



Генеральная Ассамблея

Distr.: General
17 July 2019
Russian
Original: English

Совет по правам человека

Сорок вторая сессия

9–27 сентября 2019 года

Пункт 3 повестки дня

**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Посещение Мозамбика

Доклад Независимого эксперта по вопросу об осуществлении всех прав человека пожилых людей* **

Резюме

Секретариат имеет честь препроводить Совету по правам человека доклад независимого эксперта по вопросу об осуществлении всех прав человека пожилых людей Розы Корнфельд-Матте о ее поездке в Мозамбик с 24 апреля по 2 мая 2019 года. Основная цель поездки состояла в выявлении как передовой практики, так и пробелов в осуществлении существующих законов, касающихся поощрения и защиты прав пожилых людей. В докладе Независимый эксперт оценивает ход осуществления существующих международных договоров, законов и стратегий, направленных на реализацию всех прав человека пожилых людей в Мозамбике. На основе информации, собранной до, во время и после посещения, Независимый эксперт анализирует проблемы, с которыми сталкиваются пожилые люди в осуществлении всех прав человека, уделяя особое внимание лицам и группам лиц, подвергающимся остракизму.

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Annex

Report of the Independent Expert on the enjoyment of all human rights by older persons on her mission to Mozambique

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I. Introduction

1. Pursuant to Human Rights Council resolution 33/5, the Independent Expert on the enjoyment of all human rights by older persons conducted an official visit to Mozambique from 24 April to 2 May 2019, at the invitation of the Government. The purpose of the visit was to identify good practices and gaps in the implementation of existing laws relating to the promotion and protection of the rights of older persons in the country.
2. During her visit, the Independent Expert met with numerous representatives of the Government, including the Minister of Labour, Employment and Social Security, the Vice-Minister of Public Works, Housing and Water Resources, the National Human Rights Commission, the Vice-Minister for Women, Gender and Social Action, the Minister of Justice, Constitutional and Religious Affairs, the National Director for Human Rights and Citizenship and members of the Committee on Social Affairs, Gender, Technology and Social Communication of the parliamentary assembly. She also met with representatives of local authorities, including the Governors of Sofala and Manica provinces, the judicial authorities, the Supreme Court, the Office of the Attorney General, the Ombudsman, the national and regional civil protection services, the disaster relief, rescue and control authorities, humanitarian organizations, non-governmental organizations, academia and civil society, as well as others working on the rights of older persons and older persons themselves, in Maputo, Beira, Chimoio and Manica and Sofala provinces.
3. The Independent Expert thanks the Government of Mozambique for extending an invitation to her and for its outstanding cooperation before, throughout and after the visit. She wishes to acknowledge and commend the extraordinary efforts deployed by the Government to accommodate her visit at this particular point in time, as agreed, to allow for a first-hand analysis of the situation of older persons in post-disaster situations. Deeply saddened at the loss of lives and the massive destruction that she witnessed as she visited some of the areas affected by the cyclone, she reiterates her solidarity with the people of Mozambique, old and young.
4. The Independent Expert further expresses her gratitude to the National Directorate for Human Rights and Citizenship in facilitating and coordinating her meetings with governmental authorities, the United Nations country team, the United Nations Development Programme and humanitarian partners for their support and cooperation, as well as the Office of the United Nations High Commissioner for Human Rights (OHCHR) and its Special Procedures Branch for its support in the preparation and execution of the visit.

II. Background and context

5. Following independence on 25 June 1975, Mozambique was faced with numerous, severe challenges that hindered development, while a brutal civil war ravaged the country for almost two decades.
6. In February 2018, the President of Mozambique, in consultation with the former leader of the opposition party, announced a break-through peace agreement in the form of a constitutional amendment submitted to the parliament for ratification.
7. The Mozambican population has experienced mobility on an unprecedented scale, including persons displaced by drought and famine as a result of climatic changes and those fleeing during 30 years of war and civil strife. That has contributed to the country's marked linguistic diversity and the fostering of regional identities. A more recent manifestation of human mobility is the migration from rural areas to the towns.
8. Mozambique has emerged as a politically stable democracy, with the Government embarking on a series of reforms that has led to extraordinary progress and dramatic improvements in the economic growth rate of the country.
9. Despite a strong economic performance, prosperity in Mozambique has not been inclusive. Economic growth has failed to reach the most disadvantaged in society and has not been leveraged into a significant reduction in poverty. Poverty has become entrenched, not

only in rural areas, where the majority of the older persons live, but also in urban centres (A/HRC/26/28/Add.1, paras. 7–8).

10. The Independent Expert recognizes the significant challenges facing Mozambique in its endeavours to eradicate poverty, including the legacy of its colonial past and the war, along with current threats such as natural disasters. In addition, public health challenges, such as malaria, which remains one of the most common causes of death, and the prevalence of HIV, although decreasing, are major issues of concern (A/HRC/34/59/Add.2, para. 13).

11. It is estimated that around 5 per cent of the Mozambican population is above the age of 60, giving it the third-largest older population in southern Africa in absolute terms,¹ of whom 72 per cent live in the rural areas. The older population in Mozambique is expected to increase to an estimated 9 million in the 2070s. That will change the old-age dependency ratio, from above 5 per cent currently to more than 12 per cent.²

12. Older persons in Mozambique have a labour participation rate of 74 per cent, one of the highest in the world. Older women have a literacy rate of 8.8 per cent compared to a literacy rate of 46.3 per cent for older men.³

13. While the age cut-off officially used for the identification of older persons in Mozambique was defined in resolution No. 84/2002 by the Council of Ministers, which considers a woman aged 55 and over or a man aged 60 and over to be an older person, it is important to bear in mind that notions of age vary due to differences in circumstances, conditions, cultures and other considerations and factors, which may be subject to change.

14. The Independent Expert wishes to recall that the mandate has conceived ageing as a social contextual construct, involving far more life course factors and conditions, such as biological and socioeconomic determinants, than the chronological/numerical age. The intrinsic issue of relativity of age, place and path of life is illustrated in the present case, as human beings who have been through conditions of war, conflict and calamities of nature cannot be compared with the healthy ageing metrics of affluent societies. Ageing in Mozambique has also to be understood against the background of a life expectancy of 55 years.

