



# International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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## Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Twenty-ninth session

### Summary record (partial)\* of the 397th meeting

Held at the Palais Wilson, Geneva, on Monday, 3 September 2018, at 3 p.m.

Chair: Mr. Tall

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*Initial report of Mozambique*

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\* No summary record was prepared for the rest of the meeting.

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*The discussion covered in the summary record began at 3.20 p.m.*

### **Consideration of reports submitted by States parties under article 73 of the Convention**

*Initial report of Mozambique* ([CMW/C/MOZ/1](#); [CMW/C/MOZ/QPR/1](#))

1. *At the invitation of the Chair, the delegation of Mozambique took places at the Committee table.*
2. **Mr. Veríssimo** (Mozambique) said that since its independence in 1975 Mozambique had endeavoured to introduce economic and social development policies that took a human rights-based approach, inspired by article 1 of the Universal Declaration of Human Rights. Those efforts had been seriously undermined, however, by the destabilizing war that had ensued, the effects of which were still being felt. Nonetheless, the National Five-Year Programme 2015–2019) was underpinned by a human rights- and gender-based approach to the planning and implementation of sectoral development initiatives, thereby demonstrating the Government's political will to promote equal rights and opportunities, including for migrant workers. Under the Constitution and national legislation, foreign workers legally employed in Mozambique enjoyed the same treatment and opportunities as Mozambican citizens.
3. Violations of migrant workers' human rights threatened peace and social harmony, since migrant workers were a fundamental pillar of socioeconomic development. To combat such violations, provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had been incorporated into the Migrant Workers' Regulations, various training and awareness-raising seminars had been held with the relevant stakeholders, and the Government — through its diplomatic or consular representations — facilitated the exchange of information on their rights and duties with Mozambican communities abroad and provided follow-up to any complaints of discrimination.
4. The Government's primary health-care strategy aimed to reduce the high morbidity and mortality rates, particularly for the most vulnerable population groups. To that end, there were specific programmes for education and prevention, and free treatment was provided. To combat the extremely high prevalence of HIV/AIDS and other infectious diseases, the Government had implemented a number of initiatives, one of which was the National AIDS Strategy. The main component of the strategy was a multisectoral programme that focused on awareness-raising, prevention and providing care to persons living with HIV/AIDS. Act No. 19/2004 provided for measures to prevent and punish stigmatization of and discrimination against persons living with HIV/AIDS, including in the workplace. Human rights issues had been incorporated into school curricula as part of a drive to improve access and equity, particularly in basic education.
5. **Mr. El Jamri** (Country Rapporteur) said that the commitment of Mozambique to human rights could be traced back to its independence in 1975, and that it followed that the country now gave such steadfast support to the rights of migrant workers and their families. The presence of a high-level delegation whose members had travelled from Maputo to meet with the Committee reflected the elevated importance that the Government attached to migrant workers' rights and its readiness to engage in constructive dialogue.
6. The State party report provided a wealth of information on a full arsenal of legislative instruments protecting the rights of migrants and their families. The Committee would very much appreciate further information on the implementation of such legislation in practice and on bilateral agreements with other States. The report mentioned that Mozambican citizens and foreign nationals were guaranteed equality of treatment under labour law: it would be useful if the delegation could cite the specific legal provisions that ensured such equality. For example, the State party had mentioned that one such law allowed foreign nationals to serve in the civil service, without specifying whether any limitations were applicable. Could foreign nationals serve, for instance, in nationalized companies, municipal administrations, law enforcement agencies and government ministries? And how did the authorities deal with the fact that positions in the civil service

were often assigned permanently, while foreign nationals were generally subject to time-bound residence permits?

7. The report mentioned that, while Mozambique had become a country of transit, increasingly, migrants were opting to remain in the country rather than passing through it. The Committee would like to know whether their decision to stay was prompted by economic opportunity in the country itself or a closed border at their country of destination. There was little information in the report about general migration policy, about any provisions that had been adopted but not yet implemented, and about the various reasons for failure to implement them. The establishment of the Mozambique-South Africa Cross-Border Coordination Group, which held meetings twice a year, was a laudable step. But was its frequency of meetings sufficient? When had the Group been set up, and what had been its major achievements in terms of the protection of migrants' rights? Another positive development mentioned in the report was the ceremony held at the end of each year at which returnees and representatives of Mozambicans in the diaspora had the opportunity to meet the President. When had that practice started, and had the meetings produced any tangible results in support of Mozambicans abroad?

