

**UNIVERSAL PERIODIC REVIEW – HUMAN RIGHTS COUNCIL
UNICEF INPUTS – MOZAMBIQUE**

I. Background and Framework

1. Constitutional and legislative framework

1. Mozambique signed the **Convention on the Rights of the Child (CRC)** without reservation and the Convention was incorporated into the country's internal legal structure following its publication in the Government Gazette on 23 October 1990.¹ The CRC was ratified in April 1994.
2. The **2004 Constitution** states that all actions concerning children, whether by public bodies or private institutions, must take into account the principle of the best interest of the child, in accordance with the CRC. The following legislations have been approved:
 - 2.1. (2009) **Domestic Violence Act** makes domestic violence a crime in Mozambique for the first time, calls for increased penalties for offenders, and places an obligation on the State to assist victims through provision of services such as police investigation and medical treatment.
 - 2.2. (2008) The **Children's Act** and **Juvenile Justice Act** translate the CRC into national child rights legislation. This is a major step towards the creation of a comprehensive legal and policy framework for children. Regulations for these Acts need to be approved.
 - 2.3. (2008) The **Trafficking of Persons, especially Women and Children's Act** defines trafficking-in-persons in line with international legal instruments (namely the Palermo Protocol, ratified in 2006) and criminalises trafficking-in-persons, particularly children and women. Regulations for this Act need to be drafted and approved.
 - 2.4. (2007) The **Labour Law** explicitly prohibits the worst forms of child labour for children under the age of 18 years. It establishes that children between the ages of 15 and 18 can only work up to 38 hours per week or 7 hours per day. In recognition of the economic realities of the country, it does allow children aged between 12 and 15 years to work, provided that they do so with the permission of a parent or other legal representative. As of the end of 2009, no regulations governing the nature and conditions of child workers between ages 12 to 15 have been approved.
 - 2.5. (2007) The **Social Protection Act** calls for the provision of basic social security for poor people and children in difficult situations.
 - 2.6. (2005) The **Family Law** articulates new legal standards for parental responsibilities, guardianship, adoption and inheritance rights, and raises the age of marriage from 16 to 18 years for both boys and girls. However, adoption procedures need to be harmonised across institutions and ministries to ensure adequate placement procedures and also supervision during the period of integration. In order to strengthen the relevant legislative framework, Mozambique still needs to ratify the Hague Convention on Inter-country Adoption (1983).

2. Institutional and human rights structure

3. A **National Child Council**, approved in 2009, is an independent coordination body focusing on issues pertaining to the realisation of the human rights of children in the country. The Council will be comprised of representatives from the Government and civil society. Further efforts must be mobilised to effectively involve civil society in this process and also to ensure that the Council has a clear and independent budget to secure the desired level of independence.

3. Policy measures

4. The **Basic Social Protection Strategy (2010)**, which now includes child grants.

5. The **Plan of Action for Orphans and Vulnerable Children (PACOV)** (2006-2010) acknowledges and addresses the impacts of HIV and AIDS on children, and aims to create a protective environment for children affected by the pandemic. Strengthening families and communities are central to mitigating the impact of HIV and AIDS on children. The PACOV is currently being evaluated.
6. The **National Plan of Action for Children (2006-2010)** (PNAC) identifies key priority areas for the survival, protection and development of all children. Priority areas include basic education, maternal and child health, HIV and AIDS, social protection, legal protection and nutrition. The PNAC is currently being evaluated in light of developing a revised four year plan.
7. **National Plan of Action on Birth Registration** (2004) aims at clearing away the existing backlog in birth registrations, in a country where only 8 per cent of children under the age of 5 had access to a birth registration document in 2003, and establish a sustainable system in which birth registration is accessible to all children and national rates of registration at birth are improved.
8. Since 2008, biannual **National Child Health Weeks** have been implemented by the Government as a means of giving every eligible child an opportunity to obtain a basic package of child survival interventions. The specific objective of the biannual National Child Health Weeks is to reach at least 80 per cent of eligible children under five years of age with vitamin A supplementation, plus a package of child survival interventions. Since 2010, the package has been extended to include elements of maternal health.
9. **The 2009 National Rural Water Supply and Sanitation Programme²** is the framework for implementing the Rural Water Supply Strategic Plan (PESA-ASR) 2006-2015. The programme's development objective is to contribute to the satisfaction of basic human needs, improve well-being and contribute to the reduction of rural poverty in Mozambique through improved access to water supply and sanitation services.

