



International Covenant on Civil and Political Rights

Distr.: General
19 November 2013

Original: English

Human Rights Committee

Concluding observations on the initial report of Mozambique*

1. The Committee considered the initial report submitted by Mozambique (CCPR/C/MOZ/1) at its 3020th and 3021st meetings (CCPR/C/SR.3020 and CCPR/C/SR.3021), held on 22 and 23 October 2013. At its 3031st meeting (CCPR/C/SR.3031), held on 30 October 2013, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Mozambique and the information presented therein, while regretting that it was submitted late. It expresses appreciation for the opportunity to engage in a constructive dialogue with the State party's delegation on the measures taken by the State to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/MOZ/Q/1/Add.2) to the list of issues (CCPR/C/MOZ/Q/1/Add.1) which were supplemented by the oral responses provided by the delegation during the dialogue and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

- (a) The adoption of the Constitution, in 2004;
- (b) The adoption of the Family Law (No. 10/2004) and Labour Law (No. 23/2004), in 2004;
- (c) The adoption of the Law on Preventing and Combating Trafficking in Persons, Especially Women and Children (No. 6/2008), in 2008; and
- (d) The adoption of the Law on Domestic Violence Practised against Women (No. 29/2009), in 2009.

* Adopted by the Committee at its 109th session (14 October–1 November 2013).

4. The Committee welcomes the ratification of, or accession to, the following international instruments:

(a) The International Convention on the Elimination of All Forms of Racial Discrimination, on 18 April 1983;

(b) The Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, on 21 July 1993;

(c) The Convention on the Rights of the Child, on 26 April 1994, and the Optional Protocols thereto on the sale of children, child prostitution and child pornography, on 6 March 2003, and on the involvement of children in armed conflict, on 19 October 2004;

(d) The Convention on the Elimination of All Forms of Discrimination against Women on 21 April 1997, and the Optional Protocol thereto on 4 November 2008;

(e) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 14 September 1999;

(f) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 30 January 2012; and

(g) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 19 August 2013.

C. Principal subjects of concern and recommendations

5. While welcoming that the provisions of the Covenant may be invoked directly in court, the Committee notes with regret that, to date, there have been no cases in which they have been invoked before the State party's courts of law (art. 2).

The State party should take measures to ensure that judges, prosecutors and law enforcement officers receive adequate training to enable them to apply and interpret domestic law in the light of the Covenant and disseminate knowledge of the provisions of the Covenant among lawyers and the general public to enable them to invoke its provisions before the courts. The State party should include in its next periodic report detailed examples of the application of the Covenant by domestic courts and access to remedies provided for in the legislation by individuals claiming a violation of the rights enshrined in the Covenant. It should also consider acceding to the First Optional Protocol to the Covenant.

6. The Committee regrets the absence of detailed information and statistical data in the State party's initial report and the written replies to its list of issues, which would allow it to assess the impact of Covenant rights in practice in the State party, and which it deems essential to monitoring the implementation of the Covenant.

The State party should in its next periodic report provide more comprehensive information on the implementation of its legislation in different areas covered by the Covenant. It should also provide complete relevant statistical data, disaggregated by, inter alia, gender.

7. The Committee welcomes the establishment of the National Human Rights Commission in 2009 and notes that it became operational in September 2012. Nonetheless, the Committee is concerned at the reported lack of independence of the Commission and its deficient functioning (art. 2).

The State party should strengthen its efforts to ensure that the National Human Rights Commission enjoys full independence and is afforded the necessary resources to be able to carry out its mandate effectively in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

8. While noting that article 35 of the Constitution ensures that all citizens are equal before the law, the Committee is concerned at reports of racial discrimination against locals and local traders in tourist regions, particularly in the beaches of the Provinces of Inhambane, Gaza and Cabo Delgado, and restrictions on their freedom of movement (arts. 2, 12, and 26).

The State party should engage with relevant actors, including local authorities and the tourist industry, in a dialogue aimed at preventing and combating any form of discrimination in tourist regions. The State party should ensure the effective implementation of the legal provisions that reflect the State party's obligations under the Covenant with regard to the principle of non-discrimination. It should also take appropriate measures to ensure that such acts of discrimination are investigated.

