



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Twenty-ninth session

Summary record of the 398th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 4 September 2018, at 10 a.m.

Chair: Mr. Tall

Contents

Consideration of reports submitted by States parties under article 73 of the Convention
(*continued*)

Initial report of Mozambique (continued)

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Initial report of Mozambique (continued) (CMW/C/MOZ/1)

1. *At the invitation of the Chair, the delegation of Mozambique took places at the Committee table.*
2. **Mr. Veríssimo** (Mozambique) said that the delegation would address the questions put by the Committee at the preceding meeting under seven headings: legislation, policy and implementation; treatment of migrant workers; employment agencies; statistics and data collection; stakeholders' roles; training and capacity-building; and general issues, including remaining challenges.
3. The country's initial report (CMW/C/MOZ/1) provided an overview of the Mozambican legislative framework for the protection of foreign migrant workers and their families in Mozambique, whether they were in a regular or an irregular situation. Their fundamental rights were guaranteed under the Constitution, and a body of detailed laws and regulations had been adopted to address specific areas, as described in the report. The purpose of those provisions was to ensure that the processes for foreign nationals' entry into, residence in and departure from Mozambique were flexible and appropriate. Measures to expedite the process included the establishment of a number of offices throughout the country that could issue entry visas. The Government's overall aim was to promote a business-friendly environment in the country. Mozambique had entered into cooperation agreements with many countries in areas such as agriculture and health, and also the mining sector. Its extraction industry was at an early stage of development and employed more foreign workers than Mozambicans. Those workers were transferring their technical expertise to Mozambican workers.
4. The Government's employment policy included measures to facilitate labour migration and the transfer of knowledge. It facilitated the emigration of Mozambicans to other countries, the reintegration of returning workers and the immigration of expert workers. As noted in the report, a number of bilateral agreements had been drawn up between Mozambique and other countries, including South Africa, the Southern African Development Community (SADC) countries, Portugal and Brazil, to protect the rights of migrant workers and their families. They covered such issues as the portability of benefits, equal treatment of foreign nationals, preservation of acquired rights and benefits, and training rights. A record of workers entering and leaving Mozambique was kept up to date and communicated to the Cabinet under the Government's five-year programme for 2015–2019, to provide an overview of the migratory flows in and out of the country.
5. With regard to the treatment of migrant workers, the Government had created a national institute for Mozambican communities abroad through which Mozambicans abroad were organized into associations, in coordination with consulates and embassies. An annual diaspora forum provided a platform through which the communities could raise their specific concerns with the President of the Republic. In February 2018, such a forum had been held in Geneva. It was also a Mozambican tradition that the President of the Republic took advantage of State visits to other countries to meet with the Mozambican communities that were resident there. Multisectoral teams had been established, under the Ministry of Justice, Constitutional and Religious Affairs, for the issuance of biometric passports and identity documents to members of the diaspora and for the registration of Mozambican births abroad. The teams had already been active in Kenya, Portugal and South Africa and were extending their outreach in those countries and in the countries of SADC. However, as migrants in an irregular situation could be loath to approach legal institutions for fear of arrest, the Government was also taking steps to work with faith leaders. A meeting had been held recently with such leaders to address the issues of early marriage and polygamy and to arrange for the birth registration of the large numbers of children being cared for by churches.
6. Decree No. 2/2011 exempted Mozambican migrant workers in the South African mining industry from all customs duties in respect of imported goods and personal effects,

irrespective of value, upon their return to Mozambique. In respect of the transfer of private funds, the Government had signed agreements with South Africa, Portugal, Mauritius and the United Arab Emirates to avoid double taxation and reduce transfer costs. As part of its Employment Portal, the Government was working on a project to establish centralized digital records of all Mozambican migrants abroad, containing details of their employment and legal status collected through consulates and embassies. It was, however, having difficulties in finding the necessary funding for that project.

7. The social security system for self-employed workers enabled workers in the diaspora to safeguard their right to social protection. Under a 2015 memorandum of understanding with the Government of South Africa, joint inspections of farms in South Africa were carried out to help ensure protection against abusive employment of Mozambican migrant workers. The Government had sought to work with South African insurance companies to ensure that Mozambican migrant workers enjoyed social welfare and that remittances were properly paid. Over 10,000 Mozambican workers had emigrated from the southern Gaza Province to work in the South African mines. The Government had opened offices in that province to ensure that all families entitled to benefits under the South African Mineworkers Provident Fund were duly paid such benefits. Immigrant workers in Mozambique were protected under the bilateral agreements listed in the report.