8. It would be interesting to know how recruitment agencies functioned in an international context and whether they were effectively subject to regulation in the country of origin of the migrant workers they hired. The report provided only partial and desultory information on the numbers of migrant workers who entered and left Mozambique, and it was unclear whether the figures were cumulative. Clearer and simpler statistics must be available to serve as a basis for effective migration policies.

9. The Committee would also like to know how often the Convention had been invoked by the national courts and how public services and the administration dealt with migrant workers and their needs. Which government ministries were responsible for dealing with migration issues, to what extent were local administrations involved, and how were consular services provided? Were capacity-building activities held for such administrations and services? The delegation should also outline the results of current policies, highlighting how many migrant children were enrolled in schools in Mozambique, whether foreign language classes were made available to them, and how migrants and their families were provided with social and health services. Details about health and social programmes for persons living with HIV/AIDS would likewise be appreciated. Lastly, the delegation should give an indication as to how the State party's migration policy might best be optimized for the benefit of both migrant workers and the country as a whole.

10. **Mr. Frasheri** (Country Rapporteur) said that he wished to commend the Government of Mozambique on the progress it had made in improving the governance of migration and the protection of vulnerable groups, including migrant workers and their families. The Committee would appreciate information on the way in which legislation was implemented in practice and on the services provided for members of the Mozambican diaspora living overseas and for Mozambican migrant workers who returned home. The fact that the President held an annual meeting with representatives of the diaspora and returnees was a strong sign of the authorities' concern for the plight of such groups. How did the Government work with migrants to help them overcome challenges?

11. Noting that the Government had reportedly been working to adopt a national action plan for foreign migrant workers in Mozambique, he asked for an update on the plan's current implementation status. Noting also that most Mozambican legislation was specifically worded to address questions of "citizens' rights", he wondered how the legislation related to foreign migrant workers, whether they were included in the legal concept of "citizens", and how the status of foreign migrant workers and their families was determined. Were Mozambicans who had lost their citizenship while overseas extended such rights, and were they able to regain Mozambican citizenship?

12. The Committee had been told that there was a dual system for foreign individuals living in the country, with some being subject to quotas filled by recruitment agencies and others not subject to quotas at all. The delegation should explain how many persons fell under each system and how each operated. Did private entities and employers generally comply with provisions protecting the rights of migrant workers, and how did the

Government ensure such compliance? What kinds of skilled workers were migrating to Mozambique, and in which sectors were they finding employment? As Mozambique had become a country of transit, it would be interesting to hear about the Government's efforts to combat human trafficking and smuggling through the country. Lastly, the Committee would like to receive information on the relationship and interaction between Mozambican advocacy bodies and government administrative agencies that dealt with migrants' issues. In particular, how did private employers and the public authorities comply with the recommendations of the National Human Rights Commission and the Ombudsman's Office?

13. **Ms. Dzumhur** said that the report did not provide sufficient information about foreign migrant workers arriving in Mozambique. Did the delegation have estimates of how many arrived each year? She wondered whether the authorities intended to ratify the International Covenant on Economic, Social and Cultural Rights and the International Convention for the Protection of All Persons from Enforced Disappearance, and, noting that Mozambique had signed bilateral agreements with South Africa and Portugal, asked whether the authorities intended to sign similar agreements with other countries of destination or origin.

14. Noting the persistence of gender stereotypes in Mozambique, and also of polygamy, she asked whether gender equality was improving and what kind of legislation had been adopted to support it. Clearly, legislation had been adopted to combat gender discrimination and domestic violence, but the Committee would appreciate more information on its practical implementation and effectiveness. If gender violence, exploitation, sexual violence and polygamy were forces driving Mozambican women to emigrate, then the implementation of effective measures to protect them would be of the utmost importance.

15. The Committee would also like to receive information on the functioning of the judiciary. Did prosecutors carry out their work in accordance with international standards, and had the Convention been cited directly by lawyers or judges in specific legal cases?

16. The report indicated that the State party was facing a backlog of asylum applications. It was very important for the country to have an effective asylum procedure and the Committee would therefore welcome an update on the present situation, including an indication as to whether the backlog had been reduced. Similarly, she wondered whether any progress had been made regarding the registration of migrant children, particularly in rural areas.