9. While noting the steps taken by the State party to promote gender equality, and the progress made, particularly at high levels of Government, the Committee expresses concern at the low representation of women in decision-making positions at local level. The Committee regrets that traditional discriminatory practices and stereotypes on the role and responsibilities of women and men in the family and society at large still persist, and is concerned at the prevalence of such harmful traditional practices as forced and early marriage and polygamy, despite their prohibition under the Family Law No. 10/2004. The Committee is also concerned that women are vulnerable to discrimination under customary law, including in respect of inheritance and access to land (arts. 2, 3, 23, 24, 25 and 26).

The State party should take all the necessary measures to effectively implement and enforce the existing relevant legal and policy frameworks on gender equality and non-discrimination, pursue its efforts to increase the representation of women in decision-making positions at local level and develop strategies to combat stereotypes on the role of women, including by sensitizing its population on the need to ensure the enjoyment by women of their rights. The State party should take appropriate measures to: (a) put an end to forced and early marriages and polygamy; (b) conduct awareness-raising campaigns on the negative effects of such practices, in particular in rural areas; and (c) encourage reporting of such offences, investigate complaints from victims and bring those responsible to justice. It should also strengthen measures to ensure that women are not subjected to discriminatory treatment when customary law is applied, including through increased efforts to raise awareness of the precedence of statutory law over customary laws and practices and by raising awareness amongst women about their rights under statutory law and the Covenant.

10. While welcoming the measures taken by the State party to combat gender-based violence, including domestic violence, inter alia the adoption of the Law on Domestic Violence Practised against Women (No. 29/2009) on 29 September 2009, the Committee is concerned at the persistence of this phenomenon and the low reporting of such crimes owing to traditional societal attitudes. The Committee regrets the lack of data on sanctions imposed on perpetrators, remedies granted to victims and the availability of shelters and rehabilitation services for victims. The Committee is further concerned at reports of stigmatization and violence against older women accused of witchcraft (arts. 2, 3, 6, 7 and 26).

The State party should strengthen its efforts to prevent and combat gender-based violence in all its forms and manifestations, including by ensuring the effective

implementation of the existing relevant legal and policy frameworks. It should conduct awareness-raising campaigns on the negative effects of domestic violence, inform women of their rights and existing mechanisms of protection, and facilitate complaints from victims. The State party should further ensure that cases of domestic violence are thoroughly investigated, perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective remedies and means of protection, including an adequate number of shelters available in all parts of the country. It should also take effective measures to protect older women accused of witchcraft from ill-treatment and abuses, and carry out awareness-raising programmes among the population, in particular in rural areas, on the negative effects of such practice.

11. The Committee is concerned at reports of instances of unlawful killings, arbitrary executions of suspected criminals, excessive use of force by law enforcement officers, and the use of torture and ill-treatment in places of deprivation of liberty, including police stations and prisons. It is further concerned at the lack of concrete and comprehensive information on investigations, prosecutions, convictions and sanctions imposed on those responsible and at the reported impunity of law enforcement officers involved in such human rights violations (arts. 2, 6, 7, 9, 10 and 14).

The State party should take practical steps to prevent the excessive use of force by law enforcement officers by ensuring that they comply with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It should take appropriate measures to eradicate torture and ill-treatment, including by ensuring that law enforcement personnel receive training on the prevention of torture and ill-treatment by integrating the 1999 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in all training programmes. The State party should ensure that allegations of unlawful killings, excessive use of force, torture and ill-treatment are effectively investigated, that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims or their families are provided with effective remedies, including appropriate compensation.

12. The Committee is concerned at the persistence of lynchings and the lack of impact of the measures taken to prevent and punish such offences (arts. 6, 7 and 14).

The State party should step up its efforts to prevent, investigate, prosecute and punish lynchings and conduct information and education campaigns in schools and the media on the unlawfulness of such acts, regardless of circumstances and causes, and the criminal liability incurred.

