

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review:

2nd Cycle, 24th Session

MOZAMBIQUE

I. BACKGROUND INFORMATION

Mozambique acceded to the *1951 Convention relating to the Status of Refugees* in 1983 and to its *1967 Protocol* in 1989 (hereinafter jointly referred to as the *1951 Convention*). However, Mozambique maintains several reservations to the *1951 Convention* (see Issue 1 below). Mozambique acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in 2014.

The national legal framework for refugee protection is established by the *Refugee Act No. 21/1991 of 31 December 1991*¹ and the subsequent *Decree 33/2007 on the Regulation on the determination of refugee status*. UNHCR's main Government counterpart in Mozambique is the National Institute for Support to Refugees (Instituto Nacional de Apoio aos Refugiados - INAR), created in 2003 through *Decree 51/2003* and reporting to the Minister of Foreign Affairs.

As of May 2015, Mozambique hosted a total of 19,478 persons of concern to UNHCR, including some 4,639 refugees and 14,832 asylum-seekers. Out of these, some 39 per cent are women (7,605) and 42 per cent are under 18 years old (8,171), with 15 per cent being children under five. Since 2010, there has been a sharp rise (152 per cent) in the number of persons of concern, resulting particularly from the significant increase in the number of asylum-seekers (255 per cent).

The majority of refugees and asylum-seekers continue to originate from the Democratic Republic of the Congo (DRC) (2,727 refugees; 6,626 asylum-seekers); followed by Burundians (985 refugees; 4,175 asylum-seekers); Somalis (91 refugees, 2,733 asylum-seekers); and Rwandans (805 refugees; 1,116 asylum-seekers) and a variety of other nationalities amounting to 31 refugees and 139 asylum-seekers from Ethiopia, the Republic of the Congo, Uganda, Sudan, and others. A significant increase in the number of asylum-seekers from Somalia has been noted in the past few years, with a total of close to 1,000 arriving in 2014 alone.

¹ *Mozambique: Act No. 21/91 of 31 December 1991 (Refugee Act)* [Mozambique], 13 December 1991, available at: <http://www.refworld.org/docid/3ae6b4f62c.html>.

Given that the majority of refugees in Mozambique originate from Eastern DRC and Burundi, where current conditions are not conducive for return in safety and dignity, voluntary repatriation has not been an option for most during recent years. Resettlement, on the other hand, is used as a protection tool for a minimal number of cases without a prospect of integration and presenting acute protection and/or medical needs. Local integration therefore remains the durable solution that is most accessible. Refugees and asylum-seekers are able to benefit from *de facto* integration as a result of the generally flexible arrangements established by the authorities, which allow for freedom of movement, access to business and employment opportunities, as well as universal access to education and healthcare. About 61 per cent of the refugee and asylum-seeker population live in Maratane Camp, which is the only refugee camp in Mozambique. A good proportion of persons in the camp have been in the country for over 8 to 10 years. However, a steady flow of new arrivals continues to enter Mozambique and an average of 120 to 150 individuals are received in the camp every month, mainly from DRC and Burundi, but also from Somalia, and a few from Rwanda and other countries.

The remaining persons of concern live in various urban areas in the country and are generally self-reliant, thanks to Mozambique's favourable protection environment. Thus, the recent increase of the urban refugee population is a positive achievement that is explained by the Government's flexible approach to its reservation to Article 26 of the *1951 Convention* and that offers refugees the opportunity to become self-reliant, as well as the potential for local integration.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

The Government of Mozambique should be commended for having become party to a number of critically important international instruments since its 1st cycle UPR, including the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* in 2014. Mozambique also became party to the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* in 2013; the *Convention on the Rights of Persons with Disabilities* and its *Optional Protocol* in 2012; and the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* in 2014. Mozambique received recommendations to accede to/ratify these instruments during the 1st cycle UPR.² However, Mozambique is not yet party to the *International Covenant on Economic, Social and Cultural Rights*.

