



Universal Periodic Review
Mozambique
3rd Cycle
38th session (May 2021)

Joint submission by

**Association for Education, Health, Environment and Social Communication
Human Dignity
Ipas Mozambique
Kulima**

14 October 2020

I. INTRODUCTION

1. This report highlights the achievements and challenges in relation to the implementation of recommendations accepted by Mozambique in relation to:
 - the right to food in rural areas¹, namely linked to the question of land distribution and use
 - sexual and reproductive rights of girls and women in rural areas²

Submitting organizations

- Association for Education, Health, Environment and Social Communication (AESA)³
2. AESA is a Mozambican NGO founded in 2008. Its mission is to create a system for the provision of quality educational, health and social services linked to active citizenship and the protection of human rights by promoting the role of communities in the country's development process.
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 - Human Dignity
 3. Human Dignity is a French NGO founded in 2014 which promotes and protects economic, social and cultural rights in Sub-Saharan Africa. It holds the United Nations Economic and Social Council (ECOSOC) Special Consultative Status.
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 - Ipas Mozambique
 4. Created in 1973, Ipas is an international organization⁴ holding offices on four continents and focused on expanding access to safe abortion and contraceptive care. Ipas has a Mozambican team working with the government and other NGOs to increase the health system's ability to make high quality abortion care and contraceptive services available

¹ See the 2nd UPR cycle, A/HRC/32/6, Para. 128: supported recommendation 128.125 made by Switzerland; supported recommendation 128.132 made by Bangladesh; supported recommendation 128.134 made by the Czech Republic; Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Mozambique, 2019, para.34 a): <https://cutt.ly/DgeJymd>

² See the 2nd UPR cycle, A/HRC/32/6, Para. 128: supported recommendation 128. 136 made by Pakistan; supported recommendation 128. 142 made by the Netherlands; supported recommendation 128. 143 made by Slovenia; Committee on the Elimination of Discrimination Against Women, Concluding observations on the combined third to fifth periodic reports of Mozambique, 2019, see para.36c) and para.40a) : <https://cutt.ly/HgeJsv0>

³ Original Portuguese name of the NGO : Associação de Educação, Saúde, Ambiente e Comunicação Social

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- Kulima

5. Created in 1984, Kulima is a Mozambican organization for integrated socio-economic development. It has developed several rural development and social promotion programs for the most vulnerable and marginalized groups, focusing on food security and nutrition, education and community health, social and human rights promotion. It counts more than 600 volunteers and 165 technicians.

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Methodology

6. Focusing on economic and social rights, this submission has been jointly drafted by the fourth aforementioned NGOs. A preparatory mission in Mozambique was initially planned by Human Dignity in order to gather information for this report and meet with relevant Mozambican stakeholders. However, due to the COVID-19 pandemic and its consequences, the mission had to be cancelled. This report is therefore the result of a remote exchange of information and research by the fourth submitting NGOs.
7. The report adopts a COVID-orientated approach to provide clear and precise recommendations for the Mozambican State. Indeed, our organizations are aware that the COVID pandemic creates new challenges for the recommendations' implementation. However, the enjoyment of economic and social rights is more than ever necessary. Therefore, we call the authorities to increase their efforts in protecting economic and social rights, in particular in regard to rural communities which represent the majority of Mozambique's population.

II. RIGHT TO FOOD IN RURAL AREAS: LAND DISTRIBUTION AND USE

8. Subsistence agriculture is particularly crucial to Mozambique's food security with more than 80% of the population depending on this activity for its livelihood in 2019⁵. This underlines the importance of the land's agricultural exploitation for rural communities which directly rely on it for their daily food subsistence. The question of land distribution and use is therefore inevitably linked to the right to food of those rural communities. As a result, the participation of those communities in the policy-making process on land

⁵ See "FAO starts distribution of much-needed seeds and tools in cyclone-ravaged Mozambique", 12 April 2019, available at <http://www.fao.org/news/story/en/item/1190205/icode/>

distribution and use is essential to the effective protection of their right to food. However, this right is threatened by the current process of land distribution and use.

9. Under Mozambique's 1997 Land Law, the land is the property of the State⁶. Nevertheless, local communities that occupy a land acquire the right of land use and benefit (a right called "DUAT") in accordance with customary norms and practices⁷. The law further provides that local communities should participate in the management of natural resources, the resolution of conflicts, the process of titling and the identification and definition of boundaries of the land that the community occupies⁸. In particular, article 13(3) of the Land Law states that the application for a title for the right of land use and benefit should include a statement by the local administrative authorities, preceded by consultation with the respective communities, to confirm that the area is free and has no occupants⁹.
10. Further provisions detail the consultation process. Indeed, according to the Ministerial Diploma 158/2011 of 15 June completing Decree No. 43/2010, the community consultation is carried out in two stages¹⁰. The first consists in a public meeting to provide information to the local community on the request to acquire the right to land use and benefit and the identification of the boundaries of the parcel; and the second aims to obtain the opinion of the local community on the availability of the land. Article 2(1) of the Diploma specifies that the required participants are namely the district administrator, the members of the Advisory Councils of both Locality and Population¹¹, the members of the local communities and the owners or occupants of the neighbouring lands. However, the provision does not detail which members of the local communities should participate to the consultation.
11. According to our information, some community leaders have used this vacuum to operate without the consent of the whole community in the decision-process related to land distribution. The COVID-19 pandemic and the consequent physical distancing measures worsened the situation, precluding some communities' members from attending meetings.
12. On another hand, article 2(2) of the Diploma precises that the act of consultation only needs to be signed by the members of the Advisory Councils of both Locality and Population. Our organisations have been informed that the Advisory Councils do not always represent the interests of the local communities, including those of women. Therefore, their composition should be reviewed in order to ensure that local communities effectively participate in the process of land entitlement (article 13 of the

