issues related to land use and development include access to land by women (traditionally, women are barred from accessing land) and disputes arising from the sale of land within certain communities. Land belongs to the State. The State has intervened to put an end to the sale of land, while promoting women’s rights. Specifically, the State promotes the right of every citizen, regardless of gender, to use and develop land, the aim being to do away with a traditional practice whereby women are barred from having access to land, especially by right of succession.

187. Housing is a right enshrined in Article 91 of the CRM: *“Every citizen shall have the right to adequate housing. It is the duty of the State, in accordance with the country’s economic development, to create appropriate institutional conditions, standards and infrastructure”.*

188. There have been several attempts to fulfill the right to housing, but it failed to materialize. The National Housing and Town Planning Directorate, which operates

under the Ministry of Public Works, drafted a housing strategy in 2001, and a housing policy in 2005. This was followed by a national conference organized by the Ministry of Public Works and UN-HABITAT in mid-2006 with a view to gathering input on a housing policy.

189. In 1995, the State set up the Housing Promotion Fund (FFH) with a view to promoting social housing for families in the low-income bracket, qualified technicians and newly married couples. Fifty percent of the Fund's revenue derives from the alienation of nationalized houses – a process completed in 2005 – , the payment of loans, and the sale of houses built by the State. Funds derived from sales have been deposited into commercial banks, earning interest. In its first 9 years, FFH has delivered 6,000 plots with basic service connections, assisted in the construction of about 1,000 houses and in the completion or rehabilitation of 1,000 others under the first Leasing Program.
190. According to data from the National Statistics Bureau (INE) for 1997, only 27.5% of the urban population lives in adequate or modern housing conditions. Over the past decades, Mozambique has recorded satisfactory economic development indicators. There has been a substantial reduction in absolute poverty indices at national level: from 69% in (1997) to 54% in (2003). The perception, among the people, of “economic prosperity” stimulated the exodus from rural areas, which made the situation in cities unbearable.
191. Regarding access to water and sanitation, Article 98 of the CRM says: “1. *Natural resources existing in the soil and subsoil, interior waters, in the sea, in the continental shelf and in the exclusive economic zone shall be the property of the State;* 2. *The public domain of the State includes: a) the maritime zone;....e) water resources potential...;* 3. *The Law shall regulate public domain property as well as its administration and conservation, while distinguishing the various categories of public domain: State domain, town council domain, and community domain. The Law upholds the principle of imprescriptibility and restraint of mortgage”.*
192. In terms of Article 98 of the CRM, water belongs to the State and being a public domain resource access to water shall be regulated by the National Water Policy in terms of Resolution № 7/95 of 8 August, approved by the Ministers Council. The National Water Policy lays down the guidelines for expanding the water-supply reticulation system. Operating instruments have been put in place to implement this policy, namely the Rural Water and Sanitation Strategic Plan, the National Water Resources Management Strategy and the Urban Water and Sanitation Strategic Plan.
193. In Mozambique, access to water is still defective. Each person gets less than the recommended daily average of 20 liters. Nonetheless, it is worth mentioning that remarkable progress has been made since 1975 whereby access to water points has increased from 5% to 57%.
194. According to government projections, 70% of the country's population should have access to drinking water by 2015, compared to the current 57% of the

population. By 2015, the Mozambique Government intends to expand basic sanitation from 45% to 60% of the population.

195. As part of the target set for sustainable access to potable water in rural areas by 2015, more than 2,212 water points have either been built or rehabilitated, serving about 1,081,500 people. Under new management, four water supply systems now serve 714,532 people. There are 19,913 water points throughout the country. Of these, 16,993 are operational serving 7,990,239 people. This corresponds to a 54% coverage ratio. In urban areas, 35,144 households have been connected to the water supply grid. A total of 171 water fountains have either been built or rehabilitated in suburban areas, serving 2,982,554 people. This represents a 60% coverage ratio. It has been estimated that by 2010, about 70% of the urban population will have access to drinking water.
196. Regarding basic sanitation, the target for coverage in rural areas in 2015 has been set at 50%. About 16,406 improved latrines have been built, covering 40% of these areas.
197. With regard to urban areas, the target for sanitation coverage in 2015 has been set at 80%. The sanitation system is currently being rehabilitated, including sewage systems, septic tanks, and storm water drainage systems. A total of 6,793 improved latrines have been built in suburban areas, followed by hygiene and sanitation awareness campaigns. The coverage ratio for urban sanitation currently stands at 50.2%. Municipalities have played a key role in this regard.
198. Article 94 of the CRM enshrines the right to intellectual property as follows:
“1. Every citizen shall have the right to freedom of scientific, technical, literary and artistic creativity. 2. The State shall protect rights related to intellectual property, including copyrights, and shall promote the practice and dissemination of arts and letters”.
187. Although enshrined in the Constitution, the effective implementation of intellectual property rights remains a major challenge to the government. The debate about these rights, in particular the protection of copyrights, is relatively new. Important progress has been made in this area, including the strengthening of the legal framework. Specifically, the Copyright and Ancillary Rights Law (Law № 4/2001 of 27 February) was to a certain extent outdated and has since been revised and the respective rules of procedure adopted. The rights of those who produce literary, artistic or scientific work are now protected.
188. Another remarkable achievement in the protection of artistic and literary creativity was the establishment of the Mozambique Authors Association (SOMAS). In addition to protecting authors’ rights, SOMAS is the venue through which its members promote their work and discuss matters of common interest.
189. Property rights involves major challenges, including:

- Drafting of clear-cut procedure in the event of expropriation of property for utility purposes. Laws designed to protect citizens from public entities vested with powers to expropriate property for public purposes are still defective.
- The Courts must act swiftly when dealing with disputes involving the right to property;
- The need to guarantee the right of women to property, notably those living in a common law marriage; the registration of family property, effectively guaranteeing transmission and succession rights;
- Debating issues related to intellectual property rights (industrial, artistic and literary property). This could help to promote technological progress and creativity;
- Finalizing discussions and approving the *Draft Succession and Inheritance Bill* which should to a large extent contribute towards the strengthening of women's access to land and to property in general.

Article 15: The Right to Work

190. The Charter guarantees that every citizen shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work.

191. In the Republic of Mozambique this right is enshrined in Article 84 of the Constitution, which says: "*1. Work shall constitute a right and duty of every citizen. 2. Every citizen shall have the right to choose an occupation freely; 3. Compulsory labor shall be prohibited, except when performed within the framework of penal laws.*"

192. Article 112 of the CRM says: "*1. Labor is the driving force of development and shall be dignified and protected; 2. The State vindicates a fair distribution of wages; 3. The State believes equal work shall entail an equal salary.*"

193. Regarding the rights of workers, Article 85 of the CRM says: "*1. Every worker shall have the right to a just remuneration, rest, holiday and pension in terms of the law; 2. Workers shall have the right to protection, safety and hygiene at the workplace; 3. Workers may only be dismissed in accordance with the law.*"

194. Thus, work is not only a right (which ought to be guaranteed by the State and private entities), but also the duty of every citizen for the benefit of development. By banning compulsory labor, the CRM recognizes the ban on forced labor and slavery in Mozambique.

195. In Mozambique, the right and the duty to work is regulated by specific laws, namely Labor Law № 263/2007 of 01 August, which deals with labor issues in general and the private sector in particular; and the General Civil Servants and State Agents Statutes for civil servants.

196. It should be pointed out that Mozambique is signatory to a number of ILO conventions, namely the Forced Labor Convention ratified in 2003; the Abolition of Forced Labor Convention ratified in 1977; the Free Trade Unions and the

Protection of Union Rights Convention ratified in 1996; the Equal Remuneration Convention ratified in 1977; the Discrimination (Employment and Occupation) Convention ratified in 1977; the Minimum Age for Employment Convention ratified in 2003; and the Worst Forms of Child Labor Convention ratified in 2003.

197. The Mozambique Government has underlined the importance of strengthening the country's labor culture, and of providing a better professional training program for youths and adults. In 2006, the government approved the *Employment and Professional Training Strategy (2006-2015)*. The government's Five-Year Program (2010-2014) singles out the importance of priority action in the areas of: 1. Employment and Professional Training; 2. Social Security; 3. Professional Relations; 3. Hygiene and Safety at the Workplace; 4. Collective Bargaining; 5. Labor Planning and Statistics.
198. Current problems related to the right to work include the lack of job employment opportunities in areas of high population density, notably cities. The youth represents the group age most affected by the lack of job employment opportunities. This has impacted negatively on social well-being and human development since a great many people resort to crime to meet their needs.
199. There have been a growing number of labor cases brought before the country's courts, involving violations of workers' rights and duties. The Ministry of Labor has received a great number of workers' applications for mediation in disciplinary matters initiated by employers.
200. Article 86 (1) of the CRM enshrines the principle of freedom of professional and trade union association as follows: "1. Workers shall be free to organize professional associations or trade unions."
201. Constitutional Law and the Law stipulate that every worker shall be free to join a trade union of his choice (exercising the Right of Association), without prior consent or excessive requirements. It is worth mentioning that the Labor Law, which guarantees the right of association, does not provide for civil servants in general nor to members of the judiciary, the police force, firemen, prison wardens and members of the Armed Forces. Discrimination against trade unions is prohibited by law.
202. According to the Mozambique Workers Organization (OTM), in 2006, a total of 500,000 workers were employed in the formal sector, and 98,000 of them were affiliated to a trade union.
203. Labor laws provide for the right of workers to organize themselves and to negotiate employment contracts and other labor benefits collectively. Thus, trade unions have been responsible for negotiating wage increases under a mechanism known as Social Bargaining, involving the government, employers and trade unions.