8. The collection of disaggregated statistical data on migrant workers and their families remained a considerable challenge, although the Government was making efforts in that regard. Concerning the stability of employment for foreign migrant workers, the booming extraction industry and related services in Mozambique provided many long-term employment opportunities and made Mozambique a country of destination for migrants, as well as a country of transit. Moreover, migrants were accepted and, indeed, welcomed in Mozambique owing to the country's culture of solidarity.

9. There were 65 private employment agencies in Mozambique serving both foreign migrant workers and Mozambican migrants seeking employment abroad. The agencies operated under regulations that governed the nature of their activities and the information and training they were required to provide. Any agency failing to comply with those obligations faced legal sanctions, which were enforced by the General Inspectorate of Labour.

10. Thanks to improved monitoring mechanisms, he was able to give precise statistics on the movement of migrants: 19,443 foreign migrant workers had been legally contracted for employment in Mozambique in 2015, 14,490 in 2016 and 17,937 in 2017. Mozambican migrant workers legally contracted for employment in the mining sector in South Africa had fallen from 29,760 in 2015 to 21,725 in 2017, while those legally contracted to work on South African farms had risen from 4,921 in 2015 to 6,131 in 2017. A new electronic platform known as SIMIGRA had been rolled out in June 2016 to facilitate contracting procedures for migrant workers. The platform, which interfaced with the social security and taxation systems, also served to combat corruption. In fact, since the system's introduction, annual migrant-related tax revenue had risen from 200 million meticaís (MT) to more than MT 400 million.

11. Regarding the roles of the various stakeholders, the Government was responsible for drafting general migration policy, ensuring that all relevant norms were duly respected, supporting foreign migrant workers and reintegrating returning Mozambican migrants. The role of the Ombudsperson was to ensure that public authorities acted lawfully and to uphold the rights of citizens, who could submit complaints concerning any acts or omissions on the part of such authorities, which the Ombudsperson would then refer to the competent body. For its part, the National Human Rights Commission had a cross-cutting mandate to monitor the implementation of laws and international and regional treaties on human rights and to investigate any complaints in respect of human rights violations. Its heterogeneous composition — with members drawn from civil society, government and the legal profession — duly reflected the social and cultural diversity of the nation, in line with the Paris Principles. A very active civil society sector also played an important direct role in monitoring and promoting human rights. Traditionally, civil society was involved in all government activities, at both the central and the local levels, and civil society organizations had participated in the drafting of the report currently before the Committee.

12. In the area of training and capacity-building, seminars for participants from foreign non-governmental organizations and companies were held to explain the regulations concerning migrant workers, which reflected the provisions of the Convention. Informational materials were also circulated to border posts and communities of potential emigrants. One recent seminar had focused on the Convention and how it could be reflected more fully in domestic legislation. Relevant training had also been made available to staff of the Ministry of Labour, Employment and Social Security and of Mozambican missions abroad, notably in South Africa.

13. Mozambique was an active participant in the ongoing discussions on the Global Compact for Safe, Orderly and Regular Migration, which it saw as an opportunity to protect the rights and dignity of migrants and to combat discrimination and xenophobia. It remained committed to human development, to training and capacity-building and to making all its citizens better aware of their rights. However, it was a developing African nation and, as such, it faced specific challenges for which it was seeking technical assistance and funding. Its first priority was to perfect the rule of law and strengthen its democratic institutions, creating peace and unity among Mozambicans and upholding human rights in line with the Government's five-year plan. A stable and non-violent society was imperative for national development.

14. Specific areas in which improvement was required included the registration of migrants in an irregular situation, whether Mozambican workers abroad or foreign migrant workers in Mozambique, and the collection and processing of disaggregated statistical data. Efforts were currently being made in that regard which, he hoped, would be reflected in the country's next periodic report. A further challenge was the expansion and improvement of digital platforms and enhancement of the interface between different platforms.

15. A number of initiatives were under way to combat the problem of HIV/AIDS, notably in Gaza Province, which was home to many migrant workers. The aim was to enable 90 per cent of persons diagnosed with HIV/AIDS to begin antiretroviral treatment immediately. However, the costs involved represented an additional challenge.

16. A further challenge was to enhance communication among stakeholders involved in the migration process, particularly with a view to promoting civil society involvement. He hoped that such an approach would yield valuable feedback from migrants themselves on the impact of government initiatives and that it would remove any obstacles to the presentation of individual communications to the Committee. That, in turn, would lead to recommendations that Mozambique would be happy to consider with a view to improving the daily lives of migrant workers, who were key contributors to national development.