Mozambique established a National Human Rights Commission in September 2012 pursuant to *Law 33/2009 of 22 December 2009* with an *Action Plan* currently being implemented. Mozambique received and supported several recommendations on this topic during the 1st cycle UPR.³ The Commission has the responsibility to promote and protect human rights in the

² See, i.e.: “88.2. Consider the possibility of signing or acceding to the remaining international human rights treaties, including ICESCR and ICRMW and domesticate them in its national legislation (Nigeria);” and “90.6. Ratify OP-ICESCR, the Rome Statute of the ICC as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia),” Report of the Working Group on the Universal Periodic Review: Mozambique, A/HRC/17/6, 28 March 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MZSession10.aspx>.

³ See: “88.10. Adopt as soon as possible the National Human Rights Action Plan (Ireland);” “88.11. Implement the law on the establishment of a National Human Rights Commission (Russian Federation);” “88.12. Conclude consultations on the composition of the National Commission for Human Rights, and make the Commission

country and to develop and implement strategies to further this goal, which includes both further development of the national legal framework for refugees and the promotion of a protection-sensitive approach on mixed migration.

Mozambique has been selected as the pilot country in Africa for the roll out of the Civil Registration and Vital Statistic (CRVS) programme. The programme is funded by the African Development Bank and other donors and a costed multi-year operational plan has been drawn up by the CRVS UN inter-agency task force supporting the Government. This programme is a positive development in addressing the fact that according to the last 2007 census, it is estimated that nearly 6 million children have no civil registration in Mozambique, no data is available on the adult population and no recent census has been organized countrywide (the next population census is under preparation to take place in 2017).

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Withdrawal of reservations to the 1951 Convention relating to the Status of Refugees and promotion of self-reliance and local integration

Despite accepting the 1st cycle UPR recommendation from Ecuador to withdraw its reservations to the 1951 Convention⁴ and continued advocacy from UNHCR, Mozambique still maintains these reservations. The reservations specifically relate to Articles 13 (“Movable and Immovable Property”), 15 (“Right of Association”), 17 (“Wage-earning Employment”), 19 (“Liberal Professions”), 22 (Public Education”), 26 (“Freedom of Movement”) and 34 (“Naturalization”).⁵

Although Mozambique has not individually implemented these reservations in legislation, they compromise the creation of a legal framework enabling further local integration of persons of concern. The *Refugee Act* refers to the reservations in general and grants a right to the Council of Ministers to determine the scope of the implementation of the *Refugee Act* by issuing regulations (Article 16). As a result, refugees’ enjoyment of the rights covered by the reservations is unpredictable and could be restricted at any moment through a ministerial regulation or policy.

operational (United Kingdom);” Report of the Working Group on the Universal Periodic Review: Mozambique, A/HRC/17/6, 28 March 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MZSession10.aspx>.

⁴ “88.9. Withdraw the reservations to the Convention on the Status of Refugees (Ecuador);” Report of the Working Group on the Universal Periodic Review: Mozambique, A/HRC/17/6, 28 March 2011, available at: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MZSession10.aspx>.

⁵ The text of the reservations reads:

“Reservations:

In respect of articles 13 and 22:

The Government of Mozambique will take these provisions as simple recommendations not binding it to accord to refugees the same treatment as is accorded to Mozambicans with respect to elementary education and property.

In respect of articles 17 and 19:

The Government of Mozambique will interpret [these provisions] to the effect that it is not required to grant privileges from obligation to obtain a work permit.

As regards article 15:

The Government of Mozambique will not be bound to accord to refugees or groups of refugees resident in its territory more extensive rights than those enjoyed by nationals with respect to the right of association and it reserves the right to restrict them in the interest of national security.

As regards article 26:

The Government of Mozambique reserves its right to designate place or places for principal residence for refugees or to restrict their freedom of movement whenever considerations of national security make it advisable.

As regards article 34:

The Government of Mozambique does not consider itself bound to grant to refugees facilities greater than those granted to other categories of aliens in general, with respect to naturalization laws.”