15. The country ranks low on the Global AgeWatch Index for 2015, at 94th overall.⁴ Its highest ranking is in the income security domain at 84th, with a higher than average old age poverty rate for its region (19.1 per cent). It ranks low in the health domain at 94th, owing to low levels of life expectancy at 60, and in the enabling environment domain at 96th owing to the low satisfaction level of older persons with safety (31 per cent), civic freedom (60 per cent) and public transport (31 per cent).

III. Administrative, legal, institutional and policy framework

16. Mozambique is a republic and a multiparty democracy. It has an executive president as head of State and Government, who is directly elected for a five-year term and serves a maximum of two terms. The President appoints the Prime Minister and Council of Ministers.

17. Administratively, the country is subdivided into 11 provinces. Each provincial government is headed by a governor and is charged with ensuring the implementation, at the

¹ See Instituto Nacional de Estatísticas, population projections 2007–2040 (figures for 2019), based on 2007 census; António Francisco and Gustavo Sugahara, “Population ageing in Mozambique: threat or opportunity?”, presentation at the annual Week of Social Protection, Maputo, 18–22 June 2012; and António Francisco, Gustavo Sugahara and Peter Fisker, “Growing old in Mozambique: dynamics of well-being and poverty”, Institute of Social and Economic Studies (2013).

² Department of Economic and Social Affairs, Population Division *World Population Prospects: the 2012 Revision*, (June 2013).

³ See United Nations Educational, Scientific and Cultural Organization, UNESCO Institute for Statistics, data for the Sustainable Development Goals (2015).

⁴ See www.helpepage.org/global-agemwatch/population-ageing-data/country-ageing-data/?country=Mozambique.

provincial level, of centrally defined government policies and the exercise of administrative supervision over local authorities. There are also elected provincial assemblies.

18. The legal system is based mainly on a civil law structure inherited from the era of Portuguese colonialization. However, legal pluralism also exists, so that formal mechanisms of conflict resolution coexist with customary rules, provided that the latter do not contradict the values and principles enshrined in the Constitution. The Supreme Court is the final appellate court and it has original jurisdiction in the most serious criminal cases. As well as other judicial courts, there is the Administrative Court and there are courts-martial and customs, maritime and labour courts. The president appoints some Supreme Court judges and others are elected by the parliament.

19. In May 2018, Mozambican lawmakers approved constitutional changes aimed at a decentralization process that would give political parties more power in the provinces, a step that represents a crucial milestone in the efforts to achieving a lasting peace.

20. Mozambique has ratified or acceded to most human rights conventions of particular relevance to older persons. It is a party to the main international human rights instruments, including the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Rights of Persons with Disabilities and its Optional Protocol. It is also a party to the Convention on the Rights of the Child, but not to its Optional Protocol on a communications procedure.

21. Mozambique has not signed or ratified the Optional Protocol to the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, and it has yet to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, which it signed in 2008.

22. The State is a signatory of the Rome Statute of the International Criminal Court and a party to the Convention relating to the Status of Refugees and the Convention on the Reduction of Statelessness.

23. Mozambique is a party to fundamental International Labour Organization (ILO) conventions, including the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182); the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204); the Labour Statistics Recommendation, 1985 (No. 170); the Labour Relations (Public Service) Recommendation, 1978 (No. 159); the Nursing Personnel Recommendation, 1977 (No. 157); and the Income Security Recommendation, 1944 (No. 67). It is not party to the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) or the Domestic Workers Convention, 2011 (No. 189).

24. The country has not ratified a number of other ILO conventions and recommendations relevant to older persons, including the Social Security (Minimum Standards) Convention, 1952 (No. 102); the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128); Medical Care and Sickness Benefits Convention, 1969 (No. 130); the Paid Educational Leave Convention, 1974 (No. 140); the Rural Workers' Organisations Convention, 1975 (No. 141); the Nursing Personnel Convention, 1977 (No. 149); the Labour Administration Convention, 1978 (No. 150); the Maintenance of Social Security Rights Convention, 1982 (No. 157); the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159); the Labour Statistics Convention, 1985 (No. 160); the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168); the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173); the Social Protection Floors Recommendation, 2012 (No. 202); and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

25. Mozambique has ratified the African Charter on Human and Peoples' Rights as well as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. It has not yet signed or ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons.

26. The country is a member of the African Union, the Commonwealth, the Southern Africa Development Community, the Community of Portuguese-speaking Countries and the Organization of Portuguese-speaking African Countries.

27. In 1990, Mozambique adopted a new Constitution that for the first time introduced a multiparty political system, explicit guarantees of human rights protection and the doctrine of separation of powers. Title III of the 1990 Constitution outlines the fundamental rights, duties and freedoms of Mozambican citizens. According to article 56, individual rights and freedoms are directly applicable, bind both public and private entities and are guaranteed by the State.

28. The Constitution was revised in 2004 and includes among its fundamental objectives the building of a society of social justice and the achievement of material and spiritual well-being and quality of life for its citizens; the promotion of balanced economic, social and regional development in the country; and the defence and promotion of human rights and of the equality of citizens before the law.

29. Further to article 124 of the Constitution, older persons 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. Under article 124, the State shall promote an old-age policy embracing economic, social and cultural measures, with a view to creating opportunities for personal fulfilment through the involvement of older persons in community life. Article 95 states that all citizens shall have the right to assistance in the case of disability or old age and that the State shall promote and encourage the creation of conditions for realizing this right.

30. In 2002, the Council of Ministers adopted a policy on older persons and a strategy for its implementation.⁵ In 2013, the Government enacted the Law on the Promotion and Protection of the Rights of Older Persons, with the proclaimed purpose of improving the living conditions of older persons and guaranteeing the promotion and protection of their rights.