17. The Committee was keen to learn more about victim protection in the State party, and in particular about the provisions in place for trafficking victims. Which entities provided victim protection, and did the authorities keep a central database of trafficking victims? Clarification as to how the State party cooperated with the countries of origin of trafficking victims would also be appreciated.

18. **Mr. Oumaria** said he had noted that the National Commission on Human Rights was able to take legally enforceable administrative decisions, which was not usually the case for consultative commissions in Africa. It would therefore be useful for the Committee to know the exact institutional status of the Commission, and, in particular, whether it had been granted category A status for compliance with the Paris Principles.

19. Regarding the statistical information presented in the report, the Committee would like to see a breakdown of the origins of migrants living in Mozambique. It would also welcome further information on how many migrants had access to the rights covered by the Convention, such as education, decent housing, health services and work. What action had been taken to guarantee the enjoyment of those rights? And were public services playing a role in those efforts? Further information on the specific difficulties and challenges encountered by the Mozambican diaspora living in South Africa, Portugal and Brazil would be of particular interest to the Committee, given the reluctance of many destination countries to sign the Convention.

20. He would also like to know more about the centres where migrant workers and members of their families awaited the regularization of their situation. How did those centres work? In other countries, they sometimes amounted to no more than detention

centres where migrants were prevented from communicating with one other, often only to end up being sent back to the border. Was that the case with the centres mentioned in the report? And did the national human rights institutions produce reports following their visits to the centres?

21. **Mr. Taghi-Zada** said that approximate figures for the number of Mozambican nationals living and working abroad and, particularly, figures for those countries that received the highest level of migration from the State party, would be very much appreciated.

22. **Mr. Núñez-Melgar Maguiña** said that, since it was important to encourage children to learn about and interact with people of other nationalities, ethnicities and cultures from an early age, further information about the textbooks and other materials on human rights that were made available to schools in Mozambique would be welcomed. He wondered whether training on human rights was also provided for civil servants whose work brought them into contact with migrants, such as migration officers, police officers, border agents, customs officers, prosecutors and judges.

23. The Committee was interested in the role played by consular services in attending to the needs of Mozambican migrants living abroad. For instance, was assistance provided to migrants wishing to send home remittance payments, and was there a support programme for migrants who were forced to return home because of unforeseen circumstances such as accidents, death or expulsion?

24. As the State party was evidently making good progress in its management of migration, the Committee was keen to understand how job placement services were being used to facilitate that process. Firstly, regarding public sector employment, the Committee would like to receive details of any bilateral agreements that the State party had signed. For example, did such agreement relate primarily to seasonal and circular contracts? Secondly, concerning contracts signed between the State party and private companies, the Committee wished to know what legislation had been introduced to protect migrant workers who were recruited under such contracts and what penalties the State party might impose if a private company breached the terms of its contract. Might the company lose its licence to operate in Mozambique? And were such violations clearly defined by the State party, so that its consular service could take action against the company from abroad?

25. **Mr. Botero Navarro**, thanking the delegation for having given him the opportunity to attend a workshop organized in July by the United Nations Office of the High Commissioner for Human Rights, the International Organization for Migration and the International Labour Organization, said that a particularly noteworthy aspect of the workshop had been the involvement of civil society organizations. He would therefore like to know more about civil society's role in implementing the Convention, and how its participation might be strengthened. He would also like to know what coordination mechanisms existed between government agencies at the executive, legislative and judicial levels to facilitate implementation of the Convention.

26. The Committee would welcome further information on the number of complaints of human rights violations against migrants that had been registered by the National Human Rights Commission and the action that had been taken as a result. Were there any cases in which civil servants had been disciplined or instructed to enrol in capacity-building activities? The Committee would particularly like to know more about the National Human Rights Commission's visits to the refugee centre in Maratana, among other migrant centres. For example, how many visits had been made in 2017 and 2018, and what had the main findings been? More detail about the statistical information on migrants generated by the Migratory Phenomenon Management System would likewise be useful. The Committee was also interested to know which register was used by the State party to record criminal offences committed against migrants, and how many such cases had been recorded over the previous three years.

27. Lastly, the Committee would like to know the State party's current position regarding recognition of the Committee's competence to receive communications relating to violations of the rights established by the Convention, as provided for under articles 76 and 77.

