

Sexual Exploitation of Children in Mozambique

Submission

for the Universal Periodic Review of the Human Rights situation in Mozambique

Submitted by

Rede da Criança

and

ECPAT International

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Rede da Criança is a network of 144 national and international organisations committed to the welfare of children living in difficult circumstances in Mozambique. Its objectives are to improve the joint impact of its members in their realisation of social and educational programmes, resource mobilisation and public sensitisation and advocacy for the rights and needs of children



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ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 30 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 121 network members operating in 103 countries.

Justification for submission

1. The purpose of the present submission is two-fold: (1) to serve as an update on the progress that has been made by the Government of Mozambique (GoM) to end the sexual exploitation of children (SEC) in the country, and (2) to assess the level of implementation of the UPR recommendations relating to SEC made in 2016.¹
2. During Mozambique's previous UPR in 2016, the report of the Working Group contained 52 recommendations related to children's rights,² of which 16 are directly related to SEC.³ Eleven of these recommendations addressed the need to combat child, early and forced marriage,⁴ two encouraged Mozambique to ratify the Optional Protocol to the Convention on the Rights of the Child Communications Procedure (OPIC),⁵ one targeted combatting trafficking,⁶ one targeted SEC in general⁷ and one urged Mozambique to fulfil its reporting requirements under the CRC and associated optional protocols.⁸

Methodology and Scope

3. The content of this report is based on country work experience of Rede da Criança and desk research by ECPAT International.
4. The scope of this report is limited to SEC and its different manifestations, including exploitation of children in prostitution,⁹ online child sexual exploitation (OCSE), child sexual abuse materials (CSAM),¹⁰ child trafficking for sexual purposes, sexual exploitation of children in the context of travel and tourism (SECTT)¹¹ and child, early and forced marriage (CEFM).

Current status and developments of sexual exploitation of children in Mozambique

General overview of country conditions

5. It has been reported by local activists that disasters in recent years, such as droughts and floods, have increased the economic difficulties of low-income families and driven more women, and potentially girls, into prostitution.¹² Furthermore, orphaned girls have suffered harmful sexual initiations at the hands of their guardians before being offered to rich, older men in exchange for remuneration.¹³ Rede da Criança also pointed out that, as a consequence of the emigration of the working population, children are often left behind under the care of the elderly or other children, which further increases their vulnerability to SEC.¹⁴
6. Mozambique suffers from high levels of sexual harassment towards children within schools, evidenced in a 2017 survey which showed that 52% of 1200 primary and secondary school students, across 3 provinces, had been victims of sexual harassment.¹⁵ Furthermore, in 2019, several local NGOs

called for action to be taken to address the “scandalous proportions” of sexual harassment and sexual violence in schools.¹⁶

Exploitation of children in prostitution

7. Whilst the lack of accurate and up to date data makes it difficult to ascertain the exact scale and scope of the exploitation of children in prostitution in Mozambique, it is clear that it remains an important problem. Media reports have indicated that the number of children being exploited in prostitution has risen rapidly in urban areas throughout Mozambique.¹⁷ In 2017, it was reported by the National Inspection of Economic Activities that children were being exploited in prostitution in nightclubs throughout the province of Manica.¹⁸ In 2019, local media noted the increasing numbers of children exploited in prostitution in the Milange district.¹⁹ Furthermore, the exploitation of children in prostitution is thought to be rife within the Southern province of Inhambane.²⁰ This is highlighted by estimates from the authorities suggesting that hundreds of children, aged between 12 and 16, have been exploited in this way.²¹ Poverty appears to be one of the main drivers of sexual exploitation of children in prostitution in Mozambique, with many victims forced into it by their own families.²²

Online child sexual exploitation (OCSE)

8. Despite some improvements over the last few years, Internet access remains limited in the country. Indeed, only 10% of the population were using the Internet as of 2017, compared to around 17.5% in 2016.²³ Furthermore, the amount of mobile cellular subscriptions per 100 people has also dropped from 74.4 in 2015 to 47.7 in 2018.²⁴ There has been a lack of research into the prevalence of OCSE in Mozambique and this makes it difficult to assess the scope, characteristics and dynamics of the problem.

Sale and Trafficking of children of sexual purposes

9. In 2015, a report by Save the Children indicated that Mozambican children are being trafficked for the purposes of sexual exploitation.²⁵ Whilst the report identified South Africa as a major destination for trafficked children, it did not discount the possibility of Mozambique also being a destination and transit point for trafficked children.²⁶ Children from rural areas and those from poor socio economic backgrounds are thought to be particularly vulnerable to trafficking offences.²⁷ It has been reported that natural disasters, such as cyclones or floods, can increase the likelihood of children, who have been separated from their families, falling prey to traffickers.²⁸ A religious organisation working to combat trafficking in Mozambique identified the south of the country, close to the capital of Maputo, as the main recruiting region for girls to be sexually exploited.²⁹ Child sexual exploitation is on the rise within the capital itself, with children being recruited in central and northern regions of the country.³⁰

Sexual exploitation of children in travel and tourism

10. According to World Bank data, in 2018, 2.743 million tourists visited Mozambique.³¹ This is a sharp increase from previous years and, whilst there is no direct evidence that identifies Mozambique as a

major destination for SECTT, emphasises the importance of having adequate protections in place to ensure that children are not sexually exploited in a travel and tourism context. In 2015, local media reported that sexual exploitation of children in prostitution was a problem in the tourist city of Vilankulo.³² Given that Inhambane has recently seen a significant increase in tourism, with around 122,000 visitors in 2018 (twice the figures of 2017),³³ this situation may increase the risks associated with sexual exploitation of children in travel and tourism in the region. It is important that more research is carried out on this topic.