31. The National Commission on Human Rights was established by Law 33/2009 on 22 December 2009 and became operational in September 2012. It can receive individual complaints and release public statements. Its stated priorities are cases of violence by law enforcement agents, judicial corruption and violations of prisoners' rights; it also works on the protection of older persons from violence, maltreatment, abuse and neglect. The declared intent to improve data collection and documentation in this regard is hampered by a lack of capacity and resources.

32. The Ombudsman was elected by the parliament in May 2012. His main duty is to ensure the protection and promotion of citizens' rights in relation to the actions of public servants and institutions. The Ombudsman receives funds from the State budget and human resource support is seconded to him from other government departments. He hears complaints, receives petitions and makes specific recommendations to the department against which the complaints were made. However, as those departments are not bound by the recommendations of the Ombudsman, the impact of this mechanism remains weak.

33. In 2012, the Council of Ministers established the National Council for Older Persons, a mechanism for consultation, advice and intersectoral coordination of action on issues relating to older persons, which brings ministries together on ageing issues. The Government also established the Ministry for Women and Social Action, which is responsible for providing social assistance to vulnerable groups, including older persons and persons with disabilities.

⁵ Resolution No. 84/2002 of 12 November 2002, available at www.preventionweb.net/files/16411_eldelpolicyandimplementationstrate.pdf.

IV. Independent Expert's main findings

A. Older persons in post-disaster settings

34. Mozambique ranks third among the African countries most exposed to multiple weather-related hazards and suffers from periodic cyclones, droughts, floods and related epidemics. Droughts occur primarily in the southern region, with a frequency of seven droughts for every 10 years. Floods occur every two to three years, with higher levels of risk in the central and southern regions.⁶ The response to the 2015 onset of flooding and Cyclone Chedza placed additional and unexpected pressure on the public finances, further exacerbating the country's upward debt trajectory. Climate change is likely to worsen current climate variability, leading to more intense droughts, unpredictable rains, floods and uncontrollable fires.

35. The country ranks 17th on the Disaster Risk and Age Index, which relates not only to the fact that Mozambique is prone to disasters and hazards, but also measures the vulnerability of older persons in such situations and indicates that the country lacks coping capacity.⁷ Mia Couto, a famous contemporary Mozambican author, perfectly captures the challenges older persons face in post-disaster settings, as he writes about an older man: "They saved him from death, but they did not save him from life".⁸

36. In 1999, Mozambique established the National Institute of Disaster Management, which coordinates disaster risk management activities. It operates under the Ministry of State Administration and is mandated to coordinate emergencies, promote disaster prevention through population and government mobilization, protect human lives, ensure multisectoral coordination in disaster emergencies, coordinate early warning systems and carry out public awareness exercises.

37. In March 2019, Cyclone Idai made landfall on the African continent in Beira, the second largest city in Mozambique with more than 500,000 inhabitants.⁹ According to the International Federation of the Red Cross and Red Crescent Societies, the cyclone destroyed 90 per cent of Beira.¹⁰ Only five weeks later, on 25 April 2019, during the visit of the Independent Expert, Cyclone Kenneth made landfall in the country between the districts of Macomia and Mocimboa da Praia.

38. Cyclone Idai killed more than 700 people across Mozambique, Malawi and Zimbabwe, leaving hundreds of thousands homeless, many of whom were forced to use dirty water supplies.¹¹ In Mozambique, the official death toll had risen to 598 as of 3 April, with more than 1,600 people injured. Around 200,000 houses were identified as either totally or partially destroyed or flooded. Nearly 131,100 people were internally displaced and accommodated in 136 sites across Sofala, Manica, Zambezia and Tete Provinces. The authorities have identified more than 28,000 vulnerable people across those sites. The United Nations estimates that a total of 1.85 million people are in need of humanitarian support.¹²

39. As at 14 April 2019, the Government of Mozambique had identified and registered 41,742 vulnerable people, including older persons, in affected communities.¹³ It is estimated that the cyclone and floods in Sofala and Manica Provinces affected at least 80,000 older

⁶ See Global Facility for Disaster Reduction and Recovery: Mozambique.

⁷ See www.helpage.org/disaster-index.

⁸ Mia Couto, *The Blind Fisherman*, translated by David Brookshaw (Johannesburg, South Africa, Penguin books, 2010).

⁹ See <https://pt.globalvoices.org/2019/03/20/ciclone-idai-em-mocambique-cidade-da-beira-de-500-mil-habitantes-foi-quase-toda-submersa/>.

¹⁰ See www.dw.com/pt-002/mo%C3%A7ambique-dificuldades-em-apoiar-v%C3%ADtimas-do-ciclone-idai-s%C3%A3o-grandes/a-47968789.

¹¹ These numbers are from 30 March, but they increase every day.

¹² See Office for the Coordination of Humanitarian Affairs, "Mozambique: Cyclone Idai and floods", situation report No. 8 (9 April 2019).

¹³ See Office for the Coordination of Humanitarian Affairs, situation report No. 13 (14 April 2019).

persons, of whom at least 65,000 require urgent assistance.¹⁴ Shelters and accommodation centres are overcrowded, raising specific protection and gender-based violence concerns for older women, as well as cases of inequitable assistance to older persons.¹⁵

40. Cyclone Kenneth also left a path of destruction, with more than 34,500 homes either totally destroyed or partially destroyed in Cabo Delgado alone. That is expected to have a severe impact on food security in the months to come, as the cyclone arrived during the main harvest. As of 1 May, more than 20,000 displaced people were staying in accommodation centres.

41. A rapid needs assessment for older persons in Sofala Province affected by Cyclone Idai found that almost half of them depended on family or friends to meet their basic needs, while 81 per cent cared for, on average, five dependants, including children.¹⁶ Twenty-seven per cent of the older respondents surveyed lived with a disability, while 20 per cent lived alone; 90 per cent of older persons reported not having enough food and 71 per cent of older women who lived alone could not afford to buy food (as opposed to 33 per cent of older men). Eighty per cent of those surveyed did not have any income and one third had had to borrow money since the cyclone. The assessment highlighted critical safety issues, with 47 per cent of older women and 21 per cent of older men believing that they were at risk of sexual abuse and 39 per cent of older women and 47 per cent of older men threatened by violence.