204. The right to strike is a constitutional guarantee enshrined in Article 87 of the CRM: “1. *Workers shall have the right to strike and strike action shall be regulated by law;* 2. *The law shall restrict the right to strike by essential services in the interest of society and national security;* 3. *Lock-out is prohibited.*”
205. Workers have enjoyed this right, except members of the Police force, civil servants, military personnel and workers employed in essential services, namely firemen, sanitation and health care services. The reasons are self-evident. This right is regulated by Law № 6/91 of 9 January, which lays down the principles which should be observed during the exercise of the right to strike, as well as by the Labor Law which states that workers must give 48 hours’ notice to the authorities of their intention to strike.
206. In addition to the Labor Law, the EGFAE and other ancillary laws, which have been disseminated so as to publicize and enhance the fundamental rights of workers, the State has taken an important step by setting up labor mediation and arbitration centres, thereby creating alternative means of resolving labor disputes.
207. Regarding HIV-positive workers or who are suffering from AIDS, Law № 5/2002 of 5 February protects HIV-positive workers from discrimination at the workplace as well as those seeking employment.
208. As part of the right to work, it is worth mentioning the country’s legal standing on forced labor and child labor. Both are prohibited by law.
209. The CRM specifically states in Article 121(4) that “*Work involving school-aged children or children under any age category shall be prohibited.*”
210. Despite this ban, there have been reports of violations of the law in the informal sector of the economy (commercial and housework) and in rural areas (commercial farming). The authorities, however, have taken appropriate action against offenders. The factors contributing to the violation of the law include chronic poverty, lack of family support, unemployed or old-aged parents, abrupt changes and unstable economic environment, lack of educational opportunities, gender inequality and the impact of HIV/AIDS.
211. Although the law prohibits it, child labor remains a matter of concern, reflecting the poverty situation in the country. The minimum age for unrestricted employment is 18. There are, however, a few exceptions, allowing children between the ages of 15 and 18 to be employed, as long as the employer provides for their education and professional training, and ensures that working conditions are not harmful to the physical and moral development of children. Regarding children between the ages of 12 and 15, they may be employed under special conditions, jointly authorized by the Ministries of Labor, Health and Education. By law, children under the age of 18 may work for a maximum of 38 hours per week and a maximum of 7 hours a day. They may not perform duties which require additional physical effort. Children should undergo medical tests before they start working. By law, children must be paid at least minimum wages or not less than two thirds of an adult’s wages, whichever is the highest.

212. The major challenges in the labor sector are as follows:

- Ensuring access to work and appropriate labor conditions, thereby allowing for a reduction in unemployment among the youth;
- Banning and eradicating all forms of labor exploitation by strengthening labor conditions and treatment of workers as well as programs for the eradication of child labor;
- Guaranteeing and protecting the rights to strike; and
- Setting up labor courts.

Article 16: The Right to Health

213. The Charter says every individual shall have the right to enjoy the best attainable state of physical and mental health, adding that State parties shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

214. In the Republic of Mozambique this right is enshrined in Article 89 CRM: “1. *Every citizen shall have the right to medical and health care in terms of the law, and the duty to promote and protect public health*”. In dealing with the fulfillment of this right, including those responsible for ensuring such right, Article 116 of the CRM says: “1. *Medical and health care shall be provided through a national health system serving the Mozambican people as a whole; 2. Medical and health care shall be provided in terms of the law, thereby fulfilling the goals set by the national health system; 3. The State shall promote the role of citizens and institutions in raising community health levels; 4. The State shall promote the expansion and equal access of every individual to the enjoyment of this right.*”

215. Regarding the organization of the national health system, Article 116 of the CRM states: “1. *Medical and health care shall be provided through a national health system serving the Mozambican people as a whole; 2. Medical and health care shall be provided in terms of the law, thereby fulfilling the goals set out in the national health system; 3. The State shall promote the role of citizens and institutions in the raising of community health levels; 4. The State shall promote the expansion of medical and health care, and equal access of every individual to the enjoyment of this right; 5. The State shall promote, regulate and control the production, marketing and use of chemical, biological, pharmaceutical products and other means of treating and diagnosing diseases; 6. Medical and health care provided by communities and entities shall be in accordance with the law and subject to State control*”.

216. The fulfillment of the right to health, that is, access, assistance and all that it entails is indispensable to the realization of all other human rights.

217. Aware of the importance of this principle, the government views the health sector as a priority area in the country’s development. In strategic terms, the Government’s Five-Year Plan has adopted priority measures related to the

following challenges: women and children, nutrition, malaria, tuberculosis, sexually transmitted infections (HIV/AIDS), epidemiology monitoring, neglected diseases, non-communicable diseases, environmental health and sanitation, health promotion and role of communities, mental health, oral health, sports medicine, human resources, hospital care, medication and medical articles, health infrastructure, health information system, traditional medicine, gender approach to health programs, and health research.

218. Mozambique's general health situation shows that on the one hand poverty is the cause of major health problems. On the other hand, health influences the socioeconomic development of the country given the high cost involved with the fight and prevention of diseases like malaria. A total of 5 million cases of malaria were reported in 2008, but by 2010 there had been a steady decline with about 3 million cases reported. These figures confirm a steady decline in the number of malaria cases over the past few years thanks to the introduction of effective preventive programs. The major investment made in this area is showing returns in human capital. There has been a decline in the number of sick people and deaths, hence less suffering and absenteeism while productivity in schools and in services has increased. One of the biggest health constraints is lack of knowledge about the prevention of diseases and good nutrition. The high illiteracy rate is detrimental to the dissemination of information. The high maternal mortality rate (358/100,000) partly reflects these constraints.
219. This scenario underlines the need to adhere to health strategies and policies, the main goal being to strengthen the means of solving of key health problems in the country by developing programs aimed at preventing and fighting diseases. It will also serve to ensure the strengthening of human, technical and financial resources as a means of providing information, counseling, professional training and access to complementary diagnosis and therapy services.
220. There are health indicators illustrative of major developments at national level, namely in rural areas and in provinces where infrastructure destroyed during the war of destabilization had to be rehabilitated. Since the post-war period there have been major accomplishments, namely: (i) resettlement of people, (ii) massive rehabilitation of health units and (iii) training and redeployment of health personnel. The expansion of the health system is an ongoing project which gives priority to the rehabilitation and reopening of health units, including the introduction of specialized medical and surgical services. As a whole, there has been a marked improvement in health indicators as stipulated in the Government's Five-Year Plan, namely outpatient consultations, child immunization and infant mortality. Leprosy, once a public health problem, was eradicated in 2008.
221. Regarding the expansion of the health network, it is worth mentioning the rehabilitation and reopening of some 500 units, especially in the primary health care sector, over the past 5 years (up to 2010). These units include central hospitals.

222. Two Training Centres and a Health Science Institute were established during the same period to meet the demand for health professionals.
223. As for the right to health it is worth mentioning the HIV/AIDS problem and the measures which Mozambique has taken to reduce rates of infection.
224. Mozambique has a population of about 20 million people and an HIV prevalence rate of **11.5% (13.1% for women and 9.2% for men)**. By October 2010, women represented 68% of those undergoing counseling and voluntary testing, and 64% of people on antiretrovirals. The expansion of health services and of the HIV control program, including the provision of antiretrovirals in rural areas depend upon the country's economic and human resources.
225. Ever since the first case was diagnosed in 1984, the country has put in place a number of preventive and treatment measures (counseling and testing, and expanded treatment). According to INSIDA 2009, this has led to a reduction in the prevalence rate from 16% in 2007 to 11.5% in 2009.
226. Multisectoral coordination of every activity related to fighting the HIV/AIDS pandemic in Mozambique falls under the jurisdiction of the National Campaign Against HIV/AIDS. A new National Strategic Plan Against HIV/AIDS for 2010-2014 (PEN III 2010-1014) has been launched. There has been a positive evaluation of the 2005-2009 Plan (PEN II, 2005-2009).
227. As for the implementation of PEN II, four of the seven target indicators under QAD-Health have been met. The targets were related to Vertical Transmission Prevention (PTV) and Friendly Adolescent and Youth Services (SAAJ). The results achieved followed the expansion of Health Care and Testing Services to needy areas. Adherence to these services was reportedly high. PTV services were introduced in **744 health units**.
228. The Mozambique Government's commitment to fighting HIV/AIDS is reflected at the highest level. The Head of State has undertaken an active campaign, reaching the country's districts. Sectoral programs have been implemented. The government's concern about the pandemic is reflected in the Presidential Initiative Against HIV/AIDS, which has been replicated at provincial and district levels.
229. In view of the results achieved with the 2007 Epidemiologic Surveillance Campaign, which revealed a growing infection rate, in November 2008 the Mozambique Government approved an Accelerated Prevention Strategy. A Multisectoral Reference Group, including senior officials from the relevant agencies, has been put in place to monitor this strategy.
230. The government has also approved an Orphan and Vulnerable Children Action Plan and has been establishing Orphan and Vulnerable Children Units at central and provincial levels. These units are primarily responsible for coordinating the activities of the various stakeholders and outlining priorities so as to ensure the access of children to basic social services. The campaign against HIV/AIDS is

partly funded by the State through the national budget. It is important to mention that the drafting of legislation to regulate Law № 5/2002 of 5 February is at an advanced stage. **How far has the drafting process gone?**