17. **Mr. El Jamri** (Country Rapporteur) said that he would appreciate further clarification of the principle of reciprocity as enshrined in the Constitution, including examples of how it was applied vis-à-vis host countries or countries of origin of migrants. He would be interested to hear more about provisions whereby migrant workers in Mozambique could be employed as civil servants. Did that mean that they could be employed as police officers or teachers in State-run schools, for example? He would also welcome more details about the different types of entry visa and about the process whereby migrants entering or leaving the country were accompanied by police officers. Was that an indication that foreign migrants in Mozambique faced threats to their security that called for police protection?

18. He would be interested to learn more about agreements regarding reciprocal social security coverage, which he understood existed with Portugal and with South Africa, and wished to know whether those arrangements applied to all citizens of those countries who were working in Mozambique and to all Mozambicans who were working in those countries. Did such arrangements also exist with other States? He asked whether the exemption from customs duties for returning Mozambican migrant workers also applied to foreign migrant workers who left Mozambique and whether any measures were envisaged to ensure that that exemption was not exploited for commercial purposes.

19. He asked whether the many employment agencies operating in Mozambique earned revenue solely from the recruitment of foreign workers in Mozambique or Mozambican workers abroad. It would be useful to know how many labour inspectors there were in

Mozambique and whether they were sufficient in number to monitor the activities of employment agencies in addition to those of Mozambican companies. He would also appreciate more information on the fines imposed on employment agencies that failed to comply with applicable labour standards. He wondered how many complaints the Ombudsperson and the National Human Rights Commission had received from migrant workers in 2016 and 2017 and what the outcome of those complaints had been.

20. He asked whether the State party had a detention centre for migrants in an irregular situation and, if so, whether such migrants were held separately from convicted criminals and whether there was an institution responsible for setting and monitoring the conditions of their detention and administering the relevant appeals procedure. He also asked for a description of the measures taken by the State party to guarantee that migrants who were convicted of an offence or whose expulsion was ordered following a dispute with their employer had the right to file an appeal before a final decision was taken.

21. It would be useful to know whether children born to migrants working in Mozambique were automatically registered as Mozambican citizens and provided with identity documents and whether registration practices differed according to the migration situation of the parents. He would like to hear more about the measures taken by the State party to guarantee that migrant children who did not speak Portuguese had access to education. He asked whether such children were given the opportunity to attend Portuguese language classes before attending a mainstream Mozambican school. The delegation might also indicate whether migrants who came into contact or conflict with the law were entitled to legal aid.

22. He asked whether the social security contributions made by migrant workers in Mozambique and by Mozambicans working abroad were readily transferable. The Committee would also welcome additional information on the procedure for setting up a company in Mozambique, in particular the institution responsible for dealing with the associated formalities. Lastly, he would like to hear a description of the steps taken by the State party to build the capacity of the different institutions responsible for migration affairs to ensure that they fulfilled their respective mandates and that officials working in the area of migration received proper training.

23. **Mr. Frasheri** (Country Rapporteur), welcoming the frankness with which the delegation had identified areas where additional resources and support were needed, said that the Committee would like to hear about other areas where there was room for improvement. The delegation might also explain the circumstances that had prompted the Mozambican authorities to expel a large number of migrants working in the mining sector in Cabo Delgado Province in February 2017. He asked how the State party ensured that State institutions and private actors respected the employment and social security rights of migrants working in the mining or agricultural sectors. It would also be helpful to receive more information on the migration flows between Mozambique and Malawi and Zimbabwe.

24. Noting that international treaties had the same rank as domestic legislation within the Mozambican legal framework, he asked how conflicts of laws in the area of migration were resolved. It would also be useful to receive information on any court cases brought on the basis of irregular migration. Moreover, he asked the delegation to clarify the rank of bilateral migration agreements within the domestic legal framework and explain how such agreements were applied and enforced.

25. While he was encouraged by the measures taken by the State party to address the situation of child labour identified in South Africa, he wished to learn more about their impact and the assistance provided to children who had been subjected to forced labour, including efforts to reunite them with their families. He asked whether similar measures had been taken in other countries.

26. **Mr. Oumaria** asked what mineral resources were currently being mined in Mozambique, whether the associated mining activities were being conducted by multinational companies and, if so, whether the workers concerned had been recruited outside Mozambique. What measures were being taken by the State party to ensure that migrant workers were lawfully recruited and properly remunerated?