42. Only 10 per cent of older women and 16 per cent of older men indicated that they felt safe obtaining food. The majority also felt unsafe accessing water, sanitation and hygiene facilities, including drinking water, bathing facilities and toilets. Two thirds of older persons reported that they could not cope with the situation, even with additional support. Respondents also indicated a range of health conditions and were at increased risk of cholera owing to inadequate nutrition, inadequate access to safe water and sanitation, significant caring responsibilities and barriers to accessing health services. Older persons face significantly higher mortality rates as a result of cholera than other age groups and 92 per cent of those surveyed either had no shelter or their shelter required urgent repairs.

B. Discrimination

43. The Constitution encompasses the right to equality and states that no discrimination shall be permitted on legislative, political, economic or social grounds. Explicit protection is provided on the basis of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, parental marital status, profession or political preference.

44. The lack of equality and non-discrimination provisions in ordinary legislation results in impunity in cases of discrimination in access to public services such as health care, water and sanitation, among others, for persons in situations of vulnerability, including older persons.¹⁷ An issue of particular concern is discrimination in housing, land and property and livelihoods.

45. Ageism and age discrimination are a key societal concern occurring in many spheres and contexts from household decision-making about scarce resources to ageist attitudes of health professionals towards older persons. Older women and men frequently report that they are refused treatment or treated with disrespect on account of their age.

46. Despite the adoption of laws and policies on gender, discrimination against women is still a major challenge. Many women, especially older women are accused of witchcraft, thus

¹⁴ See National Emergency Operations Centre and others, “Multi-sectoral rapid assessment post-Cyclone Idai: 14 districts in Sofala and Manica Provinces 1–17 April 2019”, p. 7.

¹⁵ *Ibid.*, p. 18.

¹⁶ HelpAge International, “Initial findings – rapid needs assessment of older people” (April 2019, forthcoming).

¹⁷ See “Information submitted by Mozambican civil society organizations to the United Nations Committee on Human Rights”, para. 2 (iii), available from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGO%2fMOZ%2f14746&Lang=en.

becoming victims of violence. That adds to the challenge of approving a law on succession that forbids any form of discrimination against women as regards succession in the event of death of a spouse, whereby she is deprived of any rights to the property acquired in common life, as currently happens if they were not legally married (A/HRC/WG.6/24/MOZ/1, para. 52).

47. Many older women do not have identity documents to prove their age. Reasons for not having documents include the cost of obtaining documentation and gender-related factors, as the births of girls or traditional marriages were not necessarily registered in the past.

C. Violence, maltreatment and abuse

48. Older persons in Mozambique, in particular older women, face high levels of crime, violence or abuse, in particular emotional abuse. A significant proportion of older women face malicious accusations of being a witch (*ibid.*, para. 10). Witchcraft-related beliefs and practices are too often taken as an explanation for undiagnosed dementia and other cognitive health conditions. Older women accused of witchcraft are at risk of being assaulted and expelled by their families and communities, and even murdered. Their assets are either confiscated or destroyed.¹⁸ The National Commission on Human Rights also stated that major manifestations of domestic violence were accusations of witchcraft, often levelled against older women and widows, which served as validation for grabbing housing, land and property, violence and even murder.

49. Gender-based violence remains a serious problem in the country. Despite the establishment of a political and legal framework to address the issue, including a law against domestic violence (2009), the establishment of specialized police services and a referral system offering assistance to victims, the lack of effective implementation remains an area of concern (A/HRC/26/28/Add.1, para. 30).

50. In the context of gender-based violence, the Government of Mozambique has implemented an integrated multisectoral assistance mechanism for victims of violence, approved by the Cabinet on 22 May 2012. The purpose of the mechanism is to guide a national and integrated response to violence against women, ensuring that all stakeholders in the area, in particular police officers, health, social welfare and other officials, work together in order to respond and follow up on all cases of gender-based violence (A/HRC/WG.6/24/MOZ/1, para. 53).

51. The reported high levels of violence and abuse appear to be committed with impunity and little access to redress. Considerable levels of neglect in social care and support and being treated in a degrading or humiliating way because of age are also reported.¹⁹

D. Adequate standard of living and autonomy

52. More than half of older persons in Mozambique (58 per cent) live below the official poverty line compared to 54 per cent for the rest of the population.²⁰

53. Older women are often left to survive in situations of poverty, isolated from the community and stigmatized as a result of accusations of witchcraft. Older women who have lost their husbands tend to be excluded from the extended family and are considered a burden on the community (A/HRC/26/28/Add.1, para. 40).²¹ Reports suggest that the practice by which the extended family expropriates household property from the widow continues to affect many women, who are forced to take a subordinate position within the family circle

¹⁸ See report of the Government of the Republic of Mozambique submitted under article 62 of the African Charter on Human and Peoples' Rights, para. 303.

¹⁹ See HelpAge, "The rights of older people in Mozambique" (2013), p. 1.

²⁰ António Francisco, Gustavo Sugahara and Peter Fisker, "Growing old in Mozambique: dynamics of well-being and poverty".

²¹ See also Carmeliza Rosário, Inge Tvedten and Margarida Paulo, "'Mucupuki'. Social relations of rural-urban poverty in central Mozambique" (2008), p. 57.

after losing their property.²² With extraordinary illiteracy rates and a lack of education, financial capacity or legal empowerment, such women do not have the resources to defend their tenure.

54. Older persons caring for others, including orphaned children, often live in extremely precarious circumstances, dealing with their own health concerns (8.5 per cent of people between 50 and 65 years old in Mozambique are HIV-positive), but also having to provide care.²³ Older persons, in particular women, lack sufficient income to support themselves and their dependents, and small measures can make a big difference to their quality of life. The provision of adequate nutrition or transportation costs to the nearest health centre, for example, would greatly improve their situation (*ibid.*, para. 39).

