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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**List of issues in relation to the initial report of Mozambique
(CCPR/C/MOZ/1), adopted by the Committee at its 107th
session (11–28 March 2013)**

Addendum

Replies of Mozambique to the list of issues*

[15 October 2013]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

**Reply to the issues raised in paragraph 1 of the list of issues
(CCPR/C/MOZ/Q/1/Add.1)**

1. The Constitution of the Republic of Mozambique (CRM) establishes a system of integration of international law in the national legal order. The regional and international instruments once ratified have the same legal value as the infra-constitutional norms issued by the Assembly of the Republic and the Government. This implies that all international human rights instruments to which Mozambique is party shall apply to all levels of national life after the official publication in the Official Gazette. It also implies that international standards in the field of human rights can be invoked directly in the courts of the country; however, Mozambique does not have any situations in which provisions of the Covenant have been invoked in national courts.

2. In Mozambique, training in Human Rights for the Judiciary is made in two ways. On the one hand, assuming that magistrates have been educated in law, during their classes they already receive lessons related to human rights. Moreover, the Center for Legal and Judicial Training, under the responsibility of the Ministry of Justice, geared to initial and periodic training for judiciary and other justice professionals, also has in its curriculum Human Rights modules so that future legal professionals strengthen their knowledge on the subject, more specifically, on new instruments approved at national, regional and international levels.

Reply to the issues raised in paragraph 2 of the list of issues

3. We are pleased to inform the Committee that the objective of establishing a National Human Rights Commission in Mozambique has been attained. Today, we have in place a well-functioning Human Rights Commission, one of its crucial aims being to reinforce the work of State institutions in matter related to the protection and promotion of the rights of citizens. The Commission has been provided with the necessary resources to carry out its functions effectively.

4. Equally, we are happy to inform that an Ombudsman has been established to carry out duties in the service of the ordinary person. Both of these bodies have been established bearing in mind the Paris Principles.

Reply to the issues raised in paragraph 3 of the list of issues

5. Mozambique has already a Draft National Plan for Human Rights (NHRP) which has not yet been approved but is at an advanced stage for its approval. It is currently in the process of harmonization with the various bodies and institutions responsible for the enforcement of the actions contained therein. It should be noted that most of the actions concur with the ones contained in the Universal Periodic Review Action Plan, which was designed as a follow up of the recommendations from the Universal Periodic Review process. It is expected to be approved soon.

Reply to the issues raised in paragraph 4 of the list of issues

6. The Government of Mozambique is a signatory to several Regional and International Conventions, and other initiatives, aiming at promoting the equality of rights and non-discrimination, such as, the Convention on the Elimination of All Forms of Racial Discrimination (1983), the Convention on the Elimination of All Forms of Discrimination Against Women (1993), the Convention on the Rights of the Child. These initiatives have

been translated into the revision of discriminatory laws, reporting to the Committee on racial discrimination the last being in 2007, elaboration of policies and programs and the reinforcement of institutional mechanisms against discrimination.

7. The Mozambican people live in harmony which is guaranteed by the political will to promote the equality of rights and opportunities for all citizens demonstrated through several tools. The democratic atmosphere and pluralism of ideas within the country creates a favourable atmosphere for the full exercise of those rights.

8. Indeed, the Constitution of the Republic of Mozambique guarantees the universal principle of equality of all citizens and prohibits the discrimination based on race, colour, sex, and ethnic origin.

9. In this regard, efforts have been made through coordinated actions by state institutions and civil society to ensure the effective implementation of those constitutional provisions.

10. In that context, we can refer to the existing legislation and other laws under consideration, within the Mozambican legal framework aiming at the eradication of stereotypes and discriminatory practices:

(a) In business, especially in the area of tourism, a law has been adopted to regulate non-discriminatory practices in the provision of services and other amenities. Consequently, the violation of that article, assigns to civil and criminal liability that consists in sanctions starting from, a warning, temporary suspension of operation of the establishment, administrative seizure, up to the demolition.

(b) In the labour market, legislation has been adopted to consecrate the principle of the right to work, which foresees the non-discrimination in the basis of sexual orientation, race or HIV/AIDS, among others. The culpable violation of this principle of the law turns null and of any effect, the legal act practiced in those circumstances, without neglecting the civil and criminal liability of the offender.