⁶ Article 3 of the Mozambican Land Law no. 19/97 of 1st October 1997, accessed at https://jurisafrika.org/docs/statutes/Translation_of_Land_Act_of_1997.pdf

⁷ Ibid., article 12(a). The law defines this "right of land use and benefit" ("DUAT") as the right that individual or corporate persons and local communities acquire over the land in terms of the Land Law's provisions (art. 1(2)).

⁸ Ibid., article 24(1).

⁹ Ibid., article 13(3).

¹⁰ Article 1(1) of the Ministerial Diploma 158/2011 of the 15th June 2011.

¹¹ Those local consultative Councils have been created in the context of the Legal Framework for Local State Bodies, approved by Law 8/2003, of the 19th March 2003; and its Regulation, approved by Decree 11/2005, of the 10th June 2005.

Land Law) and the identification and delimitation of borders of lands occupied by them¹².

13. All the more since rural communities are not always properly informed about their rights to participate in this consultation process. The latter should be effectively monitored in order to guarantee the effective participation of the rural communities in the land use and distribution so they can secure their food crops.
14. Consequently, the legal and operational framework regarding land distribution and use should be reviewed. We welcome the launching by the President in July 2020 of a public hearing to review the 1995's National Land Policy, which should culminate in the review of the 1997's Mozambican Land Law. However, we call to attention that this review process happens in a context in which the country faces several challenges imposed by the rapid spread and transmission of the COVID-19 pandemic. This context should not restrict the organization of community consultations and the active participation of key local actors. Indeed, specific measures to guarantee that the civil society organizations and the rural communities will effectively participate in the review process should be taken.

RECOMMENDATIONS

15. Accelerate the review process of the 1997's Land Law and its implementation provisions in order to better protect the right to land use and benefit of rural communities;
16. Take legal and technical measures to facilitate the effective participation of rural communities, rural women and civil society organizations in this Land Law review, even in the pandemic context – in accordance with article 25 of the International Covenant on Civil and Political Rights;
17. Ensure that the Land Law review strengthens the consultation process of rural communities, by adopting a gender sensitive approach, including clear guidelines for rural community leaders to consult with their communities and clarifying the composition of Advisory Councils;
18. Create an independent mechanism to monitor the reviewed Land Law's implementation. It should guarantee the active participation of the civil society and community members in its work.
19. Take urgent measures to enable the rural communities to recover their right to land

¹² See article 24 of the Mozambican Land Law no. 19/97 of 1st October 1997, accessed at https://jurisafrika.org/docs/statutes/Translation_of_Land_Act_of_1997.pdf

use and benefit lost during the pandemic because of the lack of effective consultation, namely by granting them the necessary financial and technical support, including the access to free legal assistance.

III. SEXUAL AND REPRODUCTIVE RIGHTS OF WOMEN AND GIRLS IN RURAL AREAS

20. In 2017, 68% of the Mozambican population was living in rural areas¹³, where women and girls' right to health still lacks effective protection. In the pandemic context namely, sexual and reproductive health and rights are especially at risk for rural women and girls. The fear of leaving home in this context, exacerbated by the "stay at home" watchword, significantly contributes to the reduction of the demand for sexual and reproductive health services. Thus, women are spending more time at home without access and information on contraceptive methods, which makes them more likely to endure an unwanted pregnancy. This situation increases the number of unsafe abortions, since the awareness, access and information on the continuity of abortion services is low, especially in rural areas.
21. The government should balance COVID-19 responses with wider health needs, such as the promotion and protection of sexual and reproductive rights. We welcome the preparation of the Economic Plan for 2021 and the consultation of civil society organizations in this process. We invite the Mozambican authorities to integrate provisions related to sexual and reproductive rights in this Plan. Indeed, it should namely work towards the improvement of the training of health professionals. More specifically, it should provide a training for telemedicine in order to adapt health services to the pandemic context and facilitate access to sexual and reproductive health services.
22. Besides, an independent National Human Rights Commission of Mozambique (NHRC) exists. One of its mandate is to promote and protect human rights in the country¹⁴. According to our information however, the NHRC has not been working yet on women's and girls' right to health in any specific way. Therefore, and in particular in this sanitarian context, we invite the NHRC to monitor the right to health for women and girls, namely by urging the Government to promote and provide access to reproductive and sexual health services.