Since the reservations have not been regulated so far, it is left to the discretion of authorities to decide how to apply such restrictions.

Thus, rather than restrictions based in the legal framework, refugees and asylum-seekers mostly struggle with the arbitrary, and sometimes inconsistent manner in which authorities apply legal provisions. These difficulties often arise due to gaps in local authorities' knowledge of refugee rights and lack of recognition of their documentation. This results in inconsistent practices depending on the geographic location, the type of services and the concerned applicant's level of knowledge and capacity to argue for his/her rights.

Mozambique has generally maintained a generous approach, in practice allowing full access to education, health and other basic services for persons of concern and a flexible policy on freedom of movement. However, the reservations relating to procedures for the issuance of work and business permits, access to land, ownership of real state and acquisition of nationality through naturalization are strictly applied.

The legislative framework imposes certain strict requirements for foreigners regarding access to land and access to nationality (naturalization),⁶ which are also applied to refugees and asylum-seekers. Refugees and asylum-seekers also face difficulties due to their lack of certain documents required for access to naturalization, such as birth certificates. Difficulties also arise due to the different identity documentation issued to refugees and asylum-seekers by the Ministry of Foreign Affairs/INAR, rather than the documentation issued to other foreigners by the Ministry of Home Affairs. In principle, their refugee and asylum-seeker identification documents, together with an official declaration from INAR, should suffice as proof of their legal residence in Mozambique, as well as justification for any missing documents, but in many cases administrative procedures remain stalled due to this issue.

As stipulated in Article 27 of the *2004 Constitution*, in order to apply for Mozambican citizenship by naturalization, foreigners must have resided in the country for a minimum period of 10 years.⁷ Nevertheless, in the case of refugees, this residency period does not begin until the person in question is granted refugee status. Therefore, asylum-seekers are automatically excluded from the process, regardless of the time spent in Mozambique. Once asylum-seekers are recognized as refugees and have resided in Mozambique for 10 years, they can file an application for naturalization. This impediment to access to naturalization is concerning in a context where the backlog of asylum applications is significant (see Issue 2 below).

In practice, Mozambique has only nominally restricted refugees' and asylum-seekers' right to freedom of movement by requiring a proof of self-reliance for a refugee to stay outside the camp and by prohibiting refugees from settling in the capital Maputo. It is commendable that Mozambique has maintained practices that grant refugees and asylum-seekers the right to move in and out of Maratane camp, as well as to reside in urban centres (upon prior authorization). This positively impacts their possibilities of self-reliance and local integration.

⁶ According to the conditions for naturalization defined in the *Constitution*, once refugees have resided in Mozambique for 10 years, they can file an application for naturalization with the Conservatória dos Registos Centrais and the following documents must be presented: authenticated copies of passport and DIRE, complete birth and marriage certificates recognized by the respective Consulate or Embassy, declaration of residence, certificate of criminal record, statement of guarantees and the payment of a sum of 850 meticaís. The declaration of residence must be given by the neighbourhood leader and must attest that the person in question has lived in the same location for five years. The statement of guarantees must prove that refugees have sufficient funds available and are capable of providing for themselves without burdening the State of Mozambique. All foreign documents must be duly translated into Portuguese by a certified translator. In addition, a declaration of support is provided by INAR.

⁷ *Ibid*, Article 27 of the *Constitution*.

As a result of the practices described above, the level of access to individual rights by persons of concern, especially those rights related to local integration, greatly varies depending on the location and the individual effort made. Lifting of the reservations and more importantly, the revision of the legislation to address gaps remain the main priorities with the objective of establishing a rights-based legal framework that enables the local integration of persons of concern.

Furthermore, there is a need to revamp national discussions over a comprehensive self-reliance strategy aimed at creating opportunities for the Maratane Camp population to become productive and independent from external assistance. The initiative was developed by INAR and UNHCR in 2007, but has not yet been approved by the Council of Ministers. The strategy remains relevant, as it was designed to address three areas that are equally important nowadays: (i) to ensure stable and renewable residency status with a minimum period of five years; (ii) to ensure the provision of refugee documentation that guarantees access to rights and services at the same level as nationals; and (iii) to ensure non-discriminatory access to naturalization after an appropriate period of residency. A similar strategy would also enhance the high-level of self-reliance already achieved by the urban refugee population in Mozambique.