27. **Ms. Dzumhur**, recalling that the State party had two national human rights institutions, namely the National Human Rights Commission and the Ombudsperson, said that it would be helpful to know how many visits the former, in its capacity as the national mechanism for the prevention of torture, had conducted to places where migrants were detained or accommodated, the extent to which the two institutions communicated with each other and which institution the State party intended to put forward for accreditation with the Global Alliance of National Human Rights Institutions.

28. **Mr. Taghi-Zada** said that he would appreciate a more detailed explanation of how the State party guaranteed in practice the rights of Mozambican citizens living abroad, particularly the right to participate in national elections. He asked how many Mozambican citizens had participated in recent presidential or parliamentary elections and in which countries the majority of the Mozambican diaspora was located.

The meeting was suspended at 11.40 a.m. and resumed at 12.15 p.m.

29. **Mr. Veríssimo** (Mozambique) said that there were no migrant detention centres in Mozambique, as migration was an exclusively administrative matter and there were no criminal offences connected to it. There were, however, a number of centres where incoming migrants, many of whom were vulnerable and in a weakened state, could receive food, shelter and a health check-up, irrespective of their legal status. Incoming migrants who were identified as being in an irregular situation were sent back under the administrative procedure of repatriation, which, under Mozambican law, was the responsibility of the person or company that had transported the migrant to Mozambique. The Mozambican authorities had clear rules for differentiating between refugees and migrants.

30. The Constitution provided that any child born in the territory of Mozambique, regardless of his or her parentage, was a Mozambican citizen. A child born to migrants working in Mozambique could therefore be registered under the normal procedure. A child born to Mozambican parents abroad could be registered through a Mozambican embassy or consulate. Children born on Mozambican soil or to Mozambican parents abroad enjoyed equal treatment in terms of access to civil registration and did not suffer any discrimination on account of their parents' legal status. The Government would continue to work to increase coverage of birth registration procedures.

31. In most cases it was not necessary to make specific provision for migrant children who did not speak Portuguese, as the languages spoken in neighbouring countries were not dissimilar to those spoken in the border regions of Mozambique. For example, the language spoken close to the Mozambican border in South Africa was the same as the local language spoken in southern Mozambique. Primary and international schools offered bilingual education as a means of facilitating the social integration of migrant children. There were also a number of specialized language schools where students could receive individualized support from teachers. Students whose mother tongue was not Portuguese underwent a language assessment before being allowed to join a mainstream school.

32. In February 2017, some 2,000 migrants engaged in unlawful mining activities had been repatriated as part of the Government's efforts to put an end to unlawful artisanal mining activities in Cabo Delgado Province. The task of repatriating migrants in an irregular situation fell to joint country committees. The Government worked closely with the local community to manage the expectations that often arose from the discovery of resources and the arrival of mining companies in the region. In reality, it often took some time for the benefits of such a discovery to trickle down. The recruitment of foreign workers to mine newly discovered resources could be a source of particular resentment within the local community. Although the Government gave priority to the recruitment of local workers to fill vacancies, in many cases they did not possess the necessary technical expertise; that left the Government with no choice but to bring in qualified foreign workers to take the projects forward. It was hoped that, in time, the necessary expertise could be developed within the local community.

33. All mining companies were required to honour their corporate social responsibility obligations, which included undertaking development initiatives for the benefit of the local community, such as setting up training institutes for Mozambican workers. Information

from a database of skilled workers who were available for work was transmitted to mining companies. The mining company currently operating in Cabo Delgado Province had submitted a proposal for a community development programme and had presented its procurement needs in a transparent manner to enable local small and medium-sized enterprises to take part in the procurement process. Mega-projects led by multinational companies also created opportunities for local companies. The Government continued to learn from the experience of other countries with a longer history of mining operations. The local inhabitants of Cabo Delgado Province were reaping the benefits of the economic development fostered by mining operations.

34. There was universal access to legal aid in Mozambique. The Institute for Representation and Legal Aid provided free legal aid to all persons in need who met the requirements, regardless of their citizenship. Applicants for free legal aid were means-tested and were issued with a certificate proving their entitlement to that benefit. The Institute could assign a lawyer upon request. A new law on mutual legal assistance in criminal matters had recently been adopted, and Mozambique had concluded agreements with other countries to facilitate the transfer of detainees.

35. With regard to the participation of diaspora nationals in elections, the electoral legislation had established two single-member constituencies to represent Mozambican communities in European and African countries in the Assembly of the Republic. The elected deputies participated in all parliamentary activities.