11. A 2019 study by the African Child Policy Forum found that, in Mozambique, there were low levels of engagement from the travel and tourism sector in relation to the sexual exploitation of children.³⁴ As of June 2020, only 10 travel and tours operators with operations in the country, including hotels and associations, have signed the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism which aims to protect children from sexual abuse in travel and tourism.³⁵ Currently there are no companies based in Mozambique that are signatories of The Code.

Child, early and forced marriage (CEFM)

12. According to UNICEF, in the period between 2012-2018, 53% of Mozambican women aged 20 to 24 were first married or in union before 18, including 17% before 15.³⁶ In addition, although CEFM is a practice that disproportionately affects girls, in the same time period, 10% of boys aged 20-24 were married before 18 in Mozambique, highlighting that boys can be victims too.³⁷ Girls Not Brides indicate that, overall, the country has the 9th highest child marriage rate in the world.³⁸ These high instances of CEFM appear to be fuelled by illiteracy, gender stereotyping, poverty and traditional practices.³⁹ Patriarchy is also one of the main drivers of this phenomenon, as a 2015 joint report by UNICEF, UNFPA and Girls Not Brides established that girls from female-headed households have a significantly lower probability of marrying before 18.⁴⁰
13. The province of Manica seems to be the most affected by this phenomenon, and notably the districts of Machaze, Manica, Báruè, Guro, Gondola and Tambara.⁴¹ Local civil society reported that, in some instances, unborn girls from poor families are already promised to their future husbands, who in exchange agree to cover the expenses related to the pregnancy.⁴² In addition, some girls are sent to South Africa to marry older Mozambican migrant workers, and the payment of dowries seems to be a common practice.⁴³ Girls Not Brides also reported that, in the Central and Northern provinces, children starting from as young as 8 attend initiation camps where girls are taught to be obedient to their future husbands and how to sexually please them.⁴⁴ Finally, the high levels of sexual harassment in schools is also thought to contribute to CEFM at a community level, as girls give into harassment in order to be admitted to the next grade.⁴⁵

Legislative framework on prohibition of sexual exploitation

14. Article 63 (1) of Law n°7/2008 on the Promotion and Protection of the Rights of the Child explicitly states that the GoM must adopt legal and administrative measures to protect children against all

forms of sexual exploitation and abuse.⁴⁶ Mozambique's criminal law underwent a major change in 2015 with the entry into force of Law n°35/2014 on the Revision of the Penal Code. However, it fails to comprehensively criminalise all the manifestations of SEC as described in the paragraphs below.

15. The legal provisions on the age of sexual consent do not fully protect children against sexual abuse. Indeed, sexual intercourse with children under 12 is regarded as rape and punished with a prison sentence from twenty to twenty four years pursuant to article 219 of the Penal Code.⁴⁷ In addition, article 220 punishes whoever performs sexual acts on a child below the age of 16 which do not imply copulation with prison sentences from two to eight years.⁴⁸ As a result, consensual intercourse with children aged 12 to 16 can only fall under article 221 on indecent exposure,⁴⁹ which features significantly lower penalties (from three days to two years in prison); while non-consensual intercourse with children above 12 qualifies as rape under article 218, punishable from two to eight years in prison.⁵⁰ Furthermore, the legislation does not provide criteria to determine whether the consent for sexual activities between peers under the age of 18 is voluntary, well-informed and mutual, nor does provide for a close-in-age exception.

Exploitation of children in prostitution

16. There are no specific legal provisions on the exploitation of children in prostitution. Article 227 (1) of the Penal Code punishes whoever, either professionally or for profit-seeking purposes, instigates, promotes or facilitates the exercise of prostitution by a third person with prison sentences from one to two years and a fine.⁵¹ This offence does not explicitly carry a heavier penalty if the victim is a child, but can be punished with prison sentences from 2 to 8 years if it is committed by a parent or a legal guardian abusing his/her authority, or if it involves the use of force, serious threats or fraudulent tactics.⁵²

Online child sexual exploitation (OCSE) and child sexual abuse materials (CSAM)

17. The Penal Code punishes whoever uses or lures a child into participating in a “pornographic performance” or for “pornographic purposes”, including pictures, movies, recordings or any other support.⁵³ Written materials and computer or digitally generated CSAM are not explicitly mentioned in this provision, but they can be included in the wording “any other support”.
18. In addition, article 226 (c) punishes, with the same penalty, whoever possesses, obtains, distributes, imports, exports, displays or transfers CSAM, in any capacity or by any means.⁵⁴ Even though these provisions are quite comprehensive, they lack a formal definition of CSAM in line with article 2 (c) of the OPSC. However, the Glossary of Law No. 6/2008 on Human Trafficking features a definition of “pornography” that would be consistent with OPSC standards if specifically applied to children.⁵⁵ This definition includes conducts carried out through information and communication technologies but does not cover material that depict a person appearing to be a minor engaged in a sexually explicit conduct.