28. **The Chair**, speaking as an expert, said that he would appreciate more information on the nature and level of civil society involvement in the report's preparation. In addition, although the report indicated that the State party did not criminalize offences related to immigration, he would welcome clarification as to the status of migrants in an irregular situation in Mozambique.

*The meeting was suspended at 4.55 p.m. and resumed at 5.20 p.m.*

29. **Mr. Veríssimo** (Mozambique), thanking the Committee for their contributions and questions, said that the report showed that the efforts made in his country were having a positive impact on the rights of migrant workers and their families. The delegation acknowledged, however, that it had some way to go towards fully guaranteeing the promotion and protection of those rights. Mozambique still faced many challenges, especially in implementing the Convention.

30. The definition of citizens under national law encompassed both Mozambican nationals and foreign migrants who were legally resident in the country. Furthermore, even migrants and members of their families who were in an irregular situation enjoyed certain fundamental rights, as outlined in the report. With respect to employment, migrants had been recruited to fill public sector vacancies for many years. A programme had been set up to identify the particular areas in which Mozambique needed to develop expertise — for example, education, health and farming — and migrant workers with a specific profile were recruited on fixed-term contracts on the basis that they would transfer their knowledge to local workers. A number of such projects were under way in the rail and maritime transport sectors, and foreign doctors were working in the national health-care system.

31. With regard to the institutional status of the various bodies involved in implementing the Convention, it was important to note that the Ombudsman's Office worked in conjunction with the Public Prosecution Service and that its decisions carried significant weight: any person who failed to respect an opinion expressed by the Ombudsman could be brought before the Prosecution Service. The Ombudsman's Office submitted an annual report to parliament containing details of all such cases.

32. The judiciary increasingly referred to international treaties, including the Convention, thanks to ongoing training provided by the Centre for Legal and Judicial Training, and court decisions regularly cited rulings invoking international conventions that had been ratified by Mozambique and incorporated into its domestic legislation. Telephone hotlines had been established so that any person could register a complaint about violations of citizens' rights, particularly migrants' rights. The Government encouraged members of the public to report such violations immediately, and a number of individuals had already been tried in connection with violations of that kind.

33. Specialized teams helped migrants to organize vacations in their countries of origin to coincide with common holiday periods and statistics which attested to the success of their efforts could be provided. In Gaza Province, where many migrants were recruited, and there was also a high prevalence of HIV/AIDS, programmes had been established to assist families with their retirement pensions and with social security contributions and entitlements. Migrants no longer faced dual taxation problems and a recent survey conducted among migrants in Mozambique under the auspices of the Southern Africa Development Community had found that most were satisfied with their current situation. Some had also voiced concerns, which the Government was taking action to address. A forum on the recruitment of foreign workers had recently been organized for the private sector.

34. Although the country had created a favourable environment for migrants, many challenges remained. The Government already had a range of agreements in place with international bodies and other States and planned to strengthen its multilateral and bilateral cooperation so as to ensure that migrants who came to Mozambique had the same rights and responsibilities as Mozambican nationals.

35. **Mr. Macassar** said that preventing migrant workers from becoming victims of human trafficking or related offences required action in many different areas. When foreign citizens entered Mozambique, as a first step they were taken to specialized centres at which

their status could be established. Sometimes, however, they chose to leave the centres voluntarily before their status could be regularized. For example, in the largest refugee accommodation centre in Maratana, Nampula Province, some individuals who had claimed to be asylum seekers had later been found in the street selling goods. In some cases, asylum seekers and refugees might even be recruited in the centre itself by individuals promising jobs. In order to combat such practices, the Government worked hand in hand with other States. Mozambique was a member of the Southern African Regional Police Chiefs Cooperation Organization and had concluded multilateral agreements through the Southern Africa Development Community, including mutual legal assistance agreements under which victims were given support in challenging situations.

36. Although Mozambique was principally a transit country, large numbers of migrants ended up remaining because the country attracted high levels of foreign investment and had ample employment opportunities in the mining and extraction sectors and related industries. Foreign citizens who arrived as asylum seekers or refugees often wished to stay on and seek work. In fact, many migrants who had planned to use Mozambique as a transit country subsequently decided to stay, having realized how well off they were in the country. Their situations were dealt with on a case-by-case basis.