55. Lack of physical and economic access to basic services particularly affects older persons, including those with disabilities, living in rural areas. Many older persons are illiterate and have limited alternative means of income (*ibid.*).

56. Public transport is very limited in rural areas and bicycles are the most common means of transport. That leaves many older persons with no or inadequate means of transport.

57. Despite the efforts of the Government, such as the adoption of the National Plan of Action on Disability (2006–2010), the living conditions of persons with disabilities, including older persons with disabilities, remain more precarious than those of the rest of the population (*ibid.*, paras. 43–44).

E. Social protection and the rights to social security

58. While Mozambique does not have a consolidated universal social pension system, the Government in recent years has approved a series of legislative and political documents to expand and improve social protection,²⁴ including the adoption of the Social Protection Law in February 2007.

59. The current social protection system in Mozambique has been organized on three levels: non-contributory basic, compulsory, and complementary social security. The non-contributory transfers target the poorest households, older persons, persons with disabilities, persons with a chronic health condition and households with orphans and vulnerable children. However, there are deficiencies in terms of coverage and the amount of benefits allocated.²⁵

60. The Government's basic social subsidy programme (Programa de Subsídio Social Básico) is essentially an unconditional cash transfer targeting poor households with no labour capacity. The cash transfers are the most important source of household income for older persons. Most of the cash is spent on food, but is also used to prioritize health-care expenditure.²⁶

61. Although the cash transfer programme has been rapidly expanded to target extremely poor households in which no adult is able to work, such as those in which the adults are older persons or persons with disabilities, it does not cover all communities within each district or region (A/HRC/26/28/Add.1, para. 70).

62. In the new National Strategy for Basic Social Security 2016–2024, it is proposed that household poverty targeting be replaced with categorical targeting based on life-course risks identified as old age, disability and childhood. The Government proposes to provide old-age

²² Lauren Hendricks and Patrick Meagher, "Women's property rights and inheritance in Mozambique: report of research and fieldwork", CARE Economic Development Unit Learning Series No. 1 (2012), p. 2.

²³ See HelpAge International, "Strengthening the response: older people in the response to HIV and AIDS in Mozambique" (2010), p. 3.

²⁴ See Nuno Cunha and others, "Towards a Mozambican social protection floor: consolidating a comprehensive social protection system in Mozambique. Analysis of policy alternatives and costs", ILO (2013), p. 1.

²⁵ See ILO, *Social Protection for Older Persons* (2014).

²⁶ See HelpAge, "Cash transfers and older people's access to healthcare" (2017), p. 18.

grants to 90 per cent of older people aged 60 and above by 2024. That could benefit approximately 1 million older Mozambicans.

63. The scheme has rigid eligibility criteria based on incapacity to work and generate an income, health status, age, nationality and residency status. Potential candidates are proposed to the National Institute for Social Action, the government agency responsible for delivering the scheme, by so-called *permanentes*, volunteer community liaison officers who receive a minimal stipend. Officially, they should be selected by their local community to liaise with the Institute, which is mandated to carry out a household visit to verify eligibility using a simple means test. In reality, however, it lacks the human resources to make more than a few visits.²⁷

64. Conditions for social protection coverage are not uniform across districts and a determination of eligibility in one district may not be respected in another. Often there is little or no coordination between the National Institute for Social Action and community liaison officers tasked with assisting in the identification of beneficiaries and informing them of payment dates. Owing to logistical and budgetary constraints, beneficiaries are often informed of payment dates for monthly payments only a day or two in advance, limiting collection possibilities for many households. A general lack of awareness of the procedures and processes often prevents eligible beneficiaries from accessing payments (*ibid.*).

65. The need for an identity card in order to be registered for the cash transfer programme constitutes a further barrier to the enjoyment of older persons of the right to social security. In Gaza Province, for instance, 40 per cent of older persons do not have identity cards and for that reason they cannot be registered for the cash transfer programme.²⁸

66. The community liaison officers provide a contact point for anyone wishing to make a complaint about the basic social subsidy programme. However, guidelines on how recipients can make a complaint are not clear and the system faces significant challenges. There are concerns about the selection of the community liaison officers, raising questions about their objectivity. Moreover, they are involved in selecting the recipients for the subsidy, which creates a conflict of interest and results in a reluctance to submit complaints for fear of reprisals. In the event that community liaison officers want to make a referral on behalf of recipients, they may be put off by lack of resources.²⁹

67. Although officials from the National Institute for Social Action visit communities on paydays, there is no opportunity for an effective and immediate complaint and grievance redress, since the human and other resources are focused on the processing of payments. Their offices are located in provincial capitals, which are inaccessible for the vast majority of older persons and there is no comprehensive management information system, making it impossible to record complaints or review them at a higher administrative level.³⁰

F. Care

68. The right to health remains unrealized for many of the most marginalized older women and men. Health insurance is only available to those in formal employment.

69. Health services in Mozambique are provided at the primary level by health posts and health centres. In 2011, the national health system had approximately 1,400 health units distributed across the country; first level or basic health centres account for 1,314 of those units. Less than 60 per cent of the population had access to those basic health services and the average distance to a health unit is about 10 km.

70. The remainder of the population is covered by alternative support networks, such as traditional healers, community health agents, elementary agents and traditional birth

²⁷ See HelpAge, “Voice and accountability in social protection: lessons from social pensions in Africa” (2018), p. 20.

²⁸ HelpAge International Mozambique, baseline report for the programme “Responsibility between generations: older people promoting governance” (2009).

²⁹ See HelpAge, “Voice and accountability in social protection”, p. 26.

³⁰ *Ibid.*

attendants, who constitute a central component of the primary health-care system. Traditional healers are often the first recourse for people facing a health emergency. In addition, a very small part of the population is covered by private health care, mainly concentrated in the big cities.³¹

71. Older persons are entitled to free inpatient admittance in general and central public hospitals as well as free outpatient services. They are also legally exempt from paying for most medication at health centres. That is administered upon presentation of a valid national identification card. It appears that exemption is not always honoured, but that older persons are often asked to pay for services and that medicines, especially adequate medication for conditions faced by older persons such as chronic and non-communicable diseases, are often not available at all or in very limited quantities only at public health services, forcing older persons to obtain medicine from private pharmacies.³² They may also have recourse to traditional medicines, which are widely used.