11. Additionally, under the efforts aimed at the revision of discriminatory legislation, new laws have been approved (Family and Labour). The Commercial Code, the Code of Registry and Notarial Services and the Penal Code were also revised.

12. Similarly, in the five-year Government Program, priorities for the creation of conditions for the enhancement of justice and the promotion of the rule of law have been devised.

13. Our Government, mindful of the negative impact of poverty on the efforts against discrimination, is vigorously pursuing the implementation of programs designed to decrease the levels of absolute poverty, through the promotion of inclusive, fast and sustainable economic development, which targets primarily the rural areas, where close to 80% our population live.

Reply to the issues raised in paragraph 5 of the list of issues

14. The Mozambican State is Party to the Convention on the Rights of Persons with Disabilities and its Additional Protocol and the Disabled people have their rights enshrined in Article 37 of the Constitution of the Republic of Mozambique which provides as follows: " The citizens with disabilities fully enjoy the rights enshrined in the Constitution and are subject to the same duties to the exercise or performance of those for whom, on grounds of disability, meet incapacitated."

15. In the area of disability, outside the ratification of the Convention and the Optional Protocol, Mozambique has approved the following legislation, Policies and Strategies:

- Policy for the Person with Disability
- National Plan for the area of disability
- Strategy of people with disabilities in the Civil Service
- Inclusive Education Policy
- Regulations "Technical Provisions for Improving Accessibility of Citizens with Disabilities and or Conditioned Mobility to the Public Use Local and Buildings".

Reply to the issues raised in paragraph 6 of the list of issues

16. In the Mozambican State there are no records of cases of violence and discrimination targeting people due to their sexual orientation. Regarding measures to safeguard the rights of people with different sexual orientation, it is relevant to say that the stage or context that the country there is no need for the adoption of a specific law, because the principle of universality and equality under Article 35 the Constitution of the Republic of Mozambique, safeguards the rights of all citizens. There is no discriminatory legislation related to the issue.

Reply to the issues raised in paragraph 7 of the list of issues

17. Regarding the excessive use of force and extrajudicial executions, it should be noted that all the agents of law and order in the State, receive throughout their career training and specific instructions on the respect to human rights and above all the right to life and security of citizens. These professionals are constantly aware of the use of force and the constitutional and legal principles relating to its appropriateness, necessity and proportionality.

18. In the case of prison staff, they receive training related to the implementation of measures in prison and human rights, the main mechanisms at national, regional and international protection of the rights of persons deprived of their liberty, as well as behavioral issues such as interpersonal conflicts and relationships management.

19. The Mozambican state also prohibits explicitly any extrajudicial execution by consecrating, in Article 40, paragraph 2 of the Constitution the prohibition of the use of the death penalty. This means that the excessive use of force and extrajudicial executions are figures that are not institutionalized in Mozambique, and therefore is prohibited its use under penalty of its author having to answer whether disciplinary or criminally for their practice.

20. The violation of human rights carried out by the state agents will give rise to criminal and or administrative liability. In the case of police and correctional service officers, they are still subject to their disciplinary statutes. Thus, all criminal cases committed by agents of law and order, including prison officers, have been submitted to the courts and deserved the treatment stipulated by the Law. Cases proven by research resulted in civil and criminal liability of officers involved. It is also clear that, as a rule, the processes of this nature are accompanied by relatives of the victims.

21. As for torture and inhuman treatment, we must say that Mozambique is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which criminalizes torture. Internally, the Mozambican state expressly prohibits, in Article 40, paragraph 1 of the Constitution of the Republic of Mozambique, the use of torture and cruel and inhuman treatment under the protection of the right to life.

Cases of torture specifically reported in Mozambique, including in places of detention, although sporadic, were investigated and the perpetrators brought to justice and prosecuted.

Reply to the issues raised in paragraph 8 of the list of issues

22. The response to these issues can be remitted to the response to paragraph 7.

Reply to the issues raised in paragraph 9 of the list of issues

23. It is a fact that the conditions of prisons and detention centers continue to face some difficulties due to the problem related to the high rates of overcrowding, that can lead to exposure of inmates to various infectious diseases such as diarrhea, cholera, tuberculosis and HIV/AIDS, as well as other diseases such as malaria.