Recommendations:

UNHCR recommends that the Government of Mozambique:

- Withdraw the reservations made to the *1951 Convention relating to the Status of Refugees*, in accordance with 1st cycle UPR recommendation No. 88.9, in order to strengthen the protection environment and facilitate the local integration of refugees;
- Review the *Refugee Act No.21/1991* and *Decree 33/2007* with the objective of establishing a rights-based legal framework, which reflects positive practical arrangements already put in place by the Government, in order to facilitate local integration and self-reliance of refugees and asylum-seekers; and
- Approve and implement a comprehensive self-reliance strategy for refugees, including those residing in Maratane Camp.

Issue 2: Refugee status determination

While the recognition rate of refugee status is good in Mozambique, the refugee status determination (RSD) process remains quite lengthy, with some claims pending for over 10 years. The asylum system has recently been stalled, with no RSD decision issued in the last two years. Shortcomings exist in both legislation and in implementation of the RSD process. The first instance eligibility process is conducted by the INAR, under the Ministry of Foreign Affairs (MFA), while the Eligibility Commission is composed of members from the Ministry of Justice, the MFA and the Ministry of Interior (MoI); and the final decision must be endorsed by the MoI. This requirement to coordinate recommendations and decisions between the MFA and the MoI is one of the weak points of the system where delays take place. The significant delay in organizing Eligibility Committee sessions (due to high level membership and lack of availability), as well as the requirement for the final decision to be signed by the Minister of Interior, have also contributed to creating an outstanding backlog of pending RSD decisions.

The second instance RSD process is also stalled and remains a challenge. This is because of the complexity of the procedure at the Administrative Tribunal, as well as its general backlog (a waiting period from two to six years); its geographical distance from rejected asylum-seekers (some 2,500 km away from where the majority of rejected asylum-seekers reside); the highly legalistic requirements for appeals (especially for their admissibility); and the requirement for full legal representation of the appellants.

While acknowledging the Government's efforts in expediting the RSD process, there is a need for a revision of legislation on RSD in order to further expedite the decision-making process, with time-bound procedures. In 2014, INAR jointly with UNHCR started a multi-year RSD Backlog Project aimed at the reduction of the RSD backlog, the improvement of RSD data and the enhancement of the quality of the RSD recommendations, including improved capacity of Government officials involved in the process.

Recommendations:

UNHCR recommends that the Government of Mozambique:

- Continue to work toward the reduction of the backlog of asylum applications by streamlining the number of administrative and ministerial layers in the decision-making process and by making the process time-bound and fully accessible to asylum-seekers, especially at the second instance; and
- Streamline the appeal process and reinforce the capacity of the Administrative Tribunal.

Issue 3: Protection-sensitive entry systems in the context of mixed migration

Since 2010, Mozambique and its neighbouring countries have faced growing challenges related to the identification of persons in need of international protection moving in mixed migration flows. Although exact data is not available, increasing numbers of persons from West, Central and Horn of Africa, mainly Nigerians, Malians, Ivorians and Ethiopians, pass through Mozambique on their journey to South Africa in search of better economic opportunities. During the past few years, a higher number of these people have not only been transiting through Mozambique, but have opted to settle in the country in view of the booming economic opportunities brought by the extractive industries. Moving side by side with these flows are also people fleeing from conflict and persecution, especially from the Great Lakes region and Horn of Africa, who require international protection.

Despite the significant decrease in the massive influxes from the Horn of Africa seen in 2012, flows have continued through different routes, driven mainly by the stringent border control measures taken by the Government at the most commonly used entry points. In such a context, preserving the institution of asylum is a challenge that cannot be responded to with the current limited human resources and financial capacity of the Government border and law enforcement officials. To address mixed migration flows in a protection-sensitive manner, proper referral mechanisms, as well as Standard Operating Procedures, need to be put in place and, awareness and capacity of the relevant Government stakeholders reinforced.