36. Police officers were not instructed to escort migrants, but traffic officers and protective units were notified of large-scale migrant movements and facilitated their passage to their final destination. The migrants' documents had already been checked at the point of origin and the police at the destination were notified in advance of their arrival.

37. The statistical data requested by the Committee would be provided in due course.

38. **Mr. Macassar** (Mozambique) said that Decree-Law No. 2/2011 authorized the employment of immigrants in the civil service and established the applicable legal conditions. According to article 2, the Decree-Law was applicable to foreign nationals who engaged in remunerated activities in the civil service pursuant to a cooperation agreement with their country of origin. However, article 30 of the Constitution established certain restrictions. For instance, immigrants could not be parliamentary deputies or members of the Government and were not eligible for diplomatic or military service.

39. The Paris Principles established clear criteria that must be met by national human rights institutions. However, they did not impose a specific type of institution. Some countries had opted for just one institution and others had opted for two. The National Human Rights Commission met all the requisite criteria and was therefore fully entitled to apply for accreditation with category A status.

40. When Mozambique had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it had been required to establish an independent national preventive mechanism. The National Human Rights Commission had been assigned that function and its mandate had been amended with that end in view. The Commission would be contacted to obtain information on the number of visits to places of detention that had been conducted to date.

41. Decree No. 108/2014 laid down the rules governing foreign citizens' entry, stay and departure. The National Migration Service issued visas of various types, such as student visas, border visas, transit visas, tourist visas, business visas and employment visas.

42. Human rights education was being introduced at all levels, from primary schools to tertiary education. Human rights courses had been launched in the Police Science Academy and the National Prison Service. Legal training in human rights was provided not only for law students but also for members of the judiciary, investigating judges, prosecutors and notaries public.

43. Civil society had been involved in the preparation of all of the country's reports to human rights treaty bodies and to the Working Group on the Universal Periodic Review.

44. **Ms. Morar Saide** (Mozambique) said that, under the regulations governing the social security system, financial contributions to the system were mandatory. However, migrants who declared that they were paying contributions to the system in their own country were not required to make such payments. In the absence of such a declaration, social security contributions were deducted from the migrant worker's pay but were reimbursed upon the worker's return to his or her country. Technical and administrative aspects of the existing social security agreements with Brazil and Portugal were being updated.

45. About 130 inspectors were tasked with ensuring that regulations were respected by private employment agencies. The inspectors frequently focused on awareness-raising as an alternative to the imposition of sanctions. However, in the event of flagrant violations of existing norms by the agencies, sanctions were imposed. There were about 65 private employment agencies, of which 7 had been granted special licences to recruit workers from abroad.

46. With regard to the protection of the rights of migrant children in an irregular situation, the National Plan to Combat the Worst Forms of Child Labour, which covered the period from 2018 to 2022, had been adopted in 2017. A list of types of work deemed to be hazardous for children had also been adopted and would guide efforts to safeguard the rights of both Mozambican and migrant children.

47. Compensation had been paid to Mozambican workers, for example in South Africa, as a direct result of bilateral agreements. Working conditions on South African farms were inspected jointly by inspectors from both Mozambique and South Africa. An administrative agreement on workers' rights and social security had also been concluded between Portugal and Mozambique.

48. Technical and health safety regulations for geological and mining activities had been adopted by Decree No. 61/2016 to ensure proper conditions in the mining sector. In addition, the legal regime concerning occupational accidents and occupational diseases, which had been adopted by Decree No. 62/2013, guaranteed workers' rights in the mining and other sectors.

49. **Mr. Veríssimo** (Mozambique) said that statistical data and information on migratory flows from Zimbabwe, Malawi and elsewhere would be provided in due course.

50. With regard to child labour on South African farms, the children had been returned home and social welfare institutions were supporting their reintegration into the education system and providing them with health-care assistance. More rigorous inspections were being conducted, both as a preventive measure and with a view to applying sanctions where necessary.

51. **Mr. El Jamri** noted that, according to the delegation, migrants in an irregular situation were not criminalized or held in detention facilities. He therefore enquired about the administrative procedure for repatriating such migrants, the location in which they were held and whether they could file an appeal prior to expulsion.

52. **Mr. Veríssimo** (Mozambique) said that the Committee could rest assured that the Mozambican Government and other stakeholders would take vigorous action to improve the country's implementation of the Convention, notwithstanding the complex challenges and the need for increased resources and domestic capacity. Technical assistance for the training of staff involved in the protection of migrant workers and their families was of the utmost importance.

The meeting rose at 1.10 p.m.