19. The Mozambican legislation contains some important omissions in relation to OCSE offences. It does not criminalise obtaining access to child sexual abuse material, nor attending pornographic performances involving children. Moreover, there is no legislation that explicitly prohibits the live streaming of child pornographic performances, online grooming, sexting, sexual extortion or online sexual harassment. Finally, there are no legal provisions that require Internet service providers to report suspected CSAM to the relevant law enforcement agencies

Sale and trafficking of children for sexual purposes

20. Article 198 of the Penal Code criminalises human trafficking.⁵⁶ These provisions are inconsistent with international standards, since their formulation imply that the offence must be committed “*under the pretext of employment, training or apprenticeship*”. It should be noted that former article 10 of Law n°6/2008 on Human Trafficking, which was suppressed by Law n°35/2014 on the Revision of the Penal Code, featured a much less restrictive wording.⁵⁷

21. Article 11 of Law n°6/2008 further prohibits trafficking..⁵⁸ In addition, article 15 punishes whoever promotes human trafficking with prison sentences from two to eight years.⁵⁹ The same penalty shall also apply to whoever knowingly rents or allows premises to be used for the purpose of promoting human trafficking.⁶⁰ Finally, article 4 states that, in the event where offences under the Law are committed using the resources, premises, employees or assets of a legal person, the corresponding criminal responsibility will fall upon the president, director, manager, shareholder or any employee who took part in the perpetration of the offence, or who knowingly allowed it to happen.⁶¹

Sexual exploitation of children in travel and tourism (SECTT)

22. The Glossary of Law n°6/2008 on Human Trafficking defines “*sex tourism*” as programmes organised by individuals or travel and tourism establishments and consisting of tour packages featuring the offer of sexual services to attract tourists.⁶² Despite this definition, there are no legal provisions that specifically define and criminalise SECTT. Companies may be held liable for SECTT offences under article 30 of the Penal Code which provides for the criminal responsibility of legal persons whenever criminal offences are committed by their managers or persons acting on their behalf, without excluding the individual responsibility of the offenders.⁶³

Child, early and forced marriage (CEFM)

23. In October 2019, the Law No. 19/2019 established 18 as the minimum age of marriage with no room for exception.^{64,65} Furthermore, article 30 of the same law makes it an offence punishable with eight to twelve years imprisonment to enter into a union with a child.⁶⁶ Where a judge reasonably suspects that a union will involve a child, they can take preventative measures such as unconditionally stopping the engagement and making it dependent on legal proof of age from both parties.⁶⁷

Extraterritorial jurisdiction and extradition

24. Article 56 (6) of the Penal Code provides for extraterritorial jurisdiction for offences committed by Mozambican nationals abroad, provided that the alleged perpetrator has not yet been tried in the country where the offence was committed.⁶⁸ However, this provision also features a double criminality requirement, in addition to the fact that the alleged perpetrator must be found in Mozambique.⁶⁹ As a result, child sex offenders can escape prosecution if they do not return to Mozambique, or if the legislation of the country where the offence was committed does not adequately criminalise all the manifestations of SEC. Furthermore, no legal provisions provide for extraterritorial jurisdiction for offences committed by permanent residents or against Mozambican nationals outside the country.
25. Law n°17/2011 on Extradition lacks a specific reference to the possibility of extraditing individuals for offences covered by the OPSC. According to its article 3 (2), an offence can only qualify as extraditable if the requirements of double criminality and minimum gravity (at least one year in prison) are met.⁷⁰ In addition, article 4 (1) (a) of the Law,⁷¹ as well as article 67 (4) of the Constitution,⁷² state that Mozambican nationals cannot be extradited.⁷³ The Convention on Extradition between the Member States of the Community of Portuguese Speaking Countries (2005) also makes extradition conditional on the double criminality and minimum gravity requirements.⁷⁴ Another restriction can be found in its article 4 (a), that states that the parties can refuse to extradite their nationals.⁷⁵ Finally, its article 5 also features a specific obligation to try the individuals whose extradition has been denied.⁷⁶

Recommendations to the Government of Mozambique

1. Adopt specific legal provisions that define and criminalise the exploitation of children in prostitution in line with the OPSC;
2. Adopt specific legal provisions to criminalise the sexual exploitation of children in travel and tourism;
3. Adopt a formal definition of child sexual abuse material in line with article 2 (c) of the OPSC;
4. Adopt specific legal provisions that define and criminalise all OCSE offences such as online grooming, live streaming of child sexual abuse material and sexual extortion;
5. Adopt specific legal provisions to make it mandatory for internet service providers to report suspected child sexual abuse material to the relevant law enforcement agencies;
6. Amend article 220 of the Penal Code to criminalise all forms of sexual relations with children below 16; and consider increasing the corresponding penalties and introducing close in age exceptions;
7. Amend article 56 of the Penal Code to remove the dual criminality requirement and provide for extraterritorial jurisdiction for offences committed by permanent residents or against Mozambican nationals abroad;
8. Adopt specific legal provisions establishing the obligation to try the individuals whose extradition for SEC-related crimes has been denied by the Mozambican government.

Implementation

National policies and programmes

26. Mozambique does not have a dedicated action plan specifically against SEC. However, the GoM's National Action Plan for Combating the Worst Forms of Child Labour (2017-2022) features measures against certain SEC manifestations. Indeed, as part of its Objective 3.1, the Ministry of Culture and Tourism must, in cooperation with the Office of the Attorney General and through the participation in radio and television debates, raise awareness among the tourism industry to SECTT and sexual exploitation of children in prostitution.⁷⁷ In addition, Objective 3.3 states that the local authorities must sensitise the private sector to the issues of child trafficking and SEC in tourism facilities, restaurants and travel agencies.⁷⁸ Furthermore, according to Objective 3.4, the Ministry of Interior must, in coordination with the Ministry of Gender, Children and Social Action, promote actions to reduce exploitation of children in prostitution in pre-identified hotspots, notably through capacity-building actions for local activists or educators.⁷⁹ During the course of the research for this report, it was not possible to find information on activities conducted in the framework of this Plan.
27. The GoM's National Action Plan for the Child (2013-2019) (PNAC II) also features some measures against SEC, with a particular focus on prevention and victim protection. Indeed, it provides for the inclusion of classes on sexual abuse and human trafficking in the school curriculum, the adoption of implementation mechanisms for the legislation on sexual exploitation and the adoption of a Code of Conduct to prevent child sexual abuse by public servants and persons involved in humanitarian work, activities linked to population relocation and large-scale construction projects.⁸⁰ It is unclear if the Plan is currently in force. Despite these measures, there is still a need for a dedicated and comprehensive action plan to cover all the manifestations of SEC. In a November 2016 report, the Civil Society Forum for the Rights of the Child noted that the lack of information about the implementation of the PNAC II was a major challenge.⁸¹
28. In 2014, the Superior Institute of International Relations (currently known as Joaquim Chissano University) issued a report on the situation of human trafficking in Mozambique, with a special focus on child trafficking.⁸² This study, which was commissioned by the Office of the Attorney General and funded by Save the Children Mozambique, featured a set of recommendations that included the adoption of a National Action Plan to Prevent and Combat Trafficking in Persons.⁸³ In December 2017, the Office of the Attorney General held public consultations on a draft National Action Plan, which were attended by representatives from civil society, the UNODC and the SADC Secretariat.⁸⁴ However, although the draft has already been submitted to the Ministry of Justice, its adoption is still pending.⁸⁵
29. In December 2015, the GoM adopted a comprehensive National Strategy for the Prevention and Eradication of Early Marriages (2016-2019), which includes a strong communications and awareness-raising component to initiate a change in cultural perceptions regarding marriage.⁸⁶ It also contains measures to improve the access to education for girls, to rescue children from early unions or marriages through assistance networks, and to guarantee that child victims of human rights violations can have access to justice.⁸⁷ In the course of this research it has not been possible to find evaluation reports or details of the implementation of any of the plans mentioned in this section.