1. Abortion

¹³ See the United Nations Development Program's (UNDP) website, page "About Mozambique": <https://www.mz.undp.org/content/mozambique/en/home/countryinfo.html>

¹⁴ See article 5 of Law No. 33/2009 of 22 December 2009.

23. Ever since the abortion decriminalization law has been adopted in 2014 as a part of the new Penal Code, the access to abortion is *de facto* limited for rural women, who, as a result, revert to unsafe abortion. First, some obstacles are imposed by the law. For instance, article 169(1)a) of the Penal Code¹⁵ provides that the consent form of the pregnant women is signed at the hospital at least three days before the medical intervention. This requirement creates a difficulty for rural women wanting to have a safe abortion, because accessing the hospital twice can be problematic. Indeed, in that case, the distance and the costs of travel can be particularly significant and act as a deterrent. Other obstacles, such as the lack of dissemination of information about the law, the persistence of stigma and the lawful exercise of conscientious objection by health professionals, affect the effective access to abortion services.
24. The access to information on safe abortion services is also an issue in Mozambique and has worsened with the Government's measures to prevent the transmission of COVID-19. Although family planning consultations have not been restricted, the approval by the Ministry of Health of a specific sanitarian protocol for maternal and child health, providing the maintenance of safe abortion services during the pandemic, has not been widely disseminated in rural communities. As a result, rural women continue to count among the least favoured in the information and the access to safe abortion services.
25. The aforementioned elements can partially explain the reduction in the demand for safe abortion services in health units¹⁶, even though the data was actually expected to increase with the recently begun implementation of the abortion law.

RECOMMENDATIONS

To the Mozambican State:

26. Review article 169(1)a) of the Penal Code to abolish the requirement to sign the consent form at the hospital at least three days before the intervention; and legislate on a new procedure which takes into account the practical constraints faced by rural women in this process.
27. Take legal measures to prohibit conscientious objection to abortion by health professionals;
28. Take measures to raise awareness in rural communities about the right to abortion and its access, as well as measures to eliminate stigma around abortion;
29. Take the necessary measures to the broad divulgation of the Ministry of Health's specific sanitarian Protocol for maternal and child health, including in rural communities in order to inform on the continuity of sexual and reproductive health services in the pandemic context;

¹⁵ Article 169(1)a) from the Penal Code revised in December 2019 by Law 24/2019; Former article 168(3)a) of the Penal Code, see: https://www.unodc.org/res/cld/document/moz/codigo-penal_html/Mozambique_Codigo_Penal.pdf

¹⁶ According to data extracted from the Ministry of Health platform "Information System for Health Monitoring and Evaluation" (SIS-MA), a total of 56,441 cases of abortions in the sanitary units were identified in 2019, reduced to 41,233 cases in 2020.

30. Urgently adopt the Economic Plan for 2021 which should namely provide the training of health professionals for telemedicine, in order to improve the access to sexual and reproductive health services. It should also work towards the extension of the health network and the adequate allocation of health commodities in rural areas;

To the NHRC:

31. Consult with NGOs in order to monitor and promote women and girl's sexual and reproductive rights.

2. Contraception

32. Globally, Mozambique shows growth in women and girls' access to contraceptive methods. According to the "Family Planning 2020" governance structure's study "Women at the Centre", the number of modern contraceptive use among Mozambican women has increased from 14.3% in 2012 to 35.6% in 2019¹⁷. This has contributed to prevent unwanted pregnancies and unsafe abortions.

33. However, the use of contraception methods remains low. Disincentives, such as cultural beliefs and myths around contraception, still undermine the use of modern contraceptive methods. In addition, rural women and girls continue to be the most affected due to the lack of information and access to these services. Indeed, the distances that they have to travel to find a sanitary unit can reach 30 to 40 km in areas lacking public transport. Therefore, the creation and implementation of mobile brigades of health professionals should be considered by the authorities.

34. Some measures adopted by the Government to prevent the transmission of COVID-19 have sharpened barriers to access to reproductive and sexual health services. For instance, the demand for those services has reduced from the moment instructions were given to citizens to stay at home, according to the current experience of Ipas Mozambique. The lack of adequate information on the continuity of contraception services during the pandemic also limited the demand, increasing the risks of enduring an unwanted pregnancy.

RECOMMENDATIONS

35. Take measures to fight against popular beliefs and myths that condemn the use of modern contraceptive methods;

36. Take measures to raise awareness among the population, including women and girls in rural areas, on the access to family planning and to contraceptive methods, namely through education campaigns on sexual and reproductive rights in local languages;

¹⁷ See the Family Planning 2020 study "FP2020: Women at the Centre" webpage on Mozambique: <https://www.familyplanning2020.org/mozambique>

37. Amplify and improve the use of means to inform women and girls about the continuity of sexual and reproductive health services, namely through community radios, television and social networks;
38. Take measure to facilitate women and girls' access to contraceptive methods in rural areas, namely by creating mobile brigades to offer broader reproductive health services.