72. Older persons, particularly those with limited mobility and little family support, also face significant expenses in order to reach health facilities. The costs of transport are especially high for people in rural communities and those needing a carer to accompany them to a health facility. There is also a noticeable disparity in access to health services between rural and urban areas. Older persons living in rural areas face larger distances, particularly in cases where more specialized health care is required, and have more limited transport options.

73. Most Mozambican households, particularly those in rural areas, are composed of extended families, where two or three generations live together, care for each other and, when needed, pay the health and education costs of household members. Support from family, friends and neighbours may also include material support for the payment of medication. Older persons, particularly women, rely heavily on their daughters-in-law to provide them with support and care. Faith- and community-based organizations have a central supporting role, but coverage is patchy and often ad hoc, as they lack the infrastructure, human resources and secure funding to provide such services.³³

74. While extended family units have started disintegrating in Mozambique, there is still a strongly held view that families should look after older persons. Older persons are placed in old-age support centres when it becomes impossible for them to stay with their families or within their communities.³⁴

75. The prevalence of dementia, insofar as it is diagnosed, is about 3.5 per cent.³⁵ Mozambique supported the global action plan on the public health response to dementia for the period 2017–2025, which was adopted by the World Health Organization (WHO) at the World Health Assembly.³⁶

76. While geriatric care is included in the training of health workers, insufficient specialized knowledge on the part of staff and the lack of equipment and medication result in health staff often being unprepared to address the health concerns of older persons.

³¹ See Ministério de Saúde *Plano Estratégico do Sector de Saúde (PESS) para 2014–2019* (September 2013), available from www.medbox.org/plano-estrategico-do-sector-da-saude-pess-2014-2019/preview?q=.

³² HelpAge International, “The right to health in old age: unavailable, inaccessible and unacceptable” (August 2011).

³³ Divina de Fátima dos Santos, Flaminia Manzano and Moreira Lodovici “Pessoas idosas em Moçambique: com a palavra de Teresinha da Silva”, *Kairós Gerontologia*, vol. 14, No. 6 (December 2011).

³⁴ See report from the Government of Mozambique submitted under article 62 of the African Charter on Human and Peoples’ Rights, para. 303.

³⁵ Deborah Oliveira and others, “Reducing the number of people with dementia through primary prevention in Mozambique, Brazil and Portugal: an analysis of population-based data” *Journal of Alzheimer’s Disease* (January 2019).

³⁶ Available from www.who.int/mental_health/neurology/dementia/action_plan_2017_2025/en/.

V. Conclusions and recommendations

A. Overall strategy and findings

77. The Independent Expert notes that older persons are a pillar of Mozambican society as custodians of cultures, languages and knowledge. She notes their important contribution, including as heads of households, which has to be fully recognized. She commends the adoption by the Government of important policies, instruments and programmes to protect the rights of older persons in Mozambique, such as the national policy on older persons, the basic social subsidy programme and the Law on the Promotion and Protection of the Rights of Older Persons. She encourages the Government to ensure that its laudable commitment translates into effective implementation, while recognizing resource and capacity constraints.

78. She welcomes the active engagement and commitment of Mozambique with regard to the realization of the human rights of older persons, not only at the national and regional levels but also at the global level. She encourages it to further contribute to a deepening of the discussions at the Human Rights Council and the Open-ended Working Group on Ageing, based on its national experience with policy and norm-setting towards actively shaping the global society of tomorrow.

79. Demographic change in Mozambique is beginning to take shape and the challenges associated with an ageing society warrant immediate implementation action to foster social cohesion. The Independent Expert stresses that fighting old-age poverty is an efficient means of securing stability and contributing to achieving relative prosperity and social peace, despite the structurally rooted inequality and destitution levels of parts of the population.

80. While applauding the adoption of a national policy on older persons as early as 2002, the Independent Expert stresses the need for a multidisciplinary approach when addressing the promotion and protection of the rights of older persons. The policy takes a human rights-based approach and recognizes many of the challenges faced by older persons in Mozambique. The Independent Expert acknowledges that with the adoption of a human rights-based policy, Mozambique has already implemented one of the core recommendations she has addressed to States. She calls on the Government to deploy every effort possible to put into practice the strategy for implementation of the policy.

81. The Independent Expert welcomes the establishment of the National Council for Older Persons. She stresses the importance of having a dedicated national public mechanism or structure that is mandated to coordinate services for older persons and ensure the implementation of national policies and laws. Such a mechanism for older persons, be it ministerial, interministerial or institutionally separate, would greatly facilitate the implementation of the policy on older persons, the strategy for its implementation and the Law on the Promotion and Protection of the Rights of Older Persons.

82. The Independent Expert encourages Mozambique to ratify all human rights treaties to which it is not yet party, notably the Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons and the International Covenant on Economic Social and Cultural Rights and its Optional Protocol. She further encourages the Government to ensure that national legislation is in line with the obligations of Mozambique under the Convention on the Rights of Persons with Disabilities.

83. The Independent Expert urges the Government to ensure that the National Commission on Human Rights enjoys full independence and has the necessary resources to carry out its mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights. She also notes that it is essential for the independence of the Ombudsman that his Office be equipped with a budget that is sufficient to carry out the functions as set out by the law.

84. On the basis of these overall conclusions and the observations contained in the present report, the Independent Expert makes the following recommendations with regard to specific areas and actors.

B. Recommendations to the Government

Older persons in post-disaster settings

85. Noting that older persons are disproportionately affected and particularly vulnerable to abuse, maltreatment and violence in such situations, the Independent Expert emphasizes the need to ensure inclusion, targeting and prioritization of older persons in post-disaster recovery and reconstruction efforts, in compliance with humanitarian and human rights principles.