231. Despite the significant changes brought about by these developments, a number of challenges remain, notably:

- Expanding the health system;
- Enhancing the provision of public health services;
- Promoting access to health care among vulnerable sectors of the population, namely women, children and elderly people;
- Ensuring free medical and pharmaceutical assistance to children in the 0-7 age group and to elderly people from the age of 60;
- Ensuring adequate medical and pharmaceutical assistance to HIV-positive people and those suffering from AIDS;
- Promoting social integration and full citizenship rights to HIV-positive people and those suffering from AIDS;
- Strengthening cooperation between government and civil society organizations within the framework of HIV/AIDS-related activities.

Article 17: The Right to Education

232. The Charter provides not only for the right to education, but also the right to take part in the cultural life of the community, noting that the promotion and protection of morals and traditional values recognised by the community shall be the duty of the State.

233. In the Republic of Mozambique, this right is enshrined in the Constitution which states that: *“1. In the Republic of Mozambique education shall be a right and duty of every citizen; 2. The State shall promote the expansion of education and professional training while ensuring that every one shall enjoy equal access to this right”*.

234. This right is also included in Article 113 of the CRM: *“1. The Republic of Mozambique shall promote an education strategy aimed at national unity, the eradication of illiteracy, the mastering of science and technology, and the moral and civic education of citizens; 2. The State shall organize and develop education through a national education system; 3. Public education shall not be organized along religious lines; 4. Education provided by communities and other private entities shall be in accordance with the law and subject to State control; 5. The State shall not plan educational and cultural programs in accordance with any political, ideological or religious guidelines or principles”*.

235. The government’s education policy underlines the fulfillment of the Millennium goals whereby access to quality primary education should be provided to every child by 2015.

236. One of the measures introduced to attain this goal has been the introduction of free primary education. This has led to a substantial increase in access to education by children from all social layers, free from discrimination based on gender. Quality has been ensured by the timely and adequate provision of text books and other learning materials, the development of an integrated teacher training and capacity-building program, and the hiring of more teachers, especially female teachers with a psycho-pedagogical background.
237. The introduction of bilingual education has been another source of innovation in the education sector. Introduced in 24 schools on an experimental basis in 2003 and 2004, the bilingual education system includes the use of local languages in school curricula. From 2003/2004 to 2010, under pressure from various communities, the Provincial Directorates of Education and Culture authorized the establishment of new schools, thereby increasing to 244 the number of schools providing this type of education. The National Institute for Education Development (INED), in coordination with the National Directorate for General Education (DINEG), has provided methodological training in bilingual education to teachers as a means of ensuring that bilingual classes operate effectively. In addition to training, DINEG and INDE supervised and provided assistance to bilingual education teachers.
238. The schools which introduced bilingual education by 2010 are all part of a pilot project. The gradual expansion of the project began during the 2011 school year with the establishment of 113 (one hundred and thirteen) schools in every province of the country. Conditions have been put in place for the introduction of bilingual education in these schools, including trained teachers and free text books for primary school pupils.
239. As part of the initiative to provide equal access to the education subsystem, the Ministry of Education has ensured the integration of disabled children, youths and adults into special schools and training institutions.
240. A total of 560 students, including 212 women, have been enrolled at 6 special schools in the city of Maputo and in the provinces of Sofala and Zambézia. These schools have achieved a 45% – 65% pass rate, providing a varied, but individualized education, employing teachers who aim at an all-inclusive approach to learning.
241. The Ministry of Education has developed an all-inclusive policy for children and youths requiring special education at all levels:
- Preliminary figures for primary education show that about 24,200 children requiring special education have been enrolled at all-inclusive regular schools in every province of the country;
 - **High Schools** – A total of 211 pupils, including 33 with visual impairments of whom 5 are women have been enrolled in Sofala Province. A pass rate of 73% has been recorded. A total of 178 students with hearing impairments,

including 70 women, have also been enrolled, a 45% – 60% pass rate having been recorded;

- **Professional and Technical Training** – As part of the Pupils with Special Educational Needs (NEE) Integration Project, 29 ETP (Professional and Technical Training) teachers have been capacitated in strategies and skills relating to the integration of pupils with special educational requirements. A monitoring plan has been designed and follow-up visits have been undertaken at various schools.
- **Higher Education** – About 10 students with visual impairments, including 4 women, have been enrolled at various establishments.

242. As a means of addressing challenges posed by all-inclusive education, the Ministry of Education has developed capacity-building program for experts, school principals, teachers, parents and guardians, and colleagues of pupils with special education requirements to equip them with the necessary skills. Strategies and suitable education materials have been developed for use in all-inclusive class rooms. The program covered the following:

- 3,250 teachers, including 1,110 women from regular and special learning institutions;
- 57 teachers from ETP establishments;
- 44 teachers from special schools;
- 340 school headmasters;
- 38 experts from different grades (central and provincial levels);
- 57 sign language teachers, including 32 women;
- 40 Braille teachers, including 15 women;
- 120 coordinators from Zones of Pedagogical Influence;
- 46 headmasters and teachers from CREI;
- Special attention has been given to disabled students in accordance with the Literacy and Adult Education program; and
- Sensitizing parents, guardians and communities about the importance of education and vocational and professional training of children, youths and adults with special educational requirements, and the need for a joint effort.

243. Three All-Inclusive Education Resource Centres catering for primary, secondary education and professional training, Diagnosis and Guidance Services, teacher training and production of learning materials have been built in three provinces in different regions of the country. Equipment is currently being installed at these centres.

244. The intake of students with special educational needs into primary and secondary schools has increased every year. This has led to far-reaching changes in teacher training curricula with a view to developing all-inclusive education for students with special educational needs. Eight visually impaired students have been enrolled for a Future Teacher training course at Lamego's ADPP (People to People Development Aid).

245. Sexual abuse and violence in schools has been a problem faced by the country's education sector. Sexual abuse means any form of sexual contact without consent either among colleagues, and between teachers and students. This is an issue involving families and communities.
246. There has been a considerable decline in the number of teachers who become involved with students. Only 3 incidents have been reported, leading to the expulsion of the teachers concerned. Nonetheless, schools continue to report pregnancy cases due to sexual abuse involving students, relatives of female adolescents, community members and individuals working for various institutions. According to information obtained from the various provinces, a total of 100 cases were reported to the Ministry of Education in 2010.
247. When teachers become involved in this type of situation, the following measures shall apply:
- Parents and relatives of students who have been victims of sexual abuse are encouraged to report incidents;
 - Disciplinary action against teachers who have become sexually involved with students in terms of Decree № 39/2003;
 - Compliance with Article 11 of the General Civil Servant and State Agent Statutes, whereby teachers "*should not overstep their professional relationship with students for whatever purpose*".
248. When sexual abuse involves students, teachers report the matter to the school authorities and in conjunction with the school Board they should seek a solution to the problem. Depending on the seriousness of any given case, the school should find the best way of retaining students, thereby preventing them from dropping out of school and being discriminated against by other students. The school shall resort to legal institutions which campaign against violence and for the prevention of sexual abuse as a means of sensitizing other students and encouraging class rooms to report those who are involved in such practices. There have been, however, difficulties in punishing sexual violence and sexual harassment, especially when it involves female students and members of the community and/or people working for sectors other than education.
249. Aware that sexual abuses hinder the learning process, in particular among female students, thereby leading to an increase in the number of students who fail or leave school, the Ministry of Education has since 2003 been making efforts to reduce the number of incidents in schools.
250. Parliament has approved Order № 39/2003 (protecting students, notably girls), the Code of Code for school professionals (responsibilities, rights and duties), the **integration of** Articles 46, 47, 48 and 52 of the Basic Education Rules, among other documents. Other measures include a zero tolerance policy on sexual harassment/abuse and a number of activities aimed at reducing the number of students who drop out of school, namely:

- Addressing sexual violence and abuse in radio programs such as “World with no Secrets”, "Basic Package" and "BIZ Generation" (catch phrases for staff members, students, parents and community leaders);
- Capacitation of pedagogic experts, teachers and members of gender units on how to prevent sexual violence and abuse with the help of UNICEF;
- Strengthening of school clubs as a means of sensitizing children and youths about the prevention of sexual harassment and violence in schools;
- Dissemination of the law on the protection against sexual violence and abuse with the help of district experts and teachers working through community radios;
- Exhibition of the work, “This body is mine” in schools in the city of Maputo and in Nampula in 2011 with the help of ARES (Regaining Hope Association), highlighting the campaign against sexual harassment of adolescents while promoting self-esteem and in-built defense mechanisms among children, especially girls;
- Expanding Psychological Counseling Support Services to schools of the city of Maputo and province of Maputo as a means of dealing with trauma stemming from sexual violence, harassment and abuse among students, teachers and community members.