In this context, Mozambique faces increasing pressure and impasses with neighbouring countries, due to a combination of factors: insufficient capacity to manage migration flows, limited funds to deal with deportation of irregular migrants and the new routes and structures used by smuggling networks. The issue at hand requires an integrated approach, both at the national and regional level, which should take advantage of the leading role of Mozambique in the Southern African Development Community (SADC). UNHCR has worked together with IOM to support the Government to address the issue of mixed migration in a protection-sensitive manner, taking advantage of its leading role in SADC to promote a regional debate on mechanisms to ensure access to the territory for those in need of international protection, as well as alternative legal channels for migration.

Recommendations:

UNHCR recommends that the Government of Mozambique:

- Further strengthen its national policies on managing mixed migratory movements in a protection-sensitive manner, ensuring respect of refugee and human rights law, as well as humanitarian principles;
- Enhance the awareness and capacity of border officials and law enforcement officials;
- Formulate national Standard Operating Procedures for identification and referral of persons who may be in need of international protection and for other persons with specific needs, such as unaccompanied and separated children, victims of trafficking and other vulnerable migrants; and
- Further strengthen available data and statistics on migratory movements in Mozambique.

Issue 4: Right to nationality and statelessness

The *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* came into force on 31 December 2014 following Mozambique's accession on 1 October 2014. This is a milestone for Mozambique as it is now one of the few countries in the region that is party to these *Conventions*.

The provisions on nationality in the revised *2004 Constitution* are also a positive development as they both reduce the risk of statelessness and contribute to preventing statelessness. However, a serious challenge is posed by the fact that no new legislation has been enacted to regulate the revised *2004 Constitution*, and so the applicability of the now inconsistent provisions of the *1975 Nationality Act* and its *Implementing Regulations* is contested.

The main causes of statelessness in Mozambique are legal gaps, the lack of implementation of guidelines from the central level, low registration rates and lack of documentation combined with long-term migration patterns. While facilitation of civil registration procedures remains an important approach to addressing the problem of statelessness, much remains to be done in terms of legislative and administrative reform, collection of data and improvements in guidance from the central to provincial/district levels.

While the *1975 Nationality Act* and its *Implementing Regulations* in principle grant nationality to children born to parents of Mozambican origin abroad, the lack of documentation of Mozambicans living abroad poses a practical obstacle in establishing nationality for those children, both while living abroad and after their return. This lack of documentation is mostly related to loss of documents and lack of official records, coupled with modest economic means and limited education of the affected populations. Mozambique has undertaken ongoing consular registration for persons of Mozambican origin living in Tanzania and further efforts should be taken in this regard in other countries in the region.

Furthermore, a risk of statelessness may arise due to the fact that the *2004 Constitution* imposes a temporal limitation for acquisition of nationality by individuals with any foreign link (i.e. either born abroad or with one of the parents being a foreigner). According to the *2004 Constitution*, children born of stateless parents, of parents of unknown nationality, or of unknown parents are nationals of Mozambique by virtue of birth in the territory of the State (*jus soli*). It also sets forth that every child born to a foreign and a Mozambican parent (mother or father) would be a Mozambican (*jus sanguinis*). However, in both cases, the Constitutional provision conditions the attribution of Mozambican nationality on an obligation by the concerned individual to declare his/her intention of becoming a national before he/she reaches the age of 22. After this age, access to original Mozambican nationality would no longer be available. The same applies for children born abroad, of either one or both Mozambican parents. This temporal limitation to the principle of *jus sanguinis* and/or *jus soli* is one of the main causes of statelessness amongst Mozambican-origin population. This is especially worrying given the history of the country, as

many individuals who were/are born of mixed-marriages or abroad (in the diaspora) did/do not have access to civil registration before reaching 22.