II. Promotion and protection of human rights on the ground

A. Implementation of international human rights obligations

1. Equality and non discrimination

10. In the 2009 Human Development Report³ **Mozambique is ranked 172th of 182 countries and is assigned a Gender Development Index of 0.395⁴ for 2007.**
11. Although quantitative data are scarce, the available data reveal a widespread acceptance of the use of **violence against women**. In 2008, the proportion of women that stated that men had the right to beat them under certain circumstances, such as leaving the house without informing the husband or refusing sex was 36 per cent, a reduction from 54 per cent in 2003 (MICS 2008). Despite the apparent cultural acceptance of domestic violence, other studies⁵ have shown that extreme violence resulting in actual bodily harm is unacceptable to communities as well as individual men and women.
12. **Child marriage before the age of 16 years is illegal**. Under the Family Law of 2004, the Government of Mozambique raised the legal age of marriage without parental consent from 16 to 18 years. The minimum age at which marriage can occur with parental consent was also raised from 14 to 16 years.
13. Nevertheless, recent data revealed that 17 per cent of girls between the ages of 20 and 24 years were **married before the age of 15**, with 52 per cent of them married before the age of 18 years (MICS 2008). The proportion of girls entering into child marriages has dropped slightly since 2003. There are significant differences in the rates of child marriage among the southern, central and northern regions of Mozambique: the southern provinces of Gaza, Inhambane, Maputo, and Maputo City all have a child marriage rate of below 10 per cent; the central provinces have an average rate of 20 per cent; while Niassa and Cabo Delgado in the north, have rates of 24 and 30 per cent respectively.

14. **Mozambique is not a signatory to the Convention on the Rights of Persons with Disabilities and its Optional Protocol.** The MICS 2008 indicate that 13 per cent of children (2-9 years) are living with at least one disability.
15. **There is no evidence of a higher rate of severe education deprivation between orphans and non-orphans,** with a school attendance ratio of 0.96 for both boys and girls. However, there is a difference between the school attendance rates of double orphans compared to non-orphans, with male double orphans and female double orphans having a school attendance ratio to their non-orphaned peers of 0.90 and 0.92 respectively.

2. Right to life, liberty and security of the person

16. **Under-five mortality rate** has decreased from 153 deaths in 2003 per 1,000 live births to 138 in 2008 (MICS 2008). Despite the progress, Mozambique has the 22nd highest under-five mortality rate in the world.⁶ Malaria, neonatal causes and acute respiratory infections are the three major immediate causes of mortality among young children in Mozambique.^{7,8}
17. The prevalence of **underweight** among children under five years of age reduced from 22 per cent in 2003⁹ to 18 per cent in 2008.¹⁰
18. The proportion of five-year-old children that are **stunted** has decreased from 48 per cent in 2003 to 44 per cent in 2008 (MICS 2008). Mozambique's stunting prevalence is still classified as "very high" by the World Health Organization.
19. **Maternal mortality** has decreased from an estimated 1,000 maternal deaths per 100,000 live births in the early 1990s to 408 per 100,000 live births in 2003.¹¹ By comparison, the estimated maternal mortality ratio for sub-Saharan Africa was 920 in 2005.^{12, 13}
20. Preliminary data from the 2009 round of sentinel surveillance show a **national non-calibrated HIV prevalence of 15 per cent**, with limits of plausibility of 14-17%.¹⁴ **HIV incidence in children below the age of 15 years is estimated to be decreasing**, from about 38,500 new infections in 2005 to about 31,000 in 2009, equivalent to about 85 new infections every day. This decrease is mainly attributed to the roll-out of the Prevention of Mother-To-Child Transmission (PMTCT) programme (preventing infections in infants) and the antiretroviral therapy programme (reducing infectiousness of pregnant and lactating women who are on antiretrovirals).
21. Despite the progress in PMTCT programmes, **the lack of follow-up of mothers and children remains a major constraint.** The health system faces a lack of human resources and this has compromised access to and provision of quality services. On the other hand, the stigma and discrimination associated with HIV prevent many pregnant women and their newborn from accessing and adhering to Prevention of Mother-To-Child Transmission interventions.
22. Ministry of the Interior statistics reveal that more than 3,500 cases of **child violence** were reported to the police in 2009.¹⁵ The number of children who suffer from violence, abuse and exploitation is likely to be much higher than the number of reported cases.
23. **Sexual abuse in schools is an area of particular concern**, as noted by the CRC Committee.¹⁶ A 2008 Ministry of Education and Culture survey revealed that 70 per cent of girl respondents reported that some teachers use sexual intercourse as a condition for promotion between grades; and 50 per cent of girls stated that not only teachers abuse them sexually, but also boys in their peer group. Furthermore, 80 per cent of girls recognised that sexual abuse and harassment occurs not only in schools but also in communities. Many girls did not know whether these acts are prohibited by law, or where to report such cases should they occur. The

