

**LIST OF ISSUES
PUT BY THE RAPPORTEUR
IN CONNECTION WITH THE CONSIDERATION OF
THE SECOND TO TENTH PERIODIC REPORTS OF**

**MOZAMBIQUE
(CERD/C/MOZ/12)**

Composition and distribution of the population

1. Please provide updated information regarding the ethnic composition of the population, including languages spoken, immigrants, asylum-seekers and refugees. According to article 9 and 10 of the Constitution, Portuguese is the official language and there are also “national languages” but article 27 refers to “Mozambican language” and paragraph 30 of the report mentions “local languages”, some of them being widely spoken (i.e. Emakhuwa, Xichangana, Elomwe, Cisena, Echuwabo). Please, clarify these terminologies and explain if there is a common language to all citizens.

Definition of racial discrimination

2. Articles 35, 39 and 251 of the Constitution prohibit discrimination on grounds of colour, race and ethnic origin but, paragraph 107 of the report notes that there is no specific legislation to implement those prohibitions. How are those constitutional provisions implemented? Is there any definition of racial discrimination in domestic legislation or in jurisprudence? If any, is it in accordance with article 1, paragraph 1 of the Convention?
3. Please provide information as to whether the State party intends to withdraw its reservation regarding Article 22 of the Convention¹.

General legal framework

4. Please provide specific information on the status of the Convention in domestic law (Article 18 of the Constitution). According to paragraph 106 of the report, the provisions of the Convention are directly enforceable by national courts but there are no examples of this application. Please explain the inexistence of judicial cases where the Convention is applicable.
5. Please indicate what importance the local customary law has in the State party and its status *vis-à-vis* the national legislation. How is article 118 of the Constitution applied in practice, what powers traditional authorities have and how do they exercise them?

Article 2

¹ Reservation: "The People's Republic of Mozambique does not consider to be bound by the provision of article 22 and wishes to restate that for the submission of any dispute to the International Court of Justice for decision in terms of the said article, the consent of all parties to such a dispute is necessary in each individual case."

6. Please indicate whether the State party adheres to the Declaration adopted during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001², and whether any initiative has been adopted in order to ensure follow up to the Durban Programme of Action.
7. What are the affirmative action measures undertaken by the State party, in conformity with article 2, paragraph 2, of the Convention, to provide for the enjoyment of Convention's rights, such as access to justice, health, housing and education, to vulnerable groups, such as ethnic minorities?

Article 4

8. According to paragraph 109 of the report, the Association Act prohibits the incitement to racial discrimination as well as the organizations that promote it, but the Penal Code (paragraph 69 of the report) does not define nor punish racism or acts of racial discrimination. Please explain how this is in accordance with article 4, paragraph (a) and (b) of the Convention? Have any association been prohibited under the Association Act and what measures have been taken to combat them?
9. According to information before the Committee, some cases of hate speech and racist acts took place in certain sector. What policies or measures the State party has put in place (paragraph 104 of the report) to combat racist acts and prejudices and to promote tolerance among racial and ethnic groups?

Article 5

10. Please explain table 2 (paragraph 20) of the report regarding the "ethnic composition of the Assembly of the Republic". Does this composition reflect an ethnic or geographic criterion?
11. What policies or measures adopted by the State party have been put in place in order to ensure that all persons enjoy all human rights without discrimination, irrespective of the group to which they belong? Are ethnic minorities, and other vulnerable groups, able to gain equal access to the Convention's rights? What effective measures exist to prevent minority language groups to be discriminated against in the access of the Convention's rights?
12. What measures are in place to ensure that ethnic minorities can participate in the design, implementation and monitoring of laws, policies, programmes and projects that bear upon them? Please, elaborate on the pilot project, referred in paragraph 30 of the report, to introduce local languages in the *curricula* of primary schools.
13. Considering the impact of extreme poverty on the enjoyment of their human rights, what specific programme to reduce poverty and stimulate economic growth has been adopted, in particular regarding the most vulnerable minority groups in the State party, in the context of the programme of poverty reduction mentioned in paragraphs 50 and 57 of the

² A/CONF.189/12.

report? What are the objectives of the programme concerning the most disadvantaged groups?

14. Please provide information on the participation of all ethnic groups in Government, Parliament, Public Administration, including at the local level, and Judiciary, *inter alia*, of ethnic groups of the central and northern part of the country.
15. In light of the article 14 of the Civil Code mentioned in paragraph 85 of the report, what are the policies adopted by the state to ensure that non-citizens are able to gain equal access to all public services, especially housing, health and education? Is there any legislation providing for non-citizens' access to basic rights such as education and health irrespective of their migration status?
16. Please provide updated information on the number of immigrants, refugees and asylum-seekers currently being held in detention in the State party and indicate what opportunities those persons have to appeal against a detention order. How many cases of "forced departure", extradition and expulsion (paragraph 87 to 91 of the report) took place in recent years?
17. Paragraph 16 of the report provides information of repatriation of refugees and resettlement of internally displaced persons. Please provide detailed information on the resettlement of those persons, as well as on the demobilization of armies, with particular emphasis on ethnic issues and the basic infrastructures provided to those populations.
18. Please elaborate on the actions of the "Institute for Legal Assistance and Aid" (paragraphs 110 and 111 of the report), namely in the access to justice of vulnerable ethnic and linguistic minorities.

Article 6

19. With regard to civil procedure and liability (paragraph 70 of the report), what remedies are available to the victims? Has anyone been condemned for acts of racial discrimination? Has reparation for such discrimination been provided to the victims? Please provide examples, if any.
20. Can the constitutional provisions promoting and protecting human rights³, especially rights of the Convention, be invoked directly before the courts? Has it been done? Please provide examples.
21. Please provide information on the status of the judiciary, including provisions guaranteeing its independence and on the number, nature and outcome of cases of ethnic or

³ Some relevant articles of the 2004 Constitution: article 35 (Principle of equality), article 39 (Acts against the national unity), article 40 (Rights to live), article 48 (Freedom of expression and information), article 51 (Freedom of reunion and assembly), article 52 (Freedom of association), article 54 (Freedom of conscience, religion and cult), article 62 (Access to courts), article 82 (Right to property), article 83 (Right to inherit), article 84 (Right to work), article 86 (Freedom of association and to form trade unions), article 88 (Right to education), article 89 (Right to health), article 91 (Right to housing), article 94 (Freedom of culture) and article 251 (Access and status of civil service).

racial discrimination brought before the courts; in the absence of such cases, please explain the reasons for this situation.

22. The Constitution establishes a *Provedor de Justiça* (Ombudsman) with jurisdiction to guarantee the rights of the citizens, the rule of law and the justice in the administration's activity. Please provide information on the composition, status, resources and activities of the *Provedor*. If any, please provide information on the number of complaints received, their nature and the result of subsequent investigations.

Article 7

23. Please provide information on any specific training programmes and courses for members of the judiciary, law enforcement officials and other public officials on the provisions of the Convention.
24. Please indicate whether measures have been taken to disseminate the Convention among the general population and to sensitise it on issues related to racial discrimination. Please also provide information on the existence and content of human rights education *curricula* in schools/higher education institutions.

Article 14

25. Does the State party consider declaring that it recognizes the competence of the Committee to receive and consider individual complaints under article 14 of the Convention?

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