13. The Committee expresses concern at reports of arbitrary arrests and detention, including of children, lengthy pretrial detention beyond the legally prescribed limits, failure to inform detained persons about their rights, the reasons for their detention and the charges against them, and difficulties in detained persons having access to a lawyer from the very beginning of their detention. It is also concerned at the lack of knowledge by detained persons of their rights, which prevents them from claiming compensation for violations (arts. 9, 14, and 24).

The State party should take appropriate measures to ensure that no one under its jurisdiction is subject to arbitrary arrest or detention and that detained persons enjoy all legal guarantees, in compliance with articles 9 and 14 of the Covenant. It should ensure that persons deprived of their liberty are adequately informed about their rights so as to enable them to exercise in practice their right to effective judicial redress and compensation, and that appropriate sanctions be imposed on those responsible.

14. While noting the efforts made by the State party to improve conditions of detention, including the ongoing construction of a new prison facility, the Committee expresses concern at the severe overcrowding, deplorable conditions of detention, including insanitary conditions, inadequate food and health care, and cases of death in custody. The Committee is further concerned that the separation of minors from adults is not always guaranteed and that prisoners who have completed their sentences are sometimes not released by prison authorities (arts. 6, 7, 9, 10, 14, 24).

The State party should take urgent measures to establish a system of regular and independent monitoring of places of detention and to reduce overcrowding and improve conditions of detention, including for juvenile offenders, in line with the Covenant and the Standard Minimum Rules for the Treatment of Prisoners. In this regard, the State party should consider not only the construction of new prison facilities but also the application of alternative measures to pretrial detention, such as bail, home arrest, etc., and non-custodial sentences, such as suspended sentences, parole and community service. The State party should investigate promptly cases of death in custody, prosecute those responsible and provide appropriate compensation to families of victims. It should also ensure that the principle of separation of juvenile detainees from adults in detention facilities is respected and that prisoners who have completed their sentences are released without delay.

15. While noting the efforts made by the State party regarding the training and employment of more judges, the Committee remains concerned about the insufficient number of judges and their inadequate training. It is further concerned about the lengthy delays in the administration of justice, the lack of clarity on the calculation of court fees and difficulties encountered by disadvantaged persons in accessing legal assistance. The Committee is also concerned at reports that the system of community courts inherited from colonial times does not appear to function according to basic fair trial principles and their decisions can contradict human rights principles (arts. 2 and 14).

The State party should continue to increase the number of qualified and professionally trained judicial personnel, as a matter of urgency; continue efforts to decrease delays in proceedings, simplify and make transparent the procedure by which court fees are calculated and ensure that legal assistance is provided in all cases where the interest of justice so requires. The State party should also ensure that the system of community courts function in a manner consistent with article 14 and paragraph 24 of general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, and decisions emanating from these bodies do not run counter the State party's obligations under the Covenant.

16. While commending the State party for its treatment of refugees and asylum seekers despite its significant reservations to the Convention relating to the Status of Refugees, the Committee notes with concern the lengthy delays in the refugee status determination process resulting in an increase in the backlog of asylum applications, and the difficulties in accessing second-instance determination, both of which may put refugees at risk of refoulement (arts. 2 and 7).

The State party should review its existing refugee status determination procedures both in law and practice so as to address the significant backlog of asylum applications, some of which have been pending for over eight years. It should specify precise time frames for these procedures and ensure they are fully accessible to asylum seekers, especially at the second instance. The State party should also consider withdrawing its reservations to the Convention relating to the Status of Refugees.

17. While appreciating the State party's efforts in preventing and combating trafficking in persons, including the adoption of the Law on Preventing and Combating Trafficking in

Persons, Especially Women and Children (No. 6/2008) on 9 July 2008, the Committee is concerned that the State party remains both a country of source and transit for men, women, and children subjected to forced labour and sexual exploitation, that cases of trafficking are underreported for fear of reprisals by individuals involved in trafficking networks that usually hold economic power or influence in the community, and that no information was provided on the availability of effective protection mechanisms and services for victims, such as shelters and rehabilitation services. The Committee is further concerned at reports of trafficking in body parts for use by so-called witch doctors in their traditional medicine (arts. 2, 6, 7, 8, and 24).