Coordination and evaluation

30. In 2017, the National Council for the Rights of the Child (CNAC)⁸⁸ was formally substituted by the newly created National Council of Social Action (CNAS), which was set up by Decree n°38/2015 as an intersectoral coordination and protection body for issues related to children, social work and basic social security.⁸⁹ It is represented by Provincial Councils of Social Action (CPAS) at the local level.⁹⁰ The CNAS is a fusion of three coordination mechanisms with competences in the areas of children, disabled people and the elderly.⁹¹ However, this accumulation of competences could be detrimental to the protection of children, as it can potentially shift the focus of the CNAS away from certain issues related to children's rights, including SEC. Rede da Criança pointed out the need to reflect on the weaknesses that have undermined the functioning of the CNAC to prevent the CNAS from being affected by the same shortcomings.⁹² It also reported that the CNAS has met only once since its creation.⁹³
31. In 2015, the GoM created a National Reference Group for Child Protection and Combating Trafficking in Persons (GRN) to coordinate anti-trafficking efforts.⁹⁴ In 2020 the GRN published a new operation guide, which seeks to set out a roadmap for the prevention of trafficking of children, as well as the protection and rehabilitation of victims.⁹⁵

Recommendations to the Government of Mozambique

9. Conduct a nationwide assessment on the scope and characteristics of all SEC manifestations to develop evidence-based policies and strategies; and consider establishing a dedicated mechanism to collect disaggregated data on the sexual exploitation of children;
10. Adopt a specific national action plan to end the sexual exploitation of children, or at least make sure to integrate all manifestations of SEC in the future national action plans pertaining to children's right;
11. Move forward with the adoption of the national action plan against human trafficking, and make sure that it fully covers the issue of child trafficking for the purpose of sexual exploitation;
12. Make sure that the issue of SEC is regarded as an utmost priority by the National Council of Social Action; and allocate enough resources to allow the CNAS to effectively promote, initiate and coordinate actions against all its manifestations;
13. Ensure that monitoring and evaluation reports on all national plans pertaining to the protection of children's rights are carried out and published so as to provide accountability and transparency.

International cooperation

32. 2009, the member States of the Southern African Development Community (SADC) adopted a joint Strategic Plan of Action on Combating Trafficking in Persons, especially Women and Children.⁹⁶ In January 2017, the SADC published a Lessons Learnt Booklet to assess the measures taken by its member States to prevent and tackle human trafficking, and to identify good practices in this area.⁹⁷ The booklet highlighted that Mozambique had carried out training exercises for law enforcement and other stakeholders relating to trafficking.⁹⁸ However, it is unclear whether any of this training related specifically to the trafficking of children.

Prevention, awareness raising and education

33. The GoM did not establish a child sex offenders registry. Furthermore, nothing indicates that the authorities enforce international travel restrictions on nationals that were convicted of sexual offences against children, nor that they consistently deny entry to foreign child sex offenders. Article 227 (3) of the Penal Code states that the persons in charge of the education of a child who commit offences linked to the promotion, instigation or facilitation of the sexual exploitation of that child in prostitution will lose their guardianship rights and be prohibited from teaching or heading an educational establishment for a period of eight years.⁹⁹ However, there are no specific legal provisions to prevent convicted child sex offenders from exercising any profession or activity that involve regular contact with children.
34. Article 27 of Law n°6/2008 on Human Trafficking states that the GoM is responsible for promoting, coordinating and conducting actions to prevent human trafficking.¹⁰⁰ The authorities in Mozambique have provided training for police, migration officers and labour inspectors on issues related to trafficking.¹⁰¹ Furthermore, awareness campaigns have been conducted in rural and urban areas to raise awareness of the dangers of trafficking, some of which included a focus on the trafficking of children for sexual purposes.^{102,103,104}
35. The GoM, in cooperation with the African Union, UNICEF and UNFPA conducted a National Campaign to Prevent and Tackle Early Marriages from 2014 to 2015.¹⁰⁵ As part of this initiative, it carried out actions to sensitise the communities to the harmful impacts of this practice.¹⁰⁶ The comprehensive National Strategy for the Prevention and Eradication of Early Marriages (2016-2019), aimed at eradicating CEFM by transforming the cultural patterns that contribute to this phenomenon.¹⁰⁷ To achieve this goal, the GoM committed to raise awareness about CEFM among traditional and religious leaders, men, families, civil society and professors in order to involve them in prevention efforts.¹⁰⁸ In December 2019, the Civil Society Forum for the Rights of Child met to discuss awareness raising and implementation of the Law to Prevent and Combat Premature Unions.¹⁰⁹
36. Civil society organisations are taking some steps forward to prevent SEC and protect the victims. In 2014, Rede da Criança and the National Association of Municipalities signed a memorandum of understanding, as part of which the municipalities committed to carry out actions to protect children.¹¹⁰ As a result, out of the 53 municipalities of Mozambique, at least five (Namaacha, Mandlakazi, Chimoio, Nacala-Porto and Pemba) are now implementing measures to ensure the protection of and investment on children, notably through: preventing and combating the sale and consumption of drugs and alcohol by children; raising awareness on the rights of the child and on the issue of child trafficking; promoting mechanisms to report cases of sexual abuse, exploitation, violence and trafficking; and ensuring that children can participate in the decision-making process at the municipality level.¹¹¹