251. Despite the important gains in this area, there are still various challenges:

- Eliminating uneven access to education in rural areas in comparison with cities;
- Reducing the high levels of students who drop out of school, notably girls;
- Improving the quality of education by enhancing the working conditions of teachers;
- Shortening the home-school distance;
- Adopting strategies to encourage school enrolment and ensure school attendance as a means of preventing girls from getting married at an early stage, sexual harassment of female students by teachers and school staff;
- Promoting access of girls to education, literacy classes, and vocational, scientific and technological training;

252. Regarding the right to take part in cultural activities, Article 94 of the CRM says: *“1. Every citizen shall have the right to freedom of scientific, technical and artistic creativity. 2. The State shall protect rights related to intellectual property, including copyrights, and shall promote the practice and dissemination of arts and letters.”*

253. Mozambique is a cultural mosaic, hosting a diversity of cultures. Since culture is a form of people expressing their identity, it is important to protect and promote these cultural trends for the benefit of the social development of the country and for strengthening national unity, provided that such rights do not infringe on other human rights.

254. In this regard, the government has supported the organization of festivals and events enhancing and promoting Mozambican culture, thereby allowing

Mozambicans to have a better view of their country and its cultural values. Similarly, the government has taken measures to preserve and develop historic sites and monuments. Recently, the government approved a *Monuments Policy* (Ministers Council Resolution № 12/2010) and a *Museums Policy* (Ministers Council Resolution № 11/2010 of 2 June).

255. A number of bills were approved between 2000 and 2004 with a view to developing the cultural industry. Decree № 25/2002 of 22 October transformed the Cultural Heritage Archives (ARPAC) into a Social and Cultural Research Institute. A major challenge is how to guarantee the protection and promotion of the Mozambique's various forms of cultural expression.

Article 18: The Right to Establish a Family

256. In terms of the Charter, the family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its existence, ensure the elimination of all forms of discrimination against women and the protection of the rights of the woman and the child as stipulated in international declarations and conventions. The aged and the disabled shall also have the right to special protection measures in keeping with their physical or moral needs.

257. Article 119 of the CRM deals specifically with the right to establish a family: “ 1. Family is the fundamental link and the basis of every society; 2. In terms of the law, the State shall acknowledge and protect marriage as an institution that guarantees the continuation of family goals; 3. The State shall, within the framework of the development of social relations based on respect of the human person, enshrine the principle according to which marriage shall rest on mutual consent; 4. The law shall lay down the means of enhancing traditional and religious marriages, define marriage registration requirements and set out the consequences of marriage.”

258. This right is implicit in the chapter dealing with the acquisition of citizenship by marriage as provided in Article 26 of the CRM: “1. A foreigner shall acquire Mozambique citizenship if he or she has been married to a Mozambican for at least five years.”

259. Family Law № 10/2004 was approved in 2004 with a view to harmonizing the family law in force in the country with the Constitution and other international legal instruments, thereby eliminating any provisions permitting inequalities in family relations.

260. Article 1 of the Family Law says “family shall be the basis of society and the factor contributing to the socialization of the human person. The right of everyone to be part of a family and to establish a family shall be recognized”.

261. In terms of Article 7 of the CRM “marriage shall be a voluntary and singular union of one man and one woman for the purpose of establishing a family and living in perfect communion”. At the onset, it can be discerned that only monogamous marriages between people of different sexes shall be recognized.

262. As a general rule, only persons who are 18 or older may get married in terms of Article 30 (1) (a) of the Family Law. As an exception to the rule, people who are 16 or older may get married in the public interest and in the interest of the family, provided there is mutual consent from parents and legal representatives.

263. An important gain associated with the approval of the Family Law in Mozambique has been the recognition of religious and traditional marriages, putting them on an equal footing with civil law marriages as long as the legal requirements provided under Article 16 are complied with. Another important gain stemming from the approval of this law has been the recognition of common law marriages. Common law marriages entail maternity and paternity as well as property rights. In terms of Article 13 of the Family Law, the community property regime shall apply upon divorce.

264. The biggest challenge in this field is the sensitization of individuals, particularly women, about the laws protecting their rights so as to gradually do away with negative cultural practices which disregard their rights.

a) Rights of Women

265. In terms of Article 36 of the CRM, *“Men and women shall be equal before the law in every facet of political, economic, social and cultural life”*.

266. Article 122 of the CRM says: *“1. The State shall promote, support and enhance the development of women, and encourage their increasing role in society, in every facet of the country’s political, economic, social and cultural life. 2. The State shall recognize and enhance the participation of women in the independence struggle, defense of sovereignty and democracy.”*

267. As mentioned when addressing the principle of equality, Mozambique has taken a number of important initiatives aimed at achieving gender equality in the midst of continued discrimination against women. There have been institutional developments, and the drafting and enactment of bills, policies and action plans, among others.

268. It is worth mentioning that efforts have been made to do away with domestic violence against women.

269. As stated earlier, in 2009 the government approved a bill against domestic violence. In partnership with civil society organizations, the government launched a vigorous public campaign to promote the bill through the media and by means of workshops. The aim was to educate and sensitize the public about domestic violence, especially gender-based violence, and the provisions of the law.

270. In addition to the Law on Domestic Violence Against Women, the key gains which have been achieved in the prevention and curbing of gender-based violence include the adoption of the National Plan for the Prevention and

Curbing of Violence Against Women (2008-2012) and the draft proposal on an Integrated Assistance Mechanism for Victims of Gender-based Violence. The draft proposal is currently being discussed.

271. Specific activities have been undertaken in various sectors, including the police, health and social welfare as part of the campaign for the prevention and curbing of domestic violence. These activities include:

- Sensitization, training and workshops within communities and at schools;
- Establishment of Offices and Departments to assist women and children who are victims of domestic violence. In partnership with civil society organizations, these Offices and Departments have been counseling and addressing the needs of victims of domestic violence. The following Offices have been established: 2 at provincial headquarters of the Police, 21 model Offices, 45 Offices at various Police stations; 119 at district Police headquarters; 41 at Police Units; and 8 at Police Units seconded to hospitals, bringing to 236 the total number of Offices and Departments Assisting Victims of Domestic Violence throughout the country.
- Drafting of manuals for health professionals and students enrolled at Health Science Institutes and Training Centres, focusing on an Integrated Assistance to Victims of Violence mechanism. The manuals are designed to assist professional staff on how to effectively assist victims of domestic violence at health services.
- Drafting of information, education and communication materials for professionals and members of the public as part of an awareness campaign about the various forms of domestic violence against women and children, and the existing mechanisms for the treatment of victims at no cost, and reporting cases of domestic violence.
- Drafting of a module on Violence and Human Rights to be included in the curricula of training institutions;
- Assistance to associations of women in charge of households in every province of the country with a view to developing income-generating activities. These associations have been provided with farm inputs, sewing and tailoring vocational training, and project management;
- Counseling sessions for victims of domestic violence;
- Nationwide workshops designed to disseminate national and international human rights instruments related to women;
- Seminars on the National Plan for Preventing and Curbing Violence against Women;
- Training of journalists, police agents and community leaders in matters related to Violence and Human Rights;
- Establishment of an intersectoral group involving clinical, psychological and forensic services with a view to coordinating the organization of services, establishing an assistance program and a data collection system, and creating conditions for victims of domestic violence to benefit from an integrated assistance program. Some of the assistance regulations have been published in the government official gazette, B.R. № 2, II Series, 12 January 2011;

272. Through the Ministry of Justice, the government has been training the judiciary, local administration and civil society organizations in overseeing the implementation of legislation related to women's rights. This exercise has been conducted by the Legal and Judicial Training Centre (CFJJ) and includes the design of paralegal training packages.

273. The CFJJ has undertaken research into women's rights, access to land and water, and land disputes with a view to assisting in the training and preparation of draft amendment bills. Another important initiative undertaken by organizations such as the Woman Forum in partnership with the CFJJ has been the mapping of legal assistance services for women, including instructions on how to access such services.

274. Despite the progress that has been made with the adoption of new laws, a number of instruments like the Family Law and the Law on Domestic Violence Against Women are yet to be regulated so as to ensure their effective implementation. Moreover, there are still laws in force in the country, which include discriminatory provisions like the Succession and Inheritance Law. The reviewing process has been under way since 2002. Meanwhile, widows remain vulnerable to expropriation after the death of their husbands.