24. Many infrastructures in Mozambique date back to the colonial period and in some cases did receive minor interventions in terms of rehabilitation due to the fragile economic situation in which the country finds itself, negatively influencing accommodation of the prison population. However, despite all these difficulties, new detention centers are being built, especially at district level, and some rehabilitation particularly in jails, at provincial and regional levels. Equal attention has been given to open detention centers and rehabilitation centers for juveniles in conflict with law.

25. Regarding alternative measures to detention, these are already incorporated in the current draft revision of the Penal Code. These measures will help in reducing the overcrowding of prisons.

Reply to the issues raised in paragraph 10 of the list of issues

26. In 2009 the Government passed a law against domestic violence. As a way to implement it, the Government in partnership with various civil society organizations began a rigorous public education campaign that included radio, television, press, seminars and other forms of information in order to educate and sensitize the general public about domestic violence, especially gender violence, and the provisions of the law against domestic violence.

27. Among the main achievements in the area of preventing and combating gender-based violence, in addition to the approval of the Law on Domestic Violence practiced against Women, can be further highlighted the adoption of the National Plan for the Prevention and Combating Violence against Women (2008-2012) and the drafting of the Mechanism of Integrated Care for Victims of Gender-based violence.

28. In 2004, a new family law has been passed, Law No. 10/2004. This legal instrument is designed to suit it to the Constitution of the Republic and other national, regional and international legal instruments, thereby eliminating the provisions that sustain unequal treatment in family relations.

Reply to the issues raised in paragraph 12 of the list of issues

29. Regarding the issue of trafficking in human organs Mozambique adopted the Law No. 6/2008, Law on Preventing and Combating Trafficking in Human Beings, Especially Women and Children, with the goal of addressing a global problem which Mozambique is not immune, damaging particularly women and children.

Reply to the issues raised in paragraph 13 of the list of issues

30. Under the Covenant, the right to personal liberty and security includes the right not to be arbitrarily detained and deprived of liberty for any reason other than those prescribed by law. This right means also that persons deprived of their liberty have to be treated with humanity, dignity and respect.

31. In the Republic of Mozambique, this principle has the same sense as in the Covenant. It is enshrined in Article 59 of the Constitution, according to which: "1. In the Republic of Mozambique, everyone has the right to security, and no one can be arrested and put on trial except under the law.

- Defendants enjoy a presumption of innocence until a final court decision.
- No citizen can be tried more than once for the same offense, or be punished by a penalty not provided for by law, or by a more severe penalty than that provided by law at the time of practice of the criminal offense . "

32. In the wake of the implementation of the objectives of the Strategic Plan of the Police of the Republic of Mozambique, in 2001, the Ministry of Interior, which oversees police forces, launched an initiative to build relationships with the communities in order at involving them in the fight against crime and promoting social peace. As a result of this effort were enacted the Community Policing Councils and by 2005 there were already about 1125 of these organizations throughout the country. These members of Community Policing Councils also receiving information on Human Rights so as to perform their duties having in mind the respect for human dignity of the citizens.

Reply to the issues raised in paragraph 14 of the list of issues

33. As already mentioned in paragraph 42 of the initial report, in Mozambique, in accordance with Article 36: "Men and women are equal before the law in all spheres of political, economic, social and cultural." The results are encouraging.

Reply to the issues raised in paragraph 15 of the list of issues

34. To end all stereotypes and discriminatory practices, Mozambique approved the Law No. 10/2004 - Family Law, in which were introduced measures to advocate equal treatment in family relations and in society, for example, the age of marriage at 18 years for both girls as for boys. In this Act, the figure of family head has been replaced by family representation, which means that the family can be represented indiscriminately by either spouse. Moreover, a married woman can now register her children without the presence of her husband, which in previous legislation was not allowed.

Reply to the issues raised in paragraph 16 of the list of issues

35. The representation of women in Mozambique in decision-making organs is significant, especially in governing bodies and public administration, where efforts have been made in order to be gradually overcome the gender imbalance, particularly in Government and Parliament.

36. At parliamentary level, women now represent more than 40% of the 250 Members of Parliament. Note that in 1997 the percentage of seats held by women was 28 %.