37. The Community Committees for the Protection of Children also play an important role in the prevention of SEC by contributing to the creation of a safe environment for children at the family, community and school levels.¹¹²

Recommendations to the Government of Mozambique

14. Allocate enough funding to raise public awareness about all SEC manifestations, specifically among vulnerable groups, citizens and visitors;
15. Invest in child empowering prevention programmes to address the root causes and multiple vulnerabilities that place children, families and communities at risk;
16. Put in place mechanisms to evaluate the effectiveness of awareness-raising and prevention operations;
17. Create a child sex offenders registry, and take the appropriate steps to put in place international travel restrictions for and deny entry to registered child sex offenders;
18. Adopt specific legal provisions to prevent convicted child sex offenders from exercising any profession or activity that involve regular contact with children;
19. Establish government-regulated child protection standards for the tourism industry; and take the appropriate steps to sensitise and involve local companies in the fight against SEC in general and the sexual exploitation of children in travel and tourism in particular.

Protection

Measures taken by the GoM to protect the rights and interests of child victims

38. The General Command of the Police's Department for the Assistance of Women and Children is the body responsible for responding to cases of domestic violence, human trafficking and sexual abuse involving women or children, and for assisting the victims.¹¹³ Its other missions include promoting capacity-building for and training specialists to investigate violence against women and children.¹¹⁴ According to the most recently available information, it is composed of 212 units located in police stations throughout the country and 19 victim centres.¹¹⁵

39. In 2009, local civil society organisations, including Rede da Criança, launched, in cooperation with mobile phone operators, a child-friendly hotline (*Linha Fala Criança – 116*) to receive reports of abuse, exploitation or any other form of violation of the rights of the child.¹¹⁶ Complaints can also be made by email, or through *Linha Fala Criança's* website and Facebook page.¹¹⁷ It also conducts awareness raising activities to promote its helpline, reaching around 22,000 students from 25 schools, in the first semester of 2019, on issues such as sexual harassment and CEFM.¹¹⁸ In February 2018, the GoM and the Internet Watch Foundation launched a dedicated online portal to report suspected CSAM.¹¹⁹ In the course of this research it has not been possible to access data pertaining to whether this portal has been widely used.

40. Article 285 of the revised Penal Procedure Code introduces a mandatory reporting of crime requirement for police officers and civil servants, whilst article 287 allows for private citizens to report a crime through a public prosecutor, judge or police entity.¹²⁰ In addition, the Mozambican legislation includes a provision which makes reporting mandatory for private citizens when they learn about the

facts that can constitute a crime provided for in the Law on Human Trafficking.¹²¹ However, reporting is not mandatory for professionals working with children.

41. In 2016, Mozambique's referral mechanism for victims of trafficking, which operates on a national level and in collaboration with South Africa, expanded its operations so as to include all forms of abuse.¹²² In 2017, the referral network dealt with, among other things, 46 cases of sexual abuse and 8 of forced marriage.¹²³
42. According to article 5 of Law No. 15/2012, special protection measures can be applied whenever the physical or psychological integrity of the victim is at risk, and include the use of videoconference and recorded statements, as well as the non-disclosure of their identity, notably through the use of image and voice distortion techniques.¹²⁴ Law No. 15/2012 also includes the duty of confidentiality of administrative and jurisdictional information for everyone who is required to intervene or collaborate in the proceedings,¹²⁵ in order to ensure the protection of child victims' privacy. Finally, in case involving especially vulnerable victims, as defined by article 18 (2), the law provides for accompanying and support measures, including psychological support,¹²⁶ in line with the general standards laid down in article 67 of Law No. 7/2008, which provides for medical and psychosocial care services for child victims of abuse and exploitation.¹²⁷
43. In addition, Law n°6/2008 on Human Trafficking contains specific measures to protect the rights of child trafficking victims. Indeed, article 20 states that they are entitled to benefit from the general measures on witness protection.¹²⁸ Moreover, victims of child trafficking cannot be held responsible for offences under Law n°6/2008 that they committed while being trafficked.¹²⁹ Article 21 further states that trafficking victims have the right to benefit from shelter, medical and psychological assistance, counselling, free legal aid and access to education or professional training.¹³⁰ They also must be informed about their rights and the protection measures they are entitled to.¹³¹
44. In December 2019 the revised Penal Procedure Code came into force in Mozambique. Its article 97 provides that cases involving victims of trafficking or child victims of sexual offences will be held without the presence of the public while article 98 prohibits the publication of the identity of victims of trafficking or victims of sexual crimes under 18.¹³² According to article 394, witnesses below 16 can only be interrogated by the chair of the tribunal, and thus any other participating judge, the Attorney and the representatives of the parties must submit their questions directly to the chair.¹³³ Article 397 provides that the accused must be removed from the courtroom whenever witnesses or declarants below 16 are delivering a statement, provided that there are reasons to believe that their presence may be damaging.¹³⁴ Article 285 introduces a mandatory reporting of crime requirement for police officers and civil servants, whilst article 287 allows for private citizens to report a crime through a public prosecutor, judge or police entity.¹³⁵ Whilst some of the protections under the revised code have been extended to include all children under 18, it is disappointing that some of the provisions above still only protect those under 16.