275. In addition to the legal reviewing process and capacity-building within the judiciary, the government has renewed efforts with a view to guaranteeing access to justice by citizens through the provision of legal assistance services. Partnerships have been established with civil society organizations, the aim being to provide legal assistance to women so that they may effectively exercise their rights in key areas, including access to and control over land and natural resources, sexual and reproductive health, HIV/AIDS and gender-based violence. The Legal and Judicial Aid Institute (IPAJ) plays a key role in providing legal assistance to the needy.

276. It is obvious that institutional and legislative developments have resulted in significant gains in the struggle against discrimination. Yet, there remains challenges ahead:

- Construction of Interest Pilot Centres for training of women.
- Establishment of emergency shelters (refuge centres) for women and children who are victims of violence.
- Review of instruments designed to collect data on victims of violence who are assisted at health units.
- Contributing to improved assistance to every victim of gender-based violence, while adopting measures to curb domestic violence.

b) Children's Rights

277. Mozambique has an estimated population of 20 million people, of whom 9 million are between 0-18 years. This means that children represent about half of the country's population. That is to say that about half of the country's

population is an area of concern, given the fact that children constitute a vulnerable segment of the population.

278. The promotion of children's rights has been one of the constitutional priorities since Mozambique's independence. Article 47 of the Constitution deals with the rights of children: *"1. Children shall have the right to protection and care as required for their well-being; 2. Children may express their views freely on matters of concern to them on the basis of their age and maturity; 3. Every action relating to children, whether by public entities or private institutions shall primarily take the best interests of children into account"*.
279. The right to establish and protect a family, the role of the State is **XXXXXXXXXXXXXX** the right to childhood. In terms of Article 121 of the CRM, *" 1. All children shall have the right to be protected by their families, society and the State with the view to be fully developed; 2. Children, in particular orphans, disabled children and abandoned infants shall be protected by their families, society and the State against all forms of discrimination, ill-treatment and abuse of power by families and other institutions; 3. Children shall not be discriminated against because of their birth, nor shall they be subject to ill-treatment; 4. Child labor either within the ages for compulsory school attendance or any other age shall be prohibited."*
280. It is worth mentioning a number of laws complementing the rights referred to above, namely the Juridical Status of Children, the Civil Code, the Criminal Code, the Family Law, among others. By 1979, Mozambique had already approved the Declaration of the Rights of Mozambican Children. This declaration was designed as a basic instrument to guide society in its interaction with children while taking the protection of children's rights into account.
281. With regards to child protection, in 2008 Mozambique approved the Law on the Promotion and Protection of Children (Law № 7/2008 of 9 July), the Guardianship of Minors Law (Law № 8/2008 of 15 July) and the Law on the Prevention and Curbing of Human Trafficking, especially Women and Children (Law № 6/ 2008 of 9 July).
282. The Ministers Council approved Decree № 8/2009 of 31 March, establishing the National Children's Rights Council (CNAC) to ensure the coordination and connectivity of efforts made by the various government institutions and civil society organizations aimed at protecting and defending the rights of children within the framework of Law № 7/2008 of 9 July. The CNAC is chaired by the minister for women and social action while the minister of education and culture serves as its vice-chairperson. The Council includes the ministers of justice, health, and youth and sports as well as representatives of civil society organizations and church officials.
283. In keeping with the country's commitment to children's rights, the government signed and ratified international conventions on the rights of children, namely the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The development of children and juvenile associations has been promoted. Despite the war that ravaged the country and in keeping with

its commitment to the rights of children, in 1990 Mozambique attended the World Summit for Children. During the summit, more than 159 countries pledged to strengthen efforts aimed at ensuring the survival and protection of children, and signed the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children.

284. Mozambique's commitment to children has had positive results, despite the collateral impact of the war and natural disasters, as seen in the high rates of school attendance, the wide area covered by immunization programs and the decline in infant mortality, among others.
285. Current evaluations of the situation of the child in Mozambique show that the country has made inroads regarding the development of a legal framework favorable to the implementation of the rights of children and the drafting of various policy documents which directly impact on the promotion of an environment conducive to the well-being of children.
286. There have been significant gains in assistance provided to pre-school children, in sheltering, caring and integrating orphans and abandoned infants as well as children in a difficult situation, and in support given by communities. There has been an increase in the number of kindergartens, from 49 in 2000 to 197 in 2011, and community schools from 479 to 860 during the same period. This has led to an increase in child care assistance, from 25,600 in 2000 to 69,300 in 2010.
287. The government's strategy for assisting children in difficult situation has favored family and community reintegration, thereby preventing children from being abandoned and strengthening the resources of families and communities through specific income-generating programs and projects, and professional training, community development, among others. Every year, about 280,000 children in difficult situation have been getting varied assistance at family and community levels. This has ensured access to basic services. A total of 860 Child Protection Community Committees have been providing assistance to children in difficult situation.
288. With regard to children who have been separated from their families, efforts have been made to trace and reunite families. Foster families take care of children who cannot be reunited with their families, and as a last resort children are sent to institutions. According to data from the Family Tracing and Reunion Program, 11,930 children who had been separated from their families for various reasons, were reunited between 2000 and 2010.
289. There are 160 sheltering centres and 27 kindergartens in the country, most of them operating on an open-air basis. Assistance, including educational and spare time activities, is provided to 30,760 children in difficult situation.
290. Progress has also been made with the involvement of children in matters of concern to them. This is done through the Youth Parliament and other venues where decisions are made on matters of public interest. The Youth Parliament

operates at national and provincial levels and in a number of districts. Children elected to the Youth Parliament discuss their rights and interact with government members, MPs, and State and civil society representatives who seek to provide answers to issues which are raised.

291. Seminars and debates have been organized, and pamphlets, posters and brochures on issues tailored to adults and children have been produced with a view to sensitizing society about the rights of children.

292. Despite the efforts that have been made since independence for the benefit of Mozambique's children, their rights are yet to be fully complied with due to extreme poverty still prevailing in the country. Regarding the free registration of births, it is important to mention that this exercise began in 2005. By 31 December 2010, a total of 7,025,099 children and 657,209 adults had been registered. The registration of adults became necessary as unregistered parents sought to register their children at registration units. Under the circumstances, parents were first registered, followed by their children.

293. It is important to mention that registration officers have been assigned to maternity homes where they register newborn children. Nonetheless, there have been shortcomings either because mothers give birth in places other than maternity homes or parents are absent. A campaign has been under way to register every child up to the age of 18 at community level. Families have been impressed on the need to give names to their children prior to birth to allow their registration even when parents are absent. Families have also been advised about procedures to be followed by single mothers for registration purposes.

294. A National Action Plan for Children (PNAC) was introduced in 2005. PNAC, which covered the period between 2005 and 2010, was specifically designed to give "priority to children", having defined six priority areas for the government:

- Basic Education, guaranteeing education for all by doing away with gender- and region-based imbalances;
- Maternal-Child Health, which aims at reducing the infant-child mortality rate (deaths up to the age of 5) to 82 deaths per 1,000 live births (according to the Millennium Goals);
- HIV/AIDS, which seeks to reduce vertical and other forms of transmission of the virus to children, and adopt measures to deal with orphans whose parents have died to AIDS;
- Social Action, which aims at adopting measures to protect and assist children who are victims of sexual abuse, child labor, trafficking of minors, domestic violence, and organ trafficking, among others;
- Nutrition, which seeks to reduce the high levels of chronic malnutrition among children (41% of children between 0-5 suffer from chronic malnutrition).

295. A great many measures have been put in place to promote and protect the rights of children. Yet, the continual and permanent materialization of the rights of children is still faced with a number of challenges:

- Ensuring the implementation of civic, social, economic and cultural rights of children, and that the country's laws are in harmony with international human rights standards. This means that laws which have been approved, relating to child protection, namely the *Law Protecting Children* and the *Law on the Prevention and Suppression Against Human Trafficking, Especially Women and Children* ought to be regulated. The implementation of compulsory and free education for every children should be guaranteed;
- Ensure the protection of children by curbing negative cultural practices which violate the human rights of children under the guise of culture and tradition;
- Design a *National Strategy for the Fight Against Child Trafficking*.

c) The Rights of Older Persons

296. In terms of Article 124 of the CRM, “1. Older persons shall have the right to special protection by their families, society and the State, namely with regard to the creation of housing conditions, relations within families and communities, and the commitment by public and private institutions aimed at preventing the marginalization of older persons; 2. The State shall promote an old-age policy embracing economic, social and cultural measures with a view to creating opportunities for personal fulfillment through the involvement of older persons in community life.”

297. Article 95 of the CRM guarantees that older persons shall have the right to assistance if they become incapacitated: “1. Every citizen shall have the right to be assisted when incapacitated or during old age; 2. The State shall promote and encourage the creation of conditions for the fulfillment of this right”.

298. In Mozambique, older persons are regarded as a depository of knowledge, capable of projecting social and cultural values. Older persons are the guardians of Mozambique's history, traditions and culture. This historic and social legacy entails the responsibility to educate and to convey moral and social values to younger generations.