86. The Independent Expert calls on the Government to make the detection of and protection from abuse and violence, including sexual violence and rape, in post-disaster settings an absolute priority, ensure that recovery programmes address the security concerns faced by older persons and provide for age-sensitive shelter areas.

87. She emphasizes that the exclusion of older persons can result from inadequate assistance, such as unsuitable food items or lack of medication for chronic diseases. She urges the Government to ensure that food security for older persons is made a priority in recovery efforts.

88. The Independent Expert further urges the Government to ensure that older persons are prioritized in resettlement programmes and that the relocation or resettlement of older persons does not disrupt their enjoyment of their human rights. She stresses the need to ensure that new housing is accessible and that older persons are included in livelihood recovery, income-generation, microcredit and capacity-building programmes. She also notes that the rights of older persons, in particular single or widowed older women, whose property and housing may have been destroyed, require specific protection. The Government needs to ensure that information and assistance on accessing reconstruction and recovery programmes, family tracking and reunification, and obtaining replacement documentation, including identification and property titles, is accessible for older persons, including older women, taking into account the low literacy rates. Officials working on recovery and reconstruction need to receive support and training on the inclusion of older persons.

89. As climate change is already affecting Mozambique, the Independent Expert recommends that the Government carry out an in-depth analysis and mapping of persons in vulnerable situations, especially older persons. Unless community-based adaptation and mitigation strategies are developed to enhance the level of managing risks and future planning, households in disaster-prone areas will not be able to cope with and adapt to extreme climate-related events. In post-disaster settings, information on the humanitarian response and on the provision of services and support must be adapted to the specific needs and conditions of older persons, drawing upon existing standards, guidelines and best practices, such as the Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, the Peninsula Principles on Climate Displacement within States and the Guiding Principles on Internal Displacement.

Study and statistics

90. The Independent Expert encourages the Government to ensure the nationwide, systematic and regular collection of disaggregated data on impediments to the enjoyment of all human rights by older persons, such as all forms of discrimination on the basis of age, individually and cumulatively, exclusion, poverty and all forms of violence, abuse, neglect and maltreatment.

91. The Independent Expert stresses that the availability of data and analysis is a prerequisite for efficient policy design. She welcomes the research efforts undertaken thus far, and those envisaged, to analyse the current situation of older persons, identify

trends and challenges and ensure a better understanding of the implications of an ageing population as an essential foundation for policy development. She recommends that a baseline study on the human rights of older persons in Mozambique be conducted, disaggregating the data by age to reflect the extreme heterogeneity of that particular group of persons, which would also allow the impact of the steps taken to be measured.

Discrimination

92. Noting the existing non-discrimination provisions in the Constitution, the Independent Expert recommends the specific inclusion of disability and age as prohibited grounds of discrimination. She also encourages the Government to review its laws and policies in order to identify and rectify provisions that discriminate against older persons, including those with disabilities.

93. She also encourages the Government to consider establishing an independent national equality body to monitor and report on discrimination issues, including discrimination against older persons, promote equality and deal with complaints of discrimination in an expeditious manner, ensuring access to justice in the fight against discrimination and inequality.

94. Mindful of the colonial legacy, the consequences of conflict and war and the specific socioeconomic situation of Mozambique, the Independent Expert recommends that the Government continue to address the general patterns of discrimination that are prevalent in the country and are perpetuated in old age. She also notes the persistence of certain harmful practices of demonology and deep-rooted stereotypes regarding the roles and responsibilities of women and men within the family and society at large, which are among the root causes of violence against women in the private and public spheres.

95. She calls on the Government to remove existing barriers and to redress gender-related factors that prevent older persons, particularly older women, from obtaining identity documents to be able to prove their age.

Violence, maltreatment and abuse: the scourge of demons and accusations of witchcraft

96. The Independent Expert expresses concerns at the use of accusations of witchcraft against older persons, and particularly older women, to validate abuse, violence and neglect, or even to excuse killings. She notes that witchcraft-related beliefs and practices are too often used as an explanation for undiagnosed dementia and other cognitive health conditions. She stresses that action is imperative to eliminate those patterns and calls on the Government, civil society actors and community-based organizations, including faith-based organizations, the traditional *curandeiros* (healers) and others, to unite and form a front against the scourge of accusations of demonic possession and witchcraft. She recommends a joint initiative starting with a symbolic and representative declaration to socially denounce and condemn all accusations of witchcraft and associated views, and acts that lead to older women being considered as “possessed by demons” or “evil witches”.

97. The Independent Expert emphasizes that a concerted, joint and prioritized effort is urgently needed to engage constructively with the field of spirits. She urges the Government to develop an action plan, along with an awareness-raising and educational campaign. She emphasizes the importance of involving the federation of traditional *curandeiros*, in view of the key role it could play in socially ostracizing such practices. She also recommends that geriatric specialists and gerontologists be included in the conduct of educational information campaigns regarding ageing, dementia and the prevalence of other cognitive health conditions. Normative action and dedicated remedy mechanisms should focus on providing effective measures to protect older women accused of witchcraft from maltreatment and abuse and carrying out awareness-raising programmes among the population, in particular in rural areas, on the adverse effects of such practices.

98. The Independent Expert expresses concerns about the violence against and abuse and maltreatment of older persons beyond accusations of witchcraft. While acknowledging that the Government recognizes that gender-based violence is a serious concern, she stresses the need for further normative measures and mechanisms to ensure the detection, reporting and investigation of all forms of abuse and maltreatment of older persons in institutional care and in family settings. Training judges, lawyers and prosecutors is essential to ensuring that the investigation of cases of violence against older persons signals to the community that violence against and abuse of older persons are serious crimes and will be treated as such.

99. The Independent Expert notes that there is a general lack of awareness among older persons in Mozambique about national policies and laws and about their human rights and that this correlates with the tendency to underreport cases of violence and abuse involving older persons. There is a need to establish educational programmes on the rights of older persons that target them specifically, as well as the rights of informal caregivers and the extended family, to help improve disclosure of abusive experiences. When targeting older persons, there is a need to take into account the high levels of illiteracy and the marked linguistic diversity.