The State party should strengthen its efforts to prevent, suppress and punish trafficking in persons and trafficking in body parts, including at the regional level and in cooperation with neighbouring countries, inter alia through the organization of training for police officers, border personnel, judges, lawyers and other relevant personnel in victim identification and awareness-raising among population at large, and by providing them with adequate resources. The State party should take appropriate measures to protect victims of trafficking in persons from reprisals and provide them with adequate medical care, free social and legal assistance, and reparation, including rehabilitation.

18. The Committee is concerned at the high rate of child labour in the country, especially in agricultural sectors and domestic services, and at reports of sexual exploitation of children (arts. 8 and 24).

The State party should continue its efforts to implement existing policies and laws that are designed to eradicate child labour and sexual exploitation of children, including through public information and education campaigns on the protection of children's rights. The State party should ensure that children have special protection, in accordance with article 24 of the Covenant, and that it is enforced in practice. Lastly, it should ensure that violations of these laws are prosecuted and keep reliable statistics.

19. The Committee expresses concern at reports of child abuse and sexual exploitation, including in the schools of the State party, and notes that often such cases are not reported to authorities since families try to get compensation from perpetrators outside the court system. The Committee regrets the lack of data on the number of cases that have been investigated and prosecuted, and on the compensation awarded to victims of such abuse (arts. 2, 7, and 24).

The State party should, as a matter of urgency, enhance its efforts to combat child abuse and sexual exploitation by improving mechanisms for early detection, encouraging reporting of suspected and actual abuse, and ensuring that cases of abuse are thoroughly investigated, perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately rehabilitated.

20. While welcoming the measures taken to improve the birth registration system, the Committee notes that the registration rate remains low and there are deficiencies in the registration of children born outside maternity hospitals or whose parents are absent. The Committee also notes that proposals to extend the 120-day period for free birth registration and reduce the registration fees are under discussion (arts. 16 and 24).

The State party should strengthen its efforts to ensure registration of children, including by setting up special units working outside maternity hospitals and reaching all areas of the country, including the most remote ones, and conduct awareness-raising campaigns on birth registration procedures within communities, in particular in rural areas.

21. The Committee is concerned about the criminalization of defamation in a manner that discourages the expression of critical positions or of critical media reporting on matters of public interest, and adversely affects the exercise of freedom of expression and access to information of all kinds (art. 19).

The State party should guarantee freedom of expression and freedom of the press, as enshrined in article 19 of the Covenant and developed at length in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. The State party should therefore protect the pluralist nature of the news media. It should also consider decriminalizing defamation and should in any case restrict the application of criminal law to the most serious cases, bearing in mind that imprisonment is never an appropriate punishment in such cases.

22. The Committee is concerned that the freedom of assembly and association is not always effectively guaranteed. The Committee is also concerned about allegations of arbitrary arrests and detention of participants in peaceful demonstrations, including those organized by the Mozambique War Veterans Forum, as well as the use of tear gas, water cannons, rubber bullets and batons by police during demonstrations. The Committee is further concerned by the prolonged delays in registering the Mozambique Association for Sexual Minority Rights (Lambda), a non-governmental organization defending the rights of homosexuals (arts. 7, 9, 19, 21 and 22).

The State party should take all measures to ensure that individuals fully enjoy their rights under article 21 of the Covenant and that the right to freedom of assembly is safeguarded in practice. The State party should also investigate and prosecute persons allegedly responsible for arbitrary arrests and detention and bodily injuries inflicted in connection with participation in a peaceful demonstration and punish those who are found guilty. The State party should ensure that decisions on registration of non-governmental organizations, including Lambda, are taken without undue delays.

23. The State party should widely disseminate the Covenant, the text of the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, the text of the initial report, the written replies to the list of issues drawn up by the Committee, and the present concluding observations with a view to increasing awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee suggests that the report and the concluding observations be translated into the official language of the State party. The Committee also requests the State party, when preparing its second periodic report, to broadly consult with civil society and non-governmental organizations.

24. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 13, 14 and 15 above.

25. The Committee requests the State party, in its next periodic report, due by 1 November 2017, to provide specific, up-to-date information on all its recommendations and on the Covenant as a whole.