The issue of potentially stateless persons living in Mozambique has been difficult to measure. To date, there are neither assistance programmes for nor statistics regarding persons of Mozambican descent who have returned and/or live in Mozambique and remain with their citizenship unrecognized or simply undocumented. Based on the 2007 Census, it is possible to identify a significant number of undocumented persons in the country, including nearly 6 million children with no civil registration, but causes for this lack of documentation have not been analyzed and thus, their risk of statelessness cannot be assessed. With preparations for the 2017 Census ongoing and in the context of the CRVS programme, UNHCR is advocating for specific efforts to address the issue of lack of data on adult civil registration and the causes thereof, which will significantly contribute to a better understanding of the extent and causes of statelessness in the Mozambique.

Recommendations:

UNHCR recommends that the Government of Mozambique:

- Continue consular registration underway in Tanzania and take further steps to promote consular registration and documentation of persons of Mozambican origin living in other countries, such as Zimbabwe, Zambia and South Africa;
- Implement effective mechanisms to assist returnees in accessing birth certification and other civil registration in the country;
- Undertake a review of the *1975 Nationality Act* and the *1975 Implementing Regulations* to bring them in line with the *2004 Constitution* and the *Statelessness Conventions*, ensuring harmonization of laws and administrative practices at all levels of administration nationwide;
- Benefit from technical assistance to promote measures to prevent and reduce statelessness in the country, including the review of the nationality legislation vis-à-vis the provisions of the *Statelessness Conventions*; and
- Identify stateless persons and those of unknown or undetermined nationality during the 2017 Census and include fields in the survey that would also assess root causes of lack of documentation.

Human Rights Liaison Unit
Division of International Protection
UNHCR
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Excerpts of Recommendations from the 1st cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure mandate holders

- Universal Periodic Review:

MOZAMBIQUE

We would like to bring your attention to the following excerpts from the 1st cycle Universal Periodic Review Reports, UN Treaty Monitoring Bodies' Concluding Observations and Recommendations from UN Special Procedures Mandate Holders' Reports relating to issues of interest and persons of concern to UNHCR with regards to Mozambique.

I. Universal Periodic Review

Below is a list of recommendations of relevance to UNHCR made to Mozambique during the 1st cycle of the Universal Periodic Review. These are divided into three sections: recommendations accepted by Mozambique; recommendations rejected by Mozambique; and recommendations which were under the consideration of Mozambique. Mozambique's views and responses to recommendations are elaborated upon (and sometimes amended) in the Addendum. Information contained in the Addendum, which is of relevance to UNHCR, can be found here in italics.

Report of the Working Group of the Universal Periodic Review, 28 March 2011 (Seventeenth session) [A/HRC/17/16](#)

88. The recommendations formulated during the interactive dialogue/listed below have been examined by Mozambique and enjoy its support:

88.1. Consolidate the legal framework for the promotion and protection of human rights by ratifying the International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) (Algeria);

88.9. Withdraw the reservations to the Convention on the Status of Refugees (Ecuador).

89. The following recommendations enjoy the support of Mozambique, which considers that they are already implemented or in the process of implementation:

89.28. Take effective steps to implement the new legislation enacted in 2009 regarding the family (Lei da Família), domestic violence (Lei Contra Violência Doméstica) and trafficking (Lei contra Tráfico de Pessoas) to address the issue of sexual abuse, exploitation and trafficking of children in order to hold perpetrators accountable and provide means of redress and protection for victims (Austria);

89.35. Continue its efforts to improve the penitentiary system and health services and offer greater protection to children, in particular those who are the victims of trafficking in persons (Holy See);

89.36. Strengthen legislation and adopt a plan of action against sexual abuse and trafficking (Norway).

90. The following recommendations will be examined by Mozambique, which will provide responses in due time, but no later than the 17th session of the Human Rights Council in June 2011. The response of Mozambique to these recommendations will be included in the outcome report adopted by the Human Rights Council at its 17th session in June 2011:

90.6. Ratify OP-ICESCR, the Rome Statute of the ICC as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (Slovakia).

5. Some countries recommended that Mozambique ratifies some conventions and protocols to which it is not yet a State party. The conventions and protocols concerned are: the International Covenant on Economic Social and Cultural Rights (ICESCR) and its Optional Protocol (OP-ICESCR), the Optional Protocol to the Convention against Torture (OP-CAT), the Rome Statute of the International Criminal Court (ICC), Convention on Enforced Disappearances (CED) and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW).