Ministry of Education has declared “zero tolerance” on sexual abuse in schools but enforcement of this policy remains weak.

3. Administration of justice and the rule of law

24. **The Ministry of Justice and the Ministry of the Interior have insufficient financial and human resources to improve the effectiveness of the system for children.** State budget allocations in 2008 to the Ministry of Justice and the Ministry of the Interior, which includes the police, were two and three per cent respectively, with limited resources targeting children and youth justice programmes. Additional financial and technical support is needed.
25. **Children in conflict with the law** often do not benefit from protection as stipulated in international instruments, including Articles 37 and 40 of the CRC, the Beijing Rules for the Administration of Juvenile Justice (1985), and the Riyadh Directives for the Prevention of Juvenile Delinquency (1998). Guidelines and regulation are important tools to materialise the needed protection.
26. **Children in conflict with the law** are often placed in adult prisons, though the law stipulates that they should be placed in separate quarters. The police has the authority to detain minors who have allegedly committed an offence for a maximum of 30 days, following which the child must be presented in Minor Court or Civil Sections. Ideally, a transition centre or intermediate facility should be used and special considerations should be given to ensure that such cases are brought to the courts in a timely manner. However, this is not common practice in Mozambique. Financial support to build infrastructure and train officers will strengthen the system that is stated in the draft National Plan of Action for Juvenile Justice and Juvenile Justice Law.

4. Right to work and to just and favourable conditions of work

26. Data shows that 22 per cent of children aged between five and fourteen are involved in **child labour**, with a large disparity between urban and rural areas (15 per cent and 25 per cent respectively).^{17,18} The proportion of children involved in child labour also varies by age of the child: one in five children aged between five and 11 are engaged in child labour, rising to one in four children aged between 12 and 14. Disparities across provinces are apparent; almost 40 per cent of children in Inhambane are involved in child labour, compared to less than 10 per cent of children in Niassa.
27. **The 2008 Children’s Act prohibits child labour and any form of work for children less than 15 years of age and also provides for punitive measures to be taken against the employer.** The Children’s Act also defines the prohibited forms of work, including child prostitution (commercial sexual exploitation) and work that could be harmful to the health and well-being of the child. However, effective enforcement requires dissemination of the Act to all stakeholders, as well as considerable capacity strengthening of all authorities charged with the responsibility for implementing its provisions. Finally, economic and social pressures that compel parents to force their children into exploitative child labour must be addressed through more effective social protection.