37. Women's representation in the legislature in Mozambique is one of the highest, not only in Southern Africa, but in the world, and represents the fulfillment of one of the commitments made by the Government in the SADC Gender Declaration 1997, in order to achieve the target of 30% of women representation in the political decision-making bodies by 2005.

38. At the government level, it is worth noting that Mozambique has already had the post of the Prime Minister occupied by a woman and the country currently has eight ministers, four Deputy Ministers, nine Permanent Secretaries and 4 provincial governors, who are women.

Reply to the issues raised in paragraph 17 of the list of issues

39. In 2008, the Mozambican Government approved Law No. 6/2008 of 9 July, which criminalizes the trafficking in persons, especially women and children. This Law is being used since then by the judiciary and people have been convicted for this type of crime.

40. It should also be noted that a Specialized Brigade to tackle the issues of trafficking in human beings has been created. That Brigade works close to the National Directorate of Criminal Investigation and coordinates with the Offices and Sections for the attendance and assistance of Women and Children Victims of Violence.

41. This shows how the state has been increasing efforts to protect the right to life, ranging from the introduction of reforms in the justice sector, example being the criminalization of trafficking in persons, to the improvement of public safety through equipping the Police of the Republic of Mozambique in material and human resources.

42. It is believed that there are many cases of trafficking in Mozambique, but due to the specific requirements of the type of crime and fear, many people do not report these cases for fear of reprisals, because individuals who traffic or assist in its implementation usually hold some economic power or influence in the community. Thus, it is necessary to do a deep work with the population in order to report cases.

43. In 2010, cases were tried and people convicted by the provincial courts of the country, specifically in the provinces of Zambézia and Manica, using the above mentioned legislation.

44. In Zambézia, one of the cases related to trafficking for the purpose of extraction of organs (eyes and genitals), in which the defendants were sentenced to 20 years of imprisonment for the crime of trafficking and abduction involving transportation, Article 13 of law of trafficking and offenses that resulted in voluntary Body illness and inability to work, Article 360 of the CP.

Reply to the issues raised in paragraph 18 of the list of issues

45. Regarding the issue of the child, it must first be noted that the Government has ratified international conventions on the Rights of the Child, namely the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

46. Internally, the country approved in 2008 the Law on the Promotion and Protection of the Rights of the Child (Law No. 7/2008 of 9 July).

47. Also as part of child protection, the Mozambican Government in 2006 adopted the National Action Plan for Children (PNAC), an instrument that has as a priority the development of coordinated actions in promoting the well -being of children, protecting the

abuse and sexual exploitation of children, child labor, trafficking and violence among other ills that threaten the security, integrity and physical and psychological development of the child. This Plan has as its basis Government policies and strategies, including the Five Year Government Plan, the Action Plan for Poverty Reduction, agenda 2025 and the annual planning instruments: Economic and Social Plan (PES), the State Budget (OE) and the Medium Term Fiscal Framework (MTEF) .

48. To ensure coordination and joint efforts undertaken by various government institutions and civil society organizations involved in the promotion and defense of children's rights, in the context of Law No. 7/2008, of 9 July, the Law for Promotion and Protection of the Rights of the Child and the National Action Plan for Children, the Government created the National Council for the rights of the Child (CNAC) through Decree No. 8/2009, of 31st March, the Council of Ministers.

49. The National Children's Council is chaired by the Minister of Women and Social Action , and as Vice President and Minister of Education and Culture integrates the Ministers of Justice, Health and Youth and Sports. The Council also includes representatives of civil society organizations and religious bodies. Also in this context, there have been promoted the development of children and youth associations. All these actions have an ultimate goal of protecting the child in an integrated and coordinated manner.

Reply to the issues raised in paragraph 19 of the list of issues

50. The war ended 22 years ago with the signature of the Peace Agreement in Rome, and at that moment a process of reintegration has been care out, so it does make no sense to talk about the situation of child soldiers bearing in mind that Mozambique is a party to the Convention on the Rights of the Child.

Reply to the issues raised in paragraph 20 of the list of issues

51. Eradication of poverty is a fundamental objective of the Republic of Mozambique. The Government aims at achieving this goal by necessarily providing a sustainable development of the Mozambican society thus reducing social and inequalities. This includes the guarantee of access to justice to all.