299. The government has been making efforts with a view to ensuring the rights of older persons by assisting them socially. Communities have been sensitized about the need for either families or communities to assist older persons so that they do not live in isolation.

300. In order to make older people less vulnerable, the government has implemented social protection programs aimed at improving their living conditions. The Basic Social Allowance Program, which provides financial assistance to families living in absolute poverty throughout the country, in 2006 helped 100,751 people, of whom 89,819, of whom 59,069 are women and 30,750 elderly people.

301. Given that the majority of elderly people consist of women, most of those who benefit from the Basic Social Allowance Program include elderly women. The program contributes to ease poverty.

302. In assisting the elderly, the government has given priority to families. Older persons are placed in institutions when it becomes impossible to integrate them with families or within communities. Although as a unit families have been disintegrating, there is still a strongly held view that families should look after older persons. Older persons who have been abandoned, especially by their families, have been sent to Old Age Support Centres, which currently provide shelter to about 600 people.

303. Older women in particular have been accused of witchcraft, which results in them being assaulted and expelled by families and communities and even murdered, and their movable and immovable assets either confiscated or destroyed. Other programs have been developed with a view to empowering older persons and promoting their active participation in the social, economic and cultural development of Mozambique's society. These programs include the training of paralegal officers to defend older persons whose rights have been violated, and to assist in conflict resolution.

d) The Rights of People with Disabilities

304. In Mozambique, the rights of people with disabilities are provided under Article 37 of the CRM: "*Citizens with disabilities shall enjoy the rights stipulated in the Constitution and be subject to the same duties, except those which they cannot discharge because of incapacitation due to disability.*" Article 37 serves to illustrate the rights of people with disabilities before the law and the fact that no one may be discriminated against on the grounds of disability, colour, race, sex, ethnic origin, place of birth, creed, level of education, social status, occupation and political opinion.

305. Article 125 of the CRM:

1. People with disabilities shall have the right to special protection by their families, society and the State;

2. The State shall promote the creation of conditions for learning and developing sign language;

3. The State shall promote the required conditions for the socioeconomic integration of citizens with disabilities;

4. The State, in cooperation with association of disabled persons and private entities, shall promote a policy which guarantees:

a) the rehabilitation and integration of people with disabilities;

b) the creation of conditions aimed at preventing the isolation and social marginalization of people with disabilities;

c) priority assistance to citizens with disabilities by public and private services; and

d) easy access to public places.

5. The State shall encourage the establishment of associations of people with disabilities.”

306. It is clear from this Article that the State is primarily responsible for implementing the rights of people with disabilities. The State has long been implementing measures aimed at guaranteeing the enjoyment of the rights of persons with disabilities as enshrined in the Constitution and in other instruments.
307. As stated in the introduction, the Convention and the Additional Protocol on the Rights of People with Disabilities were approved in October 2010.
308. Other legal instruments include the Regulations on the “Technical Provisions for Enhanced Accessibility by Citizens with Physical Disabilities and/or Impaired Mobility to Public Buildings and Areas”.
309. The Ministers Council has approved the Strategy for Civil Servants with Disabilities. This is an instrument which outlines the general principles for employing, evaluating and promoting civil servants with disabilities.
310. The government has long been committed to providing to people with disabilities the enjoyment of their rights. The establishment of the Ministry for Women and Social Action was designed on the one hand to promote the emancipation and development of women politically, economically, socially and culturally as well as to educate the public about the role of families as the basic unit of society. On the other hand, it was designed to provide social assistance to vulnerable groups, including children, older persons and people with disabilities.
311. Under its Social Action responsibilities, the Ministry organizes and presides over activities designed to protect and assist people with physical, mental and sensory disabilities, and to promote education and training in tasks socially useful and which match their skills. As part of these responsibilities, the Ministry sensitizes families with a view to ensuring the reintegration of persons with disabilities within families and communities.
312. In terms of policies designed for the Ministry, the Ministers Council adopted Resolution № 20/99 of 23 June on persons with disabilities. An All-Inclusive Education Policy and a National Plan on Disability have also been put in place.
313. Regarding people with special educational needs, the Ministry of Education has ensured the integration of children and youths, as well as adults in special and regular schools. This is in line with the government’s policy of widening equal access to every level of the education subsystem.
314. A total of 560 pupils, including 212 women have been enrolled at 6 special schools in the city of Maputo and in the provinces of Sofala and Zambézia. On average, between 45% and 65% of the students benefitted from a system of education which is tailored to a specific group. The schools employ teachers catering for an all-inclusive system of education.

315. To address the challenges posed by this system, the Ministry of Education has been providing guidance to different categories of experts, school principals, teachers, parents and guardians, and colleagues of students with special educational needs. The aim is to develop strategies and materials suitable for all-inclusive class rooms.
316. As part of Vocational Guidance and Professional Training, a total of 1,504 persons with disabilities, including 588 women and 690 men have been trained in the fields of civil construction, carpentry, plumbing, sewing and tailoring, pottery, embroidery, electrical work, mechanics, accountancy, hotel management and tourism, information technology, English language, HIV/AIDS, disabilities, sexual and reproductive health, law, farming and cattle raising, shoemaking, metalwork, auto electrical work, secretarial work, and auto mechanics. Training has been provided to 150 demobilized soldiers and people with disabilities in the areas of civil construction, carpentry, mechanics, electrical work, and farm and cattle raising.
317. A total of 2,285 teachers have been trained to deal with special educational needs throughout the country as part of the Basic Education and Literacy Program for Youths and Adults. Training focused on all-inclusive education methodology, sign language and Braille. A total of 92,103 students with Special Education Needs have been integrated into the education system. Of this number, 24,898 are women, 117 of whom enrolled at high schools, and 18 at universities.
318. As part of the Employment and Assistance to the Needy program aimed at easing poverty in the country, about 2,849 people with disabilities work for the formal sector in the various provinces, namely at the Provincial Directorates of Education, Women and Social Action, Health, Labor, Public Works and Housing, Transport and Communications, Planning and Finance, Justice, Agriculture, Mozambique Telecommunications, SOLDER MED, National Elections Commission, Radio Mozambique, Municipal Councils, Mozambique Christian Council and Mozambique Postal Services. About 487 people with disabilities have benefitted from microcredit facilities and 165 are self-employed.
319. Under the same program, material, financial and psychosocial assistance has been provided to 990 people with disabilities, including 458 women and 532 men. A total of 2,431 women and 658 men with disabilities have been integrated into income-generating programs.
320. A Social Benefit for Work Program has been put in place. It has catered for 4,029 786 men and 3,243 women.
321. A total of 40 associations of people with disabilities have been trained on how to be accredited with partners/donors for the purpose of raising funds and obtaining equipment.
322. Interventions in the HIV/AIDS area:

- Funding has been provided to 3 associations of disabled people as part of efforts to reduce the impact of HIV/AIDS;
- Drama skits and role plays and debates have been organized;
- Leaflets in Braille have been translated and displayed. About 3,223 people with disabilities took part in the dissemination of messages aimed at preventing and fighting HIV/AIDS;
- A total of 3,000 T-shirts with Braille and hand written messages on the prevention and fighting of HIV/AIDS addressed to people with disabilities have been distributed throughout the country's provinces;
- A total of 346 activists have been trained in matters related to people with disabilities.

323. Family Support, Rehabilitation and Medical Services:

- Community leaders have been sensitized and clinical personnel, traumatologists, internists, orthopedists, pediatricians and surgeons advised to refer post-traumatic and post-immobilized patients, patients suffering from crippling diseases, crippling deformities and other ailments to physical medicine and rehabilitation services as early possible with a view to reducing future complications.
- The Community-Based Assistance Program (ABC) has identified 28,491 people with disabilities. Of this number, 21,866 have received the required assistance.

324. Crutches, sandals, walking sticks, tricycles, wheelchairs, knee pads, orthoses, prostheses, orthopedic boots and walkers have been manufactured in the country. The most sought compensatory devices in Mozambique include hearing aids, upper limb prosthetics, walking sticks, orthopedic boots, tricycles, wheelchairs, crutches, white sticks, glasses, and corrective and stabilizing orthoses.

325. The ABC program calls for the creation of conditions for medical assistance and the provision of medicines to people with disabilities. Priority ought to be given to people with disabilities, including allowances to the needy, sensitizing health personnel about behavioral change towards people with disabilities, and training of health personnel in sign language. A total of 22,111 people with disabilities have received free medical assistance and medication.

326. Disability cases attended to at orthopedic facilities were attributed to the following: landmine incidents (81), diseases (845), road accidents (204), work-related accidents (20), accidents at home (43), and various causes (194). A total of 5,629 compensatory devices (prostheses, orthoses, walkers, wheelchairs and orthopedic footwear) have been manufactured and 2,232 others repaired. A total of 5,590 people with disabilities have benefitted from compensatory devices throughout the country.