5. Right to social security and to an adequate standard of living

28. **About 5.6 million children under the age of 18 have been registered.** This represents an estimated 49 per cent of all children in Mozambique. There is an increase in the proportion of children under the age of five years who have had their birth registered from 8 per cent in 2003¹⁹ to 31 per cent in 2008.²⁰
29. Following signing of the 1992 Peace Agreement, Mozambique made progress in reducing the **poverty headcount** from 69 per cent in 1996 to 54 per cent in 2003, exceeding the PARPA I target of a poverty headcount of 60 per cent by the year 2005.²¹

30. Using the Bristol Indicators definition, children experiencing two or more severe deprivations are living in absolute poverty.²² **The proportion of children living in absolute poverty in Mozambique fell from 59 per cent in 2003 to 48 per cent in 2008.**^{23, 24} The proportion of children in rural areas living in absolute poverty decreased significantly, from 72 per cent to 60 per cent. However, the decrease in the proportion of children experiencing absolute poverty in urban areas was larger, thereby increasing the gap between urban and rural areas. In 2008, 22 per cent of urban children were poor, versus 60 per cent of rural children.
31. There is evidence that despite reductions in the overall incidence and prevalence of poverty between 1997 and 2003, **levels of inequality between rich and poor increased** in some parts of the country. For example, the Gini coefficient,²⁵ a measure of income inequality, as calculated from the *Inquérito aos Agregados Familiares* (IAF) surveys, rose slightly from 0.40 in 1997 to 0.42 in 2003 (this was not a statistically significant change), fuelled mostly by an increase in inequalities in urban areas of the country.
32. **Data reveal the existence of disparities in poverty headcount among provinces.** For example, the poverty headcount in the 2002/2003 survey varies from 81 per cent in Inhambane to 36 per cent in Sofala. The reduction in poverty headcount between the two household surveys was most pronounced in the central provinces. The south of the country experienced an increase in poverty, predominantly in Maputo Province and in Maputo City, and this was driven by increasing urban poverty.²⁶
33. The **Food Subsidy Programme (PSA) is an unconditional cash transfer programme** targeting the elderly (93 per cent), followed by people living with disabilities (6 per cent) and the chronically ill (1 per cent)²⁷. Mozambique is one of the few low-income African countries with such a longstanding cash transfer programme that is supported by State funds and national legislation. In 2007 the PSA reached 128,000 households with monthly cash transfers, increasing to 166,824 households in 2009.
34. **Access to safe water increased** from 42 per cent of households in 2003 to 48 per cent in 2008. There is a high level of geographical disparities in relation to access to safe drinking water. Access ranges from almost universal coverage in Maputo City to only a quarter of households in Zambézia province.
35. The World Health Organization and UNICEF Joint Monitoring Programme²⁸ notes that **74 per cent of the 11.7 million people living in rural areas in Mozambique practiced open defecation.** Only 5 per cent had access to improved sanitation facilities and 21 per cent of people had access to unimproved facilities. The 2008 Joint Monitoring Programme reported a 15 per cent decrease in the number of people practicing open defecation in rural areas in Mozambique.

6. Right to education and to participate in the cultural life of the community

36. In Mozambique **primary education is free, but not compulsory.** School fees for primary education were abolished in 2004, but remain for secondary level education.
37. **Disparities have been narrowing in primary education but progress in secondary education has been slow.** In absolute terms, approximately 3.3 million of Mozambique's 4.1 million children in the age group 6 – 12 are now attending primary school. Meanwhile, the net attendance rate in secondary remains low: 20 per cent of children aged 13-17 years can be attending that school level. On the other hand, almost half of children in that age group were still attending primary schools.
38. **Participation in secondary school is clearly dependant on completion of primary school. Primary school completion rates are low: 15 per cent of children who of primary school students complete their primary education.** However, the majority of these children (73 per cent) will progress to secondary school.
39. **Literacy rates remain low for Mozambican women.** In 2008, 47 per cent of Mozambican women were literate. However, a greater proportion of younger Mozambican women are literate. While 41 per cent of

Mozambicans 20 to 24 years of age are literate, the figure rises to 53 per cent among young people aged 15-19 years.