45. Mozambican legislation incorporates the possibility to seek compensation from convicted perpetrators in article 106 of the Penal Code by establishing the obligation for the convicted perpetrators to return to the victims of the crime the things deprived from them, or if the return is not possible, paying them a legally verified payment in lieu. It also sets out the obligation to compensate victims for the damages caused, under request of the victim or their heirs.¹³⁶ Furthermore, the revised Penal Procedure Code provides the circumstances under which an independent civil case may be lodged under its article 81.¹³⁷ However, Mozambican legislation does not incorporate the possibility to seek compensation through state-managed funds.

Recommendations to the Government of Mozambique

20. Establish dedicated and well-trained units in all the law enforcement agencies and prosecution offices to investigate and prosecute SEC-related crimes;
21. Ensure that enough shelters for children victims of SEC are available, properly funded, staffed by well-trained personnel and able to offer integrated services (psychological, legal, medical, etc.);
22. Increase victim identification efforts, notably by providing adapted training to public servants, law enforcement officers, immigration agents and health care workers;
23. Make sure that all SEC victims benefit from the legal protections laid down in Law n°15/2012;
24. Amend the revised Penal Procedure Code to ensure that equal protections are offered to all child victims, regardless of their age and introduce special provisions stating that child victims of sexual offences can only be interrogated by trained psychologists or social workers;
25. Establish a state managed fund for victims of SEC and ensure that all child victims have adequate access to compensation.

¹ Human Rights Council. (2016). [Report of the Working Group on the Universal Periodic Review: Mozambique](#). A/HRC/32/6. 12th April 2016.

² See Human Rights Council. (2016). [UPR of Mozambique– Second Cycle – Thematic List of Recommendations](#).

³ Human Rights Council. (2016). Report of the Working Group on the Universal Periodic Review: Mozambique. A/HRC/32/6. 12th April 2016. Recommendations: 128.9, 128.10, 128.32, 128.95, 128.57, 128.92, 128.54, 128.94, 128.91, 128.93, 129.16, 129.17, 129.18, 129.15, 129.19, 128.106.

⁴ *Ibid.*, 128.95, 128.57, 128.92, 128.54, 128.94, 128.93, 129.16, 129.17, 129.18, 129.15, 129.19.

⁵ *Ibid.*, Recommendations 128.9, 128.10.

⁶ *Ibid.*, Recommendation 128.106.

⁷ *Ibid.*, Recommendation 128.91.

⁸ *Ibid.*, Recommendation 128.32.

⁹ In line with the recently and widely adopted Terminology Guidelines, ECPAT prefers the term “exploitation of children in prostitution” instead of “child prostitution.” ECPAT International (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016](#), 29. Bangkok: ECPAT.

¹⁰ In line with the recently and widely adopted Terminology Guidelines, ECPAT prefers the term “child sexual exploitation material” or “child sexual abuse material” instead of “child pornography.” *Ibid.*, 39.

¹¹ *Ibid.*, 54.

¹² Reuters. (2016). [Poor Mozambique families take girls' virginity, force them into sex work](#).

¹³ *Ibid.*

¹⁴ Rede da Criança and other CSO. (November, 2018). *Civil Society Organisation's Comprehensive Supplementary report on the status of Implementation of the Convention on the Rights of the Child in Mozambique*