327. Youth and Sports:

- A total of 12 sports facilities have been adapted, and 29 technical staff members trained.
- Suitable sports equipment has been obtained, including 2 soccer balls, 3 pairs of sports gear, 3 chronometers, 4 whistles, 2 volleyball balls, racing wheelchairs, volleyball nets, basketball wheelchairs, and special soccer balls.

328.It has been recommended that a Sports Federation of Persons with Disabilities should be established in the country.

329.Sports associations have contributed towards emancipation, development of sporting activities and recreational activities, dissemination of rights of persons with disabilities, drama skits and role plays, and traditional dances.

330.As part of institutional capacity-building at specialized organizations for persons with disabilities, the Ministers Council approved the establishment of the National Council for Disability Matters (CNAD). This is a multisectoral disability coordinating body in which the Ministries for Women and Social Action, National Defense, Health, Public Works and Housing, and Education, as well as the private sector, associations of persons with disabilities, and religious denominations are represented. The CNAD includes a National Executive Secretariat which operates from the Ministry for Women and Social Action.

331.The efforts that the government has been making with a view to ensuring adherence to the rights of persons with disabilities are self-evident. A number of challenges remain:

- Ensuring the necessary conditions for the social integration of persons with disabilities;
- Ensuring the education of persons with disabilities;
- Promoting the enjoyment of full citizenship rights by persons with disabilities.

D. Rights of Peoples

Articles 19, 20 and 21: The Right to Sovereignty and Self-Determination

332.In terms of the Charter, all peoples shall be equal and shall have the same rights. The Charter further states that all peoples shall have right to existence and to free themselves from any form of domination and shall have the right to the assistance of the state parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

333.According to the Charter, the right to self-determination means that peoples shall freely dispose of their wealth and natural resources, and in no case shall a people be deprived of this right.

334.The Constitution of the Republic of Mozambique, in keeping with the spirit of the Charter, has enshrined the right to sovereignty and self-determination. In

terms of Article 1 of the CRM, “*The Republic of Mozambique is an independent, sovereign, democratic State based on social justice*”.

335. In dealing with sovereignty, Article 2 of the CRM stipulates the following: “*1. Sovereignty shall be vested in the people. 2. The Mozambican people shall exercise their sovereignty as provided for in the CRM. 3. The State shall be subordinate to the Constitution and rest on legality. 4. The Constitutional norms shall prevail over all other juridical norms.*”.

336. With regard to the right to assistance in the struggle for national liberation, Article 17 of the CRM, dealing with international relations, states the following: “*1. The Republic of Mozambique shall establish friendly relations and cooperation with other States on the basis of mutual respect for sovereignty and territorial integrity, equality, non-interference in domestic affairs, and reciprocal benefits. 2. The Republic of Mozambique shall accept, observe and apply the principles of the Charter of the Organization of the United Nations and the Charter of the African Union.*” Articles 19 and 20 of the CRM strengthen this principle of international solidarity by providing that: “*1. The Republic of Mozambique shall show solidarity with the struggles of African States for unity, freedom, dignity and the right to economic and social progress. 2. The Republic of Mozambique shall endeavor to strengthen relations with countries committed to strengthening national independence, democracy and regaining control and use of natural resources for the benefit of the respective peoples. 3. The Republic of Mozambique shall join all States in the struggle for the establishment of a just and equitable economic order in international relations*” (Article 19); and “*1. The Republic of Mozambique shall support and show solidarity with the struggle of the peoples for national liberation and democracy. 2. The Republic of Mozambique shall grant asylum to foreigners who are persecuted because of their struggle for national liberation, democracy, peace and for defending human rights*” (Article 20).

337. Mozambique, which has been independent for 37 years following a heroic resistance struggle against colonialism, cherishes the struggle of its people. Thus, in terms of Article 14 of the CRM, “*The Republic of Mozambique cherishes the heroic struggle and the centuries old resistance of the Mozambican people against foreign domination*”. The enhancement, protection and treatment accorded to Mozambican citizens are principles enshrined in Articles 15 and 16 of the CRM: “*1. The Republic of Mozambique shall recognize and uphold the hardships endured by those who dedicate their lives to the national liberation struggle and the defense of sovereignty and democracy. 2. The State shall ensure special protection to those who acquired disabilities during the national liberation struggle, as well as the orphans and dependents of those who died for the national cause. 3. The law shall stipulate how the terms set in this Article are to take effect.*” (Article 15); and “*1. The State shall ensure special protection to those who acquired disabilities during the armed conflict which came to an end with the signing of the 1992 General Peace Accord, as well as the orphans and other direct dependents. 2. The State shall also protect those who acquired disabilities while discharging their duties in the public service or in relief missions*”.

338. The Ministry of Former Combatants was established in 2004/2005 in recognition of the heroic struggle that Mozambican citizens waged for the country's liberation, and as a means of protecting and guaranteeing the rights of such citizens.

Article 22: The Right to Economic, Cultural and Social Development

339. All peoples shall have the right to economic, social and cultural development with due regard to their freedom and identity, and to the equal enjoyment of the common heritage of mankind.

340. Article 11 outlines some of the goals set by the Mozambique State towards economic, social and cultural development: "...d) *the promotion of a balanced economic, social and cultural development of the country;*...h) *economic development and scientific and technical progress...*".

341. Article 97 of the CRM enshrines the fundamental principles of the economic and social organization of the State as follows: "*The economic and social organization of the Republic of Mozambique shall be designed to meet the essential needs of the people and to promote social well-being on the basis of the following principles: a) labor development; market forces; c) the initiative of economic agents; d) coexistence among the public, private and cooperative and social sectors; e) public ownership of natural resources and means of production for the benefit of everyone; f) the protection of the cooperative and social sector; and g) the role of the State as regulator and promoter of economic and social growth and development.*"

342. Article 94 of the Constitution regards cultural and social rights as fundamental: "*1. Every citizen shall have the right to freedom of scientific, technical and artistic creativity. 2. The State shall protect rights related to intellectual property, including copyrights, and shall promote the practice and dissemination of arts and letters.*"

343. Cultural rights shall include, on the one hand, the right to freedom of cultural creativity, and on the other the promotion and development of a national culture.

344. In dealing with the promotion and development of culture, Article 115 of the CRM says: "*1. The State shall promote and develop a national culture and identity, and guarantee the free expression of traditions and values of Mozambican society. 2. The State shall promote the dissemination of Mozambican culture and develop measures so that the Mozambican people may benefit from the cultural gains of other peoples.*"

345. O Article 118 enshrines the following principle: "*1. The State shall recognize and develop traditional authority as legitimized by the people and in accordance with customary law; 2. The State shall define the relationship between traditional authority and other institutions, and shall organize the role of traditional*

authority in the country's economic, social and cultural life in accordance with the law."

346. Like most countries, Mozambique has adopted a full-fledged cultural policy as a means of encouraging cultural work in the country. The main goals of the country's cultural policy are aimed at ensuring that the different layers of society enjoy a harmonious development whereby economic and social factors shall promote national rapport, conferring to each Mozambican a sense of identity, solidarity and nationhood, regardless of ethnic, linguistic, political, social or religious origin.
347. It was in this context that Presidential Decree № 13/2000 of 17 January was approved, outlining the powers and responsibilities of the Ministry of Culture. The manifestation and integration of the various cultural entities, namely European (of Portuguese origin), Asian (or Arabic, Hindu and Indian origin, among others) and African, and different religions (namely Brazilian, Canadian, American, among others) brought together people of various social backgrounds. This is what characterizes the complexity of our social and cultural mosaic.
348. Furthermore, the government has encouraged a number of communities like the Hindu, Mahomet an Indian, to conduct their religious ceremonies and cultural activities. For this purpose, these communities were encouraged to establish cultural centres.

Article 23: The Right to Peace and Security

349. In terms of the Charter, all peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between states.
350. In this regard, the CRM provides in Article 22 that: *"1. The Republic of Mozambique shall pursue a policy of peace, resorting to force only in self-defense. 2. The Republic of Mozambique shall give primacy to a negotiated settlement of disputes. 3. The Republic of Mozambique shall defend the principal of general and universal disarmament of every State. 4. The Republic of Mozambique shall recommend the transformation of the Indian Ocean into a nuclear-free and peace zone."*
351. Regarding the right to assistance in the struggle for national liberation, Article 17 of the CRM, dealing with international relations, states the following: *"1. The Republic of Mozambique shall establish friendly relations and cooperation with other States on the basis of mutual respect for sovereignty and territorial integrity, equality, non-interference in domestic affairs, and reciprocal benefits. 2. The Republic of Mozambique shall accept, observe and apply the principles of the Charter of the Organization of the United Nations and the Charter of the African Union."* Articles 19 and 20 of the CRM, which have been quoted in the chapter dealing with the right to sovereignty and self-determination, strengthen

this principle of international solidarity as a means of defending and maintaining peace.

352. A number of laws have been enacted. Law № 15/92 of 14 October grants amnesty to crimes against the security of the people and the people's State as provided for in Law № 2/79 of 1 March and in Law № 1/83 of 16 March; the crimes against the security of the State as provided for in Law № 19/91 of 16 August, and crimes provided for in Law № 17/87 of 21 December.