40. **There is a strong correlation between the proportion of girls out of secondary school and the prevalence of child marriage across provinces.** Figure X also shows how child marriage is more prevalent in the northern and central provinces compared to the south of the country. Child marriage is also highly correlated with wealth. Girls from the poorest families are far more likely to get married than girls from the best-off families.
41. **The prevalence of violence, sexual abuse and harassment in schools affects pupils' attendance, especially girls, and has been identified by parents as a factor influencing their decision to withdraw their children from school.** A study conducted by MINED in 2008 that involved children, school council members and gender unit members of the Provincial Education Administrations, assessed the prevalence of all kinds of violence, harassment and sexual abuse in schools. Seventy percent of girls interviewed stated that some teachers use sexual abuse as a condition to promote students and that schools do not offer security against this as the act is perpetuated with complicit knowledge of school authorities. The study also noted that victims and guardians are not aware that sexual abuse is punishable by law. Fear of retaliation often evokes silence amongst the victims.

III. Achievements, best practices, challenges and constraints

42. The CRC Committee examined Mozambique's second periodic report on 16 September 2009. The **Concluding Observations** issued by the CRC Committee highlight progress and challenges in the implementation of the rights of the child.
43. **There are an estimated 1.8 million orphans in Mozambique, 510,000 of whom have been orphaned due to AIDS.**²⁹ The number of orphans is expected to rise, with AIDS related illnesses increasingly becoming the primary cause of orphanhood. Only 68 per cent of children were living with both parents in 2008. This number of orphans does not take into account additional children who may be vulnerable due to HIV and AIDS or other factors.
44. **Mozambique is Africa's single biggest recipient of international development assistance**, with 44 per cent of the 2010 State Budget revenues come from external sources. Pledges for general budget support in 2009 amounted to USD 485 million and pledges for 2010 total USD 472 million.³⁰ **Knowledge of the full extent of the available resource envelope is vital to ensuring policy-driven allocation of public funds for children.** Off-budget funding, or funding that is fully or partially outside the formal budget process, undermines Government's efforts to prioritise, plan, budget, monitor and evaluate effectively. Off-budget funds also damage the credibility of the budget process, lead to costly and unnecessary duplication of reporting, and ultimately weaken the executive's accountability to Parliament. The problem of off-budget funding is most severe in the social services and infrastructure sectors since they are the largest recipients of external aid.
45. While noting adoption of a multi-sectorial Plan for Orphans and Vulnerable Children, there's a concern that orphaned children continue to be particularly vulnerable and face heightened risks. **Need to still give priority to protecting natural family environment, and transform state child institutions into family-based support centres close to communities, proceed with reintegration of children into families.** It can only be possible if sufficient funds are allocated to fully meet this need.

¹ United Nations Committee on the Rights of the Child, 'Consideration of Reports Submitted by States Parties Under Article 44 of the Convention. Initial Report of States Parties Due in 1996. Mozambique, CRC/C/41/Add.11, United Nations, Geneva, 2001.

² Ministry of Public Works and Housing, National Directorate of Water, 'National Rural Water Supply and Sanitation Program' Maputo, March 2009.

³ United Nations Development Programme, *Overcoming Barriers: Human Mobility and Development. The Human Development Report 2009*, Palgrave Macmillan, Basingstoke and New York, 2009.

⁴ A GDI of one indicates gender equality

⁵ Tvedten I, Paulo M, et al., 'Opitanha'. Social Relations of Rural Poverty in Northern Mozambique', CMI Report 2006:16, Chr. Michelsen Institute, Bergen, Norway, 2006.

⁶ United Nations Children's Fund, *The State of the World's Children 2009 Report*, UNICEF, New York, 2009, p113.

⁷ National Institute of Health, London School of Hygiene and Tropical Medicine and UNICEF, 'Mozambique National Child Mortality Study 2009', Maputo, 2009.

⁸ These findings are derived from the Ministry of Health and UNICEF's (2008) child mortality study. The aim of the study was to measure neonatal, infant and under-five mortality rates in Mozambique for all programme-relevant causes using data collected at community level. A verbal autopsy (VA) (i.e. interviewing of family members or caregivers about the circumstances of death after the event has taken place) methodology was used to determine the causes of child mortality.

⁹ Instituto Nacional de Estatística (INE), 'Inquérito Demográfico e de Saúde 2003', Maputo, Junho de 2005.