Adequate standards of living and autonomy

100. The Independent Expert notes that, while poverty has been reduced in Mozambique, there is more inequality, as economic progress becomes increasingly less inclusive. Positive developments, including an acceleration in the rate of poverty reduction, are being accompanied by a widening gap between the better-off and the poor, hindering the country's progress in achieving shared prosperity and making it now among the most unequal countries in sub-Saharan Africa.³⁷ Although some of the inequalities that persist are the legacy of colonial rule, war and conflict, the Independent Expert stresses that it does not mean that existing disparities are acceptable. She urges the Government to take measures for a more inclusive economic progress. She insists also that more needs to be done to ensure that older persons in Mozambique, particularly older women, enjoy an adequate and decent standard of living.

101. She also calls on the Government to continue its efforts towards ensuring that all older persons, including those with disabilities and those living in rural areas, have access to basic services. She further recommends that Mozambique take targeted measures to ensure accessible means of public transport for older persons, particularly in rural areas where the majority of older persons live.

Social protection and the rights to social security

102. The Independent Expert welcomes the national strategy for basic social security that provides for extended coverage of persons in situations of vulnerability, including older persons, and notes the considerable efforts made to create a package that guarantees a social protection floor. She nevertheless calls on the Government to intensify its efforts at the political and administrative levels to ensure that social security for all older persons becomes a reality in Mozambique. In particular, she urges the Government to ensure further expansion of the social security coverage to those in the informal economy, including agricultural workers, and to ensure effective implementation of Law No. 4/2007, which extended social security coverage to self-employed workers.

103. She welcomes the efforts to address old-age poverty, but stresses that more needs to be done to ensure that all older persons, irrespective of whether they have been employed, are financially secure in old age. The introduction of a non-contributory old-age pension would significantly contribute to the financial autonomy of older persons. It would also have an important gender dimension, as women are particularly vulnerable to poverty in old age.

³⁷ See World Bank, "Mozambique economic update. Shifting to more inclusive growth" (October 2018).

104. While welcoming the recognition by the State that the current pension is insufficient, the Independent Expert recommends that the Government further strengthen the capacity to implement the basic social subsidy programme and to ensure that the benefits are adequate to cover the basic needs of older persons so that it effectively addresses the risks of old-age poverty, particularly among women, and contributes to fostering intergenerational solidarity. She notes that, if necessary, due consideration should be given to alternative options.

105. The Independent Expert notes that additional measures are required to remove barriers that prevent older persons from receiving the benefits to which they are entitled. In that regard, she calls on the Government to improve its delivery model by implementing age-sensitive measures to ensure that older persons have access to cash transfers.

Care

106. Acknowledging that Mozambique faces a number of major public health challenges, including an HIV/AIDS epidemic and malaria, the Independent Expert commends the Government for its efforts to ensure provision of adequate care for older persons. She nevertheless stresses the need to expand health-care services in general and in particular to cater for the needs and necessities of older persons in national health and development plans.

107. She urges the Government to ensure that older persons can effectively benefit from medical consultations free of charge, that they are accessible and that older persons receive priority care. The availability of medication for age-related physical and cognitive conditions at government health centres needs to be improved. She further calls on the Government to pay special attention to the precarious situation of older women to ensure that they have full access to health and social services.

108. The Independent Expert recommends that the Government take specific measures to overcome the existing barriers that older persons face in accessing basic health-care services, such as the reflection of health-care costs in the amount provided in the cash transfer. In that context, she also stresses the need to ensure the expansion of free and reliable transport covering rural, urban and peri-urban areas.

109. While care is still largely considered a family matter, human mobility, accelerated levels of urbanization and societal changes have the potential to erode the traditional family home-care system. The Independent Expert stresses that the Government needs to make efforts in the health and care infrastructure so as to provide alternatives for older persons, particularly in rural areas.

110. The Independent Expert recommends that the Government develop programmes for home-based care support to ensure that older persons can remain in their own homes for as long as possible, receiving the necessary care, as needed. She also encourages Mozambique to increase the number and build on the experience of existing day-care centres for older persons in the community, to decrease loneliness and facilitate the involvement of older persons in community projects, including those relating to their human rights and self-care.

111. The Independent Expert recommends that a comprehensive study be carried out on the profile of informal caregivers to inform the development of a relevant policy. She notes that health services in the community are currently unsustainable owing to the heavy reliance on faith- and community-based organizations and the lack of adequate numbers of professional health and social workers, appropriate training, quality assurance and monitoring. Training for informal caregivers should include training in caring and in protecting the caregiver's own physical and mental health.

112. Older persons have different patterns of disease presentation from younger adults, they respond to treatments and therapies in different ways and they frequently have complex social needs that are related to their chronic medical conditions. She also notes the need to pay particular attention to the post-menopausal sexual health rights of older women. It is therefore essential to ensure that the different categories of health

workers and community members are sensitized to the needs of older persons and receive training in gerontology and geriatrics, and that policies and guidelines on the care of older persons are developed.

113. In view of the limited awareness in Mozambican society about dementia and associated cognitive health conditions, and the misinterpretation of its symptoms as a form of demonology and witchcraft, the Independent Expert strongly encourages the Government to make dementia a public health priority. There is a need, *inter alia*, to integrate dementia services at the primary health-care level, to further build the capacity of doctors, not only to diagnose and treat dementia but also with regard to biopsychosocial cultural interventions for dementia and to provide training in dementia care. Activities in care homes also need to be improved and standardized to cater for the specific needs of persons suffering from dementia. In addition, there is a need to expand care facilities for patients with psychiatric disorders.

C. Recommendations to the international community

114. The Independent Expert acknowledges the commitment of Mozambique to ensuring the full enjoyment by older persons of their human rights and notes that the international community has a crucial role to play in providing assistance to and cooperating with the Government to ensure full implementation of existing international instruments and regional instruments relating to older persons. She supports the Government's call for expertise to be provided on human rights and, *inter alia*, the deployment by OHCHR of staff members to the country to further the implementation of measures that help to promote and protect the human rights of older persons.