52. The Constitution of the Republic of Mozambique provides access to justice as a fundamental right. Access to justice must be seen in a comprehensive manner, and in this sense, the Government has undertaken in coordination with its partners in civil society campaigns to disseminate legislation on the rights and duties of citizens and on the institutions of justice.

53. In terms of the right to legal assistance envisaged in the Constitution, it has been created the Institute for Legal Assistance and Aid (IPAJ), an institution attached to the Ministry of Justice. The IPAJ was created to provide the right to legal assistance and legal aid to economically disadvantaged.

54. On this point, it should be noted that the mandate of IPAJ follows from Article 62 paragraph 1 of the Constitution of the Republic of Mozambique (CRM), which provides that "The State shall guarantee citizens' access to the courts and guarantees defendants the right to defense and the right to legal assistance and legal representation."

55. Although there are still challenges in the area, there is to note a satisfactory territorial extension of in recent years IPAJ. Currently IPAJ covers all provincial capitals and 122 out of 128 districts.

56. Thus,

(a) Up to 2011, IPAJ watched a total of 71,710 cases, and in the first half of 2012 observed 37,509.

(b) Most of the cases assisted by IPAJ are criminal and thus met either from the chains, either from the courts.

(c) Within the scope of legal aid, IPAJ in partnership with civil society organizations is implementing a program of Legal Assistance to Prisoners. The program has funding from OSISA and from June 2011 to June 2012, had benefited a total of 3,845 inmates.

Reply to the issues raised in paragraph 22 of the list of issues

57. The Government, with the aim of encouraging the civil registration of children, increased to 120 days the grace period for free civil registration.

58. Additionally, permanent sanitary brigades have been established along the maternity units for registration of newborn children. However, there are deficiencies in registration of children whose mothers give birth outside maternity, or whose parents are absent.

59. To increase the number of children registered, the Government decided to organize free registration campaigns for children beginning in 2005. From 2005 until 31 December 2010, 7,025,099 children and 657,209 adults, totaling 7,682,308 citizens, were registered in campaigns. The registration of adults is justified by the fact that they have appeared along the brigades records of unregistered parents wishing to register their children.

Reply to the issues raised in paragraph 23 of the list of issues

60. Regarding Physical Punishment, Mozambique has developed diverse legislation that incorporates the provisions of the Convention on the Rights of the Child. With regard to corporal punishment in schools, it should be noted that the Convention on the Rights of the Child obliges States to take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity. The exploitation of children for any reason, is also a major concern for the Government of Mozambique. The most notable development was the adoption of the Law on the Promotion and Protection of the Rights of the Child, Law 7/2008 of 9 July which, among other actions protects children from harmful work practices.

Reply to the issues raised in paragraph 24 of the list of issues

61. As stated above in 2004, a family law was passed, Law No. 10/2004. Article 1 of the Family Law establishes that: "The family is the basic cell of society, socialization factor of the human person and that everyone is given the right to join or constitute a family".

62. Under Article 7 of Constitution, "marriage is a voluntary union between a man and a woman for the purpose of constituting a family through the full communion of life". Thus, it appears that only monogamous marriage is recognized and among people of different sexes.

63. As the rule, only persons over 18 years of age can marry al. a) paragraph, Article 30 of the Law of Family. Exceptionally, can also marry, a man and a woman over the age of sixteen, when circumstances overriding public interest and family and there is consent of parents and guardians occur.

64. An important gain of the approval of family law in Mozambique was the recognition of religious and traditional marriages giving them equal efficacy to civil marriage since observing the legal requirements for such agreements, in accordance with Article 16. Another important gain with the passage of this law was the recognition of the partnership.

65. The major challenge in this area is to make the people, particularly women, aware about the laws that protect their rights in order to reduce gradually the negative cultural practices that violate their rights.

Reply to the issues raised in paragraph 25 of the list of issues

66. The preparation of this report was only possible with the existence of a strong interministerial coordination that led to the creation of a working group comprising

67. The report was prepared in accordance with the requirements of the Committee. A strong coordination led to the interaction by different representatives of some ministries and institutions, especially the Ministries of Justice, Women and Social Affairs, Education, Health, the Interior, Foreign Affairs and Cooperation, and Labour. In this process the civil society has been involved.