353. Laws № 17 and № 18/97 of 7 October dealing with the policy on defense and security of the Mozambican people have been approved by the Assembly of the Republic.

Article 24: The Right to a Healthy and Sustainable Environment

354. In terms of the Charter, all people shall have the right to a general satisfactory environment favourable to their development.

355. In Mozambique, the environment is a right which is enshrined in the Constitution. Article 90 (1) says: "*Every citizen shall have the right to live in a balanced environment and shall have the duty to defend it*".

356. Article 117 of the CRM says: "*1. The State shall promote initiatives to guarantee ecological balance and the conservation and preservation of the environment with a view to improving the quality of life of citizens; 2. In order to guarantee the right to environment within the framework of sustainable development, the State shall adopt policies aimed at: a) preventing and controlling pollution and erosion; b) integrating environmental goals into sectoral policies; c) promoting the integration of environment values into educational policies and programs; d) guaranteeing the rational use of natural resources while ensuring renewal, ecological stability and the rights of the coming generations; e) promoting territorial delimitation so as to ensure the correct location of activities and a balanced socioeconomic development.*"

357. The Ministry for Environmental Action Coordination was established in 1994 as a means of implementing the provisions of Article 117. The Ministry is a central body geared to promote and defend environmental policies.

358. An Environment Fund was established in 2000. The Fund is a legal entity operating under the jurisdiction of the Ministry for Environmental Action Coordination. It aims at promoting actions or activities designed to guarantee a sustainable development.

359. A number of bills and policies dealing with the environment have been adopted, notably the Environment Law (approved in 1997) and the National Environment Policy (approved in 1995).

360. Mozambique has performed well when it comes to the development of “response systems” – legal and regulatory standards, human resources and human environment management programs. An assessment conducted by the Canadian Government in this area has found that Mozambique “has excellent laws and environment policies in place”, but “lacks the capacity to put them into practice”. (CIDA 2004) This is indeed the case, despite the efforts that have been made to address the situation.

361. According to the National Forest Inventory (2005/2007), the proportion of land covered by forests has been estimated at 51%. The consumption of substances which destroy the ozone layer shows a gradual decline in the case of chlorofluorocarbons (CFCs) from 9.9 (2000) to 2.7 (2007) and methyl bromide from 8.4 (2000) to 0.4 (2007), and an increase in hydrochlorofluorocarbons (HCFCs) (HCFs), from 0.5 (2000) to 2.05 in 2007.

362. The approval of the Policy and Law on Territorial Planning and Delimitation (LOT) in 2007 and the respective regulations in 2008 as well as the integration of spatial elements into the Strategic Plans for 40 districts, which was scheduled for completion in 2009, permit optimism about a reduction in the number of people living in rundown areas and a substantial decrease in environmental degradation (municipal authorities are also involved in this exercise).

363. Insofar as the environment is concerned, the country is currently faced with the following areas of concern:

- Soil and coastal erosion;
- Deforestation, hence desertification due to the unsustainable exploitation of forests;
- Destruction of biodiversity;
- Inadequate sewage systems;
- Pollution (sound, atmospheric, marine and soil) in urban settlements.

364. There are major challenges related to these areas of concern:

- Guaranteeing a sustainable development;
- Guaranteeing the preservation of a healthy environment;
- Strengthening the means of surveillance of exploitation of natural resources;
- Promoting a clear-cut and democratic management of natural resources.

Article 25: The Right to Social Security

365. The right to social security has been guaranteed to every Mozambican in terms of Article 95 of the Constitution. The Labor Law № 23/2007 of 1 August provides for the establishment of a Social Security System in accordance with the socioeconomic conditions and the prospects of development of the country’s economy so as to guarantee the exercise of this right.

366. In tandem with this requirement, mechanisms have been identified to provide material assistance to workers who are no longer capable of discharging their duties. Social Security Law № 5/89 of 18 September is one such mechanism which includes Decree № 17/88 of 27 December establishing the National Social Security Institute; Decree № 46/89 of 28 December, which defines the Social Security System's legal framework, thereby guaranteeing material assistance to workers in case of sickness, accident, disability, maternity leave and old age as well as the survival of their families; Decrees № 4/90 and № 5/90 of 13 April, which stipulate the contributions to be made by workers and employers to the social security system; and Ministerial Statute № 45/90 of 9 May, which approved the Regulations of the Social Security Law.
367. The policies and strategies designed to guarantee social security for all citizens were drafted in 1999 and referred to the Ministers Council for consideration. This process has been under way since 1999, involving a number of stakeholders, i.e. beneficiaries, contributors and trade unions. The aim is to harmonize existing laws with new features which have either emerged or were recommended by stakeholders. The document relating to policies and strategies is divided into three parts – basic social protection, compulsory social protection (contributive) and complementary protection.
368. The Social Security Law is currently under review in order to meet the new challenges posed by the social security system, stemming from the country's ongoing privatization exercise, whereby thousands of people have lost their jobs while the prospect of getting new jobs looks slim. In fact, several companies have retrenched staff members while others have closed. The reviewing exercise aims also at integrating into the system workers who are not bound by labor contracts, namely employees working in the informal sector and those who are self-employed.
369. The Social Security Law (Law № 5/89 of 18 September) only covers workers and their employers. The proposal on the table aims not only at reviewing the law, but also providing for issues related to individuals who either lack means of subsistence or whose income has been reduced, through the provision of a basic, compulsory and complementary social protection system.

PART III

Articles 27 to 29: Duties

370. It shall be the duty of the State to guarantee the fundamental rights of the community with the cooperation of its members. Articles 55 and 56 of the Constitution of the Republic of Mozambique allude to family as the basis of society. That is to say that the fundamental principles for developing social relations based on respect for the dignity of the human person derived from the family.
371. In keeping with the duty of the State to guarantee individual freedoms and respect for the rights of others as well as ensuring collective security, the Mozambique State recently approved Law № 10/2004 of 25 August (the Family Law). The Law aims at harmonizing the country's social and cultural situation with the Constitution and other international legal instruments, thereby doing away with provisions which accord unequal treatment insofar as family relations and respect for Mozambican identity are concerned.
372. In line with the principle that women form part of family units, Article 57 of the Constitution says the State shall promote and support the emancipation of women and encourage the increasing role that they should play in society.
373. As members of society, individuals shall have the duty to respect and regard their fellow human beings without discrimination, and to strengthen respect and mutual tolerance. This is one of the fundamental principles of a democratic State as important as the principle of equality before the law, the right not to be discriminated against, the rule of law, and other fundamental freedoms.
374. In the Republic of Mozambique this duty is enshrined in Articles 6, 53, 96 and 106 of the Constitution, which provide for the defense and promotion of human rights, equality before the law, the construction of a society based on social justice where individual freedoms may only be temporarily suspended in accordance with the law.
375. Individuals shall have supplementary obligations towards the community as provided for in Article 69 of the Constitution which penalizes any action attempting on national unity, and Article 73 whereby individuals shall have the duty to take part in the process of broadening and strengthening democracy.
376. Article 84 of the Constitution says every Mozambican national shall have the duty to take part in the defense of independence, sovereignty and territorial integrity as provided for in Article 29(3) of the Charter.
377. Article 29(7) of the Charter refers to work. Similarly, Article 88 of the Mozambique Constitution says work shall be a right and duty of every citizen. The principle of national unity arising from № 4 of the Charter, is alluded to in Article 85 of the Mozambique Constitution according to which it shall be the

duty of all citizens to abide by the constitutional order, and any action against it shall be penalized in terms of the law.

IV. Conclusions

378. This Report aims at disclosing the major achievements of the Mozambique Government in promoting and protecting human rights in every facet of the country's socioeconomic and cultural life between 1999 and 2000, in accordance with the goals highlighted in the African Charter on Human and Peoples' Rights.

379. The report includes fundamental actions towards the recognition of the human being, equal opportunities for men and women in line with gender equality.

380. Such actions fit within the belief that it is important to encourage and enhance what has been achieved for the betterment of the living standards of the people. This shall permit progress based on the spirit of unity while taking into account the diversity of opinions, rights, freedoms and guarantees stemming from a number of legal instruments, including the Constitution of the Republic and international conventions which Mozambique has ratified.

381. Although Mozambique is a new country within the world community, it has been eager to provide to its people the full realization of their rights and to heighten their dignity by including such commitment on the national agenda. Government policies and programs clearly reflect this commitment by including measures aimed at respecting the dignity of the human person.

382. As part of efforts which the country has been making domestically towards the implementation of its international commitments, and despite the fact that economic factors represent a constraint on the progressive realization of a number of human rights, there are other challenges, including:

- Strengthening the institutional and operational capacity of the administration of justice;
- Assisting the various institutions working on the promotion and protection of human rights;
- Approving and implementing the National Human Rights Plan;
- Stepping up civic and juridical education about human rights;
- Updating the school curriculum related to human rights;
- Submitting reports to the various mechanisms within the required periods; and
- Ratifying instruments which are relevant to the country.