¹⁰ Instituto Nacional de Estatística. 'Inquérito de Indicadores Múltiplos 2008. Sumário', Maputo, Mozambique, 2008.

¹¹ Using the sisterhood method, the 2003 DHS estimates that the MMR during the 10-year period prior to the survey was 408 maternal deaths per 100,000 live births. The sisterhood method has wide margins of error, with the result that the "real" MMR lies somewhere between 200 and 600 maternal deaths per 100,000 live births.

¹² Ibid.

¹³ Periodically, UNICEF, WHO, UNFPA and the World Bank evaluate reported maternal mortality data from countries and make adjustments to account for the well-documented problems of under-reporting and misclassification of maternal deaths and to develop estimates for countries with no data. The estimated adjusted maternal mortality ratio for Mozambique was 520 per 100,000 live births in 2005.

¹⁴ The prevalence rate of 15 per cent in 2009 should not be interpreted as a decrease compared to 2007 due to over-lapping confidence intervals.

¹⁵ Police Report (2009)

¹⁶ United Nations Committee on the Rights of the Child, 'Fifty second session. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention. Concluding Observations of the Committee on the Rights of the Child: Mozambique, United Nations, Geneva, 2009.

¹⁷ Instituto Nacional de Estatística, 'Inquérito de Indicadores Múltiplos 2008', Maputo, 2009.

¹⁸ A child is considered involved in child labour if, during the week prior to the survey, he/she was involved in: (i) at least one hour of economic work or 28 hours of domestic work per week, if the child is between 5 and 11 years old, (ii) at least 14 hours of economic work or 28 hours of domestic work per week, if the child is between 12 and 14 years old.

¹⁹ Instituto Nacional de Estatística, 'Inquérito Demográfico e de Saúde 2003', Maputo, 2005.

²⁰ Not all districts surveyed had undertaken birth registration activities at the time of the survey, and as a result the data potentially under-estimate the national average.

²¹ Mozambique Ministry of Planning and Finance, International Food Policy Research Institute, and Purdue University, 'Poverty and well-being in Mozambique: the second national assessment (2002-3)', Maputo, 2004.

²² Gordon D, Nandy S, Pantazis C, Pemberton S, Townsend P., 'The Distribution of Child Poverty in the Developing World', Centre for International Poverty Research, University of Bristol, 2003.

²³ The figure quoted in the 2006 Childhood Poverty in Mozambique, a Situation and Trend Analysis report for the proportion of children living in absolute poverty in 2003 (49 per cent) differs from that used here due to improvements in the methodology used to calculate several deprivations in the areas of water, health and nutrition. The 2003 data were therefore re-calculated to reflect these improvements.

²⁴ Kelly B, 'Trends in Child Poverty in Mozambique. A deprivations-based approach', Ministry of Planning and Development, Maputo, 2009.

²⁵ The Gini coefficient is a measure of statistical dispersion commonly used as a measure of inequality of income or wealth. The Gini coefficient can range from 0 to 1. A low Gini coefficient indicates a more equal distribution, with 0 corresponding to perfect equality, while higher Gini coefficients indicate a more unequal distribution, with 1 corresponding to perfect inequality.

²⁶ United Nations Mozambique, *Childhood Poverty in Mozambique. A Situation and Trends Analysis*, UNICEF, Maputo, Mozambique, 2006.

²⁷ BdPES, 2008

²⁸ World Health Organization and the United Nations Children's Fund, 'Joint Monitoring Programme Report', WHO, and UNICEF, Geneva and New York, 2009.

²⁹ Instituto Nacional de Estatística, Ministério da Saúde, Ministério de Planificação e Desenvolvimento, Centro de Estudos Africanos da Universidade Eduardo Mondlane, Conselho Nacional de Combate ao HIV/SIDA, Faculdade de Medicina, 'Impacto demográfico do HIV/SIDA em Moçambique. Atualização - Ronda de Vigilância Epidemiológica 2008', Maputo, 2009.

³⁰ <http://www.pap.org.mz/financiacoes/contribucoes.html>