- ¹⁵ VOA Português. (2017). [More than half of the Mozambican female students suffer from sexual harassment.](#)
- ¹⁶ WLSA Moçambique. (2019). [Open letter to the \[Maputo\] City Hall.](#)
- ¹⁷ VOA Português. (2017). [The Mozambican authorities fight child prostitution in Manica.](#)
- ¹⁸ *Ibid.*
- ¹⁹ Jornal Txopela. (2019). [Milange: The El Dorado of Malawian prostitutes.](#)
- ²⁰ Deutsche Welle. (2019). [Mozambique: Child prostitution is a problem in Inhambane.](#)
- ²¹ *Ibid.*
- ²² *Ibid.*
- ²³ World Bank. (n,d). [Individuals using the Internet \(% of population\) - Mozambique.](#)
- ²⁴ World Bank. (n,d). [Mobile cellular subscriptions \(per 100 people\) – Mozambique.](#)
- ²⁵ Procuradoria-Geral da República. (2014). [Tráfico de Pessoas em Moçambique, em particular, de crianças.](#) 73-74.
- ²⁶ *Ibid.*, 75.
- ²⁷ *Ibid.*, 60.
- ²⁸ Reuters. (2017). [First cyclone, then slavery: risks abound for Mozambique children.](#)
- ²⁹ Crux. (2020). [Religious sisters fight human trafficking in Mozambique.](#)
- ³⁰ *Ibid.*
- ³¹ World Bank. (n,d). [International tourism, number of arrivals – Mozambique.](#)
- ³² Televisão Independente de Moçambique. (2015). [The number of teenagers and children in prostitution in Vilankulo is growing.](#)
- ³³ Deutsche Welle (2018), [Mozambique: The number of tourists doubles in Inhambane.](#)
- ³⁴ African Child Policy Forum (2019). [Sexual Exploitation of Children in Africa: A Silent Emergency.](#) 68.
- ³⁵ The Code. (n.d). [Members of the Code.](#)
- ³⁶ UNICEF. (2019). [The State of the World’s Children 2019. Children, Food and Nutrition: Growing well in a changing world.](#) UNICEF, New York. 233.
- ³⁷ *Ibid.*
- ³⁸ Girls Not Brides. (2018). [Child Marriage Around the World: Mozambique.](#)
- ³⁹ UNFPA, UNICEF & Meninas Não Noivas. (2015). [Casamento Prematuro e Gravidez na Adolescência em Moçambique: Causas e Impacto.](#) 23.
- ⁴⁰ *Ibid.*
- ⁴¹ Deutsche Welle. (2018). [Casamento infantil continua a ser realidade em Moçambique.](#)
- ⁴² *Ibid.*
- ⁴³ *Ibid.*
- ⁴⁴ Último Segundo. (2015). [Campos do sexo em Moçambique e Zâmbia preparam crianças para o casamento.](#)
- ⁴⁵ Deutsche Welle. (2016). [How to prevent sexual harassment in Mozambican schools?](#)
- ⁴⁶ Government of Mozambique. (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights,](#) Article 63 (1). Article 63 (2) further specifies that the corresponding legislation must feature sufficiently stringent penalties.
- ⁴⁷ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014,](#) Article 219.
- ⁴⁸ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014,](#) Article 220.
- ⁴⁹ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014,](#) Article 221.
- ⁵⁰ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014,](#) Article 218.
- ⁵¹ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014.](#) Article 227 (1).
- ⁵² *Ibid.*, 227 (2).
- ⁵³ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014,](#) Article 226 (a) and (b). Punishment amounts to prison sentences from two to eight years.
- ⁵⁴ *Ibid.*, Article 226 (c).
- ⁵⁵ “Pornography” is defined as “any representation, through publication, display, cinematography, indecent spectacle, information technology, or by any means, of a person engaged in actual or simulated explicit sexual activities or any representation of a person’s sexual organs for primarily sexual purposes” Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking,](#) Annex – Glossary.
- ⁵⁶ It punishes, with prison sentences from sixteen to twenty years, whoever, under the pretext of employment, training or apprenticeship, recruits, transports, harbours, provides or receives a person for the purpose of

prostitution, forced labour, slavery, involuntary servitude or debt-bondage. Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#). Article 198.

⁵⁷ The Glossary of Law n°6/2008 states that the recruitment, transportation, grooming, transfer, harbouring of children for the purposes of exploitation qualifies as human trafficking, without the requirement for the means of fraud, coercion etc; while human trafficking offences against children constitute an aggravating circumstance under article 5 of the Law. *Ibid.*, Annex – Glossary.

⁵⁸ Anyone who traffics a Mozambican or foreign citizen, in order to obtain money, profit or any advantage, for the purpose of buying, selling, offering or exchanging the person for the involvement in, among other things, pornography or sexual exploitation will be punished with imprisonment of twelve to sixteen years. Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking. Article 11](#)

⁵⁹ *Ibid.*, Article 15.

⁶⁰ *Ibid.*, Article 14.

⁶¹ *Ibid.*, Article 4.

⁶² Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking](#). Annex- glossary.

⁶³ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#). Article 30.

⁶⁴ Government of Mozambique. (2019). [Law No. 19/2019 on the Prevention and Combat of Premature Marriages](#), Articles 7 and 8.

⁶⁵ It should be noted that this was an extremely welcome amendment, removing the previous provision that allowed children over 16 to marry with the authorisation of their parents or legal guardians. Government of Mozambique. (2004). [Family Law - Law No. 10/2004](#), Article 30.

⁶⁶ *Ibid.*, Article 30.

⁶⁷ *Ibid.*, Article 20.

⁶⁸ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#). Article 56.

⁶⁹ *Ibid.*

⁷⁰ Government of Mozambique (2011). [Law No. 17/2011 on Extradition](#), Article 3.

⁷¹ *Ibid.*, Article 4.

⁷² Government of Mozambique. (2004). [Constitution of the Republic of Mozambique](#), Article 67.

⁷³ Even though article 4 (2) of the Law specifies that this does not apply to individuals who obtained the nationality after the offence for which the extradition is requested was committed, this provision seems inconsistent with article 67 (4) of the Constitution and could therefore potentially be challenged before the Constitutional Council.

⁷⁴ Comunidade dos Países de Língua Portuguesa – CPLP (2005). [Convention on Extradition between Member States of the Community of Portuguese Speaking Countries](#), Article 2 (1).

⁷⁵ *Ibid.*, Article 4 (a).

⁷⁶ *Ibid.*, Article 5.

⁷⁷ Government of Mozambique. (2017). [Plano de Acção Nacional para o Combate às Piores Formas do Trabalho Infantil Em Moçambique](#). Anexo, 9.

⁷⁸ *Ibid.*, Anexo, 11.

⁷⁹ *Ibid.*, Anexo, 13.

⁸⁰ Government of Mozambique. (2012). [Plano Nacional de Acção para a Criança II \(PNAC\) \(2013-2019\)](#). 27.

⁸¹ ROSC. (2016). [Implementação da Convenção dos Direitos da Criança em Moçambique: uma Análise dos Progressos e Desafios 2010-2016](#).

⁸² Government of Mozambique. (2014). [Tráfico de Pessoas em Moçambique, em Particular, de Crianças](#).

⁸³ *Ibid.*, 11.

⁸⁴ Agência Angola Press. (2017). [Moçambique: Discussão de Plano de Acção sobre Tráfico de Seres Humanos](#)

⁸⁵ Voz da América – Português. (2018). [Vontade política de combater tráfico de pessoas questionada em Moçambique](#). Rede da Criança. (September, 2020). Personal Communication.