6. On this point we would like to reiterate the information provided during the presentation, that Mozambique is party to most of the international legal instruments on human rights. At the time we had informed that a number of instruments were in the process of ratification, some of which at a very advanced stage. In this context, we would like to inform that two of the instruments in this field, namely, the ICESCR and ICRMW have been already approved by Cabinet and submitted to parliament for endorsement. Thus, the ratification of these instruments is expected shortly.

7. Regarding the other instruments the procedures for their ratification are underway within the relevant institutions. The procedures herein are related to the harmonization of positions of all relevant institutions.

[Addendum does not contain a direct reference to ratification of the Statelessness Conventions].

II. Treaty Bodies

Human Rights Committee

Concluding Observations, (19 November 2013) [CCPR/C/MOZ/CO/1](#)

Refugee Status Determination

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.

Trafficking

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.

Birth Registration

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.

Gender-based Violence

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.

Committee against Torture

Concluding Observations,(10 December 2013) [CAT/C/MOZ/CO/1](#)

Non-refoulement and access to a fair and expeditious asylum procedure

12. The Committee expresses concern about reports of excessive delays in the determination of refugee status. It also regrets the lack of information provided by the State party on the number of cases of refoulement, extradition and expulsion

carried out during the reporting period and on the number of instances and type of cases in which it has offered and/or accepted diplomatic assurances or guarantees (art. 3).

The State party should take the necessary steps, in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), to review its refugee status determination procedures so as to reduce the backlog of asylum applications.

30. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely, the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol thereto, the Optional Protocol to the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee also invites the State party to withdraw its reservations to the Convention relating to the Status of Refugees (1951). In addition, the State party should consider becoming a party to the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961).

III. Special Procedures

Report of the Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul (21 April 2011) A/HRC/17/30/Add.2

Access to justice and strengthening the legal profession

51. Difficulties encountered with accessing justice on the ground of a person's administrative situation, including immigration status, are of particular concern to the Special Rapporteur, who was informed that asylum-seekers and migrants are often deprived of their right to access to justice. Although asylum-seekers receive support for six months while the determination of their status is pending, in practice these procedures last up to three years. As a result, asylum-seekers are left undocumented and without any type of financial, social or psychological support. In this regard, the Special Rapporteur wishes to recall that access to justice is crucial for asylum-seekers in order to uphold their human rights, including the principle of non-refoulement.

52. The Special Rapporteur was also informed of a large percentage of Mozambicans lacking any type of identification, and the excessive cost that the population has to bear to obtain such identification, given the conditions of poverty prevailing in most of the country (170 meticaïs per adult and 90 meticaïs per child (approximately five and three US\$ respectively)). Information received suggested that 70 per cent of the population is yet to be registered and issued with an identification document. In 2008, an estimated 51 per cent of all children under the age of 18 in Mozambique were yet to be registered.

120. The Special Rapporteur recommends that the Government of Mozambique, with the assistance of the international community:

(i) Provide all required support to IPAJ to enable it to achieve effective representation throughout the territory and obtain the administrative and financial autonomy necessary for carrying out its functions with more efficiency;

(ii) Provide free legal aid to asylum-seekers throughout the period taken to determine their status as refugees, including interpretation services; as well as forensic, psychological and medical services, as required;

(iii) Undertake the necessary steps to provide Mozambicans with national identification cards to allow them to be fully recognized as persons before the law and to resort to the justice system, if necessary.

(iv) Increase efforts to raise awareness on human rights and the rule of law, particularly on the justice administration system, the mechanisms available to seek legal redress, and the role of an independent judiciary.