37. The National Human Rights Commission and the Ombudsman were mutually complementary institutions. Each had a distinct, clear mandate: complaints related to administrative inefficiencies were dealt with by the Ombudsman, while the National Human Rights Commission's mandate was more extensive. The two institutions cooperated closely with one another and cases referred to the National Human Rights Commission that involved shortcomings in the public administration were transferred to the Ombudsman. There was no conflict between their mandates.

38. The Government expected the National Human Rights Commission to achieve category A status as it was fully compliant with the Paris Principles. However, it had not yet applied to the relevant international body because the Commission's first term of operation had not gone as smoothly as had been hoped. However, as numerous improvements had been made in the second term, which had begun in October 2017, it was hoped that the application could be filed in the near future and that category A status would be granted.

39. The Government's commitment to ratifying the International Covenant on Economic, Social and Cultural Rights was long-standing and much progress had been made. It was hoped that the instrument would be ratified before the end of the universal periodic review cycle in 2020. The International Convention for the Protection of All Persons from Enforced Disappearance was still being analysed by national institutions with a view to its possible ratification.

40. Although it was true that polygamy was still practised in the country, mechanisms to address the practice were in place, including a strategy for monitoring early marriages that should result in more robust action. The Government endeavoured to combat domestic violence in a holistic fashion. A multisectoral assistance programme was available for women victims of violence, and one of the most effective mechanisms to date had proved to be victim support centres that provided assistance for women and children. However, the Government was aware of the limitations of such centres: violence affected not only women and children, but whole families and whole communities; and solutions that took a more comprehensive approach were therefore also being sought.

41. **Ms. Morar Saíde** said that a Labour Administration Office had been set up in South Africa, the country that hosted the largest community of Mozambican nationals, to provide assistance to migrant workers who wished to return home. The Office endeavoured to ensure access to social security and social welfare for prospective returnees, such issues being among their major concerns. Initially, workers had been required to return to their country of origin immediately upon completion of their work contract and, because any pay disputes could be settled only by returning to South Africa, many such disputes had remained unresolved. However, action taken by the relevant bodies in Mozambique, in conjunction with their counterparts in South Africa, had resulted in many Mozambican miners finally being paid outstanding wages. A social security office established in Gaza

Province, where many Mozambicans were recruited to work in South Africa, had also helped in securing the payment of more than \$200 million to Mozambican nationals who had worked in South African mines, although some workers had still to be paid. It had even been possible to secure the rights of Mozambicans who had worked in South African mines that had gone bankrupt. For example, in 2017, payments had been made to more than 300 workers who had been awaiting payment since the mine at which they had worked had gone bankrupt in 1999. Efforts to identify additional workers who merited social welfare protection for themselves and their families were ongoing.

42. The Government had compiled a register of persons who had lost their jobs, particularly in the mining sector. The register included details of their skills and efforts had been made, through the National Employment Institute and other agencies, to reintegrate them into the national labour market. The Government had also set up vocational training initiatives to retrain people. Furthermore, in view of mine workers' sizeable contribution to Mozambique's balance of payments, the Government had established a social reintegration fund to assist former miners. Special kits had been distributed to former mine workers and members of their families to help them to move into fishing or farming or set up small business, for example. Special training and business management services were also being provided.

43. In 2017, an employment portal had been launched through which nationals in the diaspora who wished to return to Mozambique could see what employment opportunities were open to them. A social security system for self-employed persons had also been introduced, which allowed workers, irrespective of where they lived, to register as self-employed, declare their income and pay into the system, thereby guaranteeing their future social security rights. Later in 2018, a special space would be created near the border with South Africa where workers could renew their contracts with South African companies when necessary and receive personalized assistance. Any concerns they raised would be passed on to the competent bodies in South Africa. Partnership agreements with the Government of South Africa ensured a degree of flexibility in resolving problems affecting migrant workers.

44. The informal sessions that preceded the annual meeting between the President and representatives of Mozambicans in the diaspora allowed the Government to get feedback on the concerns of Mozambicans abroad and provide them with information about existing services that could facilitate their lives and work.

45. Mozambique had legislation that exempted Mozambican workers who returned to the country from paying customs duties. In addition, the country had a tripartite public body that was responsible for settling labour disputes and safeguarding the rights of migrant workers.

*The meeting rose at 6 p.m.*