⁸⁶ Government of Mozambique. (2015). [Estratégia Nacional de Prevenção e Combate dos Casamentos Prematuros em Moçambique](#). 14.

⁸⁷ *Ibid.*, 14, 17, 22.

⁸⁸ In 2009, the GoM created the National Council for the Rights of the Child (CNAC), along with Provincial Councils for the Rights of the Child (CPAC) through Decree n°8/2009. The CNAC was a multisectoral body that brought together, under the coordination of the Minister of Gender, Children and Social Action, several Ministers with

responsibilities in key areas (namely Education and Culture, Health, Justice, Youth and Sports), five representatives from local NGOs and five religious leaders. Its main mission was to initiate, promote and monitor the implementation of public policies and programmes related to children. In this quality, the CNAC was the body responsible for coordinating and monitoring the implementation of the National Action Plan for the Child; as well as for monitoring and evaluating the level of implementation of the National Strategy for the Prevention and Eradication of Early Marriages. According to article 3 e) of Decree n°8/2009, the CNAC was competent to promote the adoption of measures and the realisations of actions to prevent and tackle exploitation of children in prostitution, child sexual abuse, child trafficking and any other forms of exploitation; as well as the provision of assistance, reintegration and counselling services for the victims and their families. Government of Mozambique. (2009). Decree n.º8/2009.

⁸⁹ Government of Mozambique. (2015). [Decree n.º38/2015](#). Article 1.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*, Article 2.

⁹² Rede da Criança. (June, 2020). Personal Communication.

⁹³ *Ibid.*

⁹⁴ The GRN is a multisectorial body that brings together representatives from several ministries, immigration and customs services, public television and radio, the International Organisation for Migrations, as well as local and international NGOs.⁹⁴ Under the coordination of the Office of the Attorney General, its main missions are to increase prevention and prosecution efforts, and to strengthen support, assistance and reintegration measures for trafficking victims. Sapó 24. (2015). [Moçambique cria grupo de trabalho para combate ao tráfico de pessoas](#).

⁹⁵ Rede da Criança. (June, 2020). Personal Communication.

⁹⁶ SADC. (2016). [Trafficking in Persons in the SADC Region](#). 1.

⁹⁷ Southern African Development Community. (2017). [SADC launches Trafficking in Persons Lessons Booklet](#).

⁹⁸ Southern African Development Community. (2017). Preventing and Combating Trafficking in Persons: Lessons from the SADC Region. 12.

⁹⁹ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#). Article 227 (3).

¹⁰⁰ Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking](#). Article 27.

¹⁰¹ Pontifical Academy of Sciences. (n,d). [Moçambique: Tráfico Humano e Crime Organizado](#).

¹⁰² *Ibid.*

¹⁰³ Government of Mozambique. (2016). [Celebração do Dia Mundial do Combate ao Tráfico de Pessoas](#).

¹⁰⁴ Rede da Criança. (June, 2020). Personal Communication.

¹⁰⁵ WLSA. (2014). [Lançada Campanha de Prevenção e Combate aos Casamentos Prematuros](#).

¹⁰⁶ *Ibid.*

¹⁰⁷ Government of Mozambique. (2015). [Estratégia Nacional de Prevenção e Combate dos Casamentos Prematuros em Moçambique](#).

¹⁰⁸ *Ibid.*, 12.

¹⁰⁹ The importance of working closely with religious and community leaders, in order to promote understanding of the Law through training, was stressed in the forum. ROSC. (2020). [Líderes comunitários apelam a continuidade na divulgação da Lei de Prevenção e Combate às Uniões Prematuras](#).

¹¹⁰ Rede da Criança. (June, 2020). Personal Communication.

¹¹¹ *Ibid.*

¹¹² The Committees operate under a ministerial statute and bring together a wide range of community representatives, including children, women and local leaders. They carry out actions aiming at preventing violence and sexual abuse against children using the local language, and assist victims with the reporting process. Civil Society Organisations. (2018). [Civil Society Organisation's Comprehensive Supplementary report on the status of Implementation of the Convention on the Rights of the Child in Mozambique](#). 17.

¹¹³ Ministério do Interior. (n,d). [Departamento de A.F.M Vitimas da Violência](#).

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

¹¹⁶ Linha Fala Criança. (n,d). [Sobre nós](#).

¹¹⁷ *Ibid.*

¹¹⁸ Linha Fala Criança. (2019). [Relatorio- Julho](#).

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- ¹¹⁹ Autoridade Nacional de Comunicações. (2018). [Moçambique lança portal contra abuso sexual infantil on-line](#).
- ¹²⁰ *Ibid.*, Article 287.
- ¹²¹ Government of Mozambique (2008). [Law No. 6/2008 on Human Trafficking](#), Article 8.
- ¹²² Save the Children. (2018). [From Words to Action: A decade fighting child trafficking in Mozambique](#). 4.
- ¹²³ *Ibid.*
- ¹²⁴ Government of Mozambique (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 13.
- ¹²⁵ *Ibid.*, Articles 7 and 8.
- ¹²⁶ Government of Mozambique (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Articles 18 and 19.
- ¹²⁷ Government of Mozambique (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 67.
- ¹²⁸ Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking](#). Article 20.
- ¹²⁹ *Ibid.*, Article 20 (3).
- ¹³⁰ *Ibid.*, Article 21.
- ¹³¹ *Ibid.*, Article 22.
- ¹³² Government of Mozambique. (2019). [Revised Penal Procedure Code](#). Articles 97 & 98.
- ¹³³ *Ibid.*, Article 394.
- ¹³⁴ *Ibid.*, Article 397.
- ¹³⁵ *Ibid.*, Article 287.
- ¹³⁶ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 106 (b) and (c).
- ¹³⁷ Government of Mozambique. (2019). [Revised Penal Procedure Code](#). Article 81.