

## RESPONSE TO UN QUESTIONNAIRE ON VIOLENCE AGAINST CHILDREN

### I - Legal Framework

*The purpose of this part of the questionnaire is to determine how the legal framework in your country deals with violence against children, including prevention of violence, protection of children from violence, compensation to victims of violence, penalties applied to perpetrators and reintegration and rehabilitation of victims.*

#### International instruments on human rights

1. Please describe any developments concerning violence against children resulting from your country's acceptance of international instruments on human rights including, for example, the Convention on the Rights of the Child and its optional protocols, the Palermo Protocol, or regional instruments. Please provide information on cases of violence against children in which your country's courts have resorted to international or regional human rights standards.

The country has ratified the Convention on Human Rights of the Child and the African Charter on the Rights and Welfare of the Child to ensure children's rights, including protection of children from violence. Recently, the country ratified the optional protocol to the Convention on the Sale of Children for Prostitution and Pornography and Involvement of Children in Armed Conflicts.

In addition to the above mentioned instruments, the country has ratified several international instruments related to the rights of the child, such as the Convention on the Elimination of All Forms of Discrimination Against Women, International Labour Organisation's (ILO) conventions, namely Convention 138 on the Minimum Age for Admission to Employment, Convention No. 182 on the Prohibition of the Worst Forms of Child Labour and immediate action for its elimination.

At the level of the Hague Conference, several treaties, including the Hague Convention on Civil Aspects of International Abduction of Children (1980) and the 1993 Convention on Protection and Cooperation on International Abduction of Children.

Usually the courts apply international and regional human rights standards when they deal with cases of violence against children.

Legal provisions on violence against children

2. Describe how forms of violence against children are dealt with in the constitution, legislation and by-laws in your country and, whenever necessary, customary laws.

Children's right to protection against violence, torture and other forms of cruel, inhuman and degrading treatment is enshrined constitutionally in Article 121 which states that all children have the right to protection by the family, society and State. In addition, the same article states that children, in particular orphaned children, disabled children and abandoned children, are entitled to protection against any forms of discrimination, ill treatment and abusive use of authority in the family and institutions and that children shall not be subjected to discrimination, particularly on the basis of their birth, and shall not be subjected to ill treatment.

Article 47 recognises children's right to protection and care required for their well-being and states that all acts concerning children, either by public entities or by private entities, must take into account the best interests of the child.

*The Declaration of the Rights of the Mozambican Child* establishes the following: "(you, child), Have the right not to be subjected to violence and ill treatment".

With regard to protection against sexual abuse, the Mozambican legislation focuses on penal sanctions for certain sexual offences in general, and against children of particular ages<sup>1</sup>. It is worth mentioning that in 1999, the Law Regulating Access of Children to Public Venues for Night Entertainment and to Consumption of Alcohol and Tobacco<sup>2</sup> was adopted. This law regulates the access of persons under the age of 18 to venues of night entertainment and sale and hiring of videocassettes. In general, these provisions can be considered to be appropriate.

Apart from what has been stated above, it is recognized that there are gaps in the legislation with respect of the commission of offences against children for their failure to be specific and well articulated. For example, the Penal Code does not deal, in a clear manner, with matters of protection of children from sexual exploitation and abuse.

In the field of child labour, there is legislation in place, but this does not define dangerous work nor does it define the occupations that are deemed to be the worst forms of child labour. In addition, the new ILO treaties ratified by Mozambique are still to be reflected in the Mozambican legislation. Moreover, the failure to impose fines and criminal sanctions to punish those who employ children in dangerous occupations. Also, there is lack of regulation on permitted child labour although

<sup>1</sup> Ver p.111-112 do relatório Sacramento (versão traduzida).

<sup>2</sup> Ver p.113-115 do relatório Sacramento (versão traduzida).

Mozambican legislation stated that children above the age of 15 may be employed, it does not determine the conditions under which they are to work.

Adoption of international instruments is not clearly dealt with in national legislation. However, Family Law, which recently came into force, defines as one of the conditions for adoption the level of social intercourse which assessment serves as the basis for the judge's decision in relation to the adoption process.

**3. Please provide details of any specific legal instruments on:**

- **Prevention of all forms of physical, sexual and mental violence, corporal offences or abuse, negligence or negligent treatment and sexual abuse;**

Children's right to protection against violence, torture or other forms of cruel, inhuman and degrading treatment is constitutionally consecrated as mentioned above.

The Penal Code, Decree 417/71 (Jurisdictional Statutes for Legal Assistance) and the Law Regulating Access of Children to Public Venues of Night Entertainment both protect children from sexual exploitation.

In accordance with article 391 of the Penal Code, all indecency act against a person from the opposite sex, which is committed with recourse to violence, in order to satisfy lascivious passions, or committed with another motive, shall be liable to a prison sentence. Should the offended person be under the age 16, the prison sentence shall be the same, as long as there is no violence.

Article 392 provides that anyone who, through seduction, rapes a virgin woman above twelve and below eighteen shall be sentenced to two years' imprisonment.

Article 394 stipulates that anyone who rapes a child under the age of 12, provided that none of the circumstances stated the preceding article (article 392) are verified, shall receive a two to eight years' prison sentence.

Article 405 declares that anyone ascendant who, with the aim of satisfying dishonest desires of a third person, excites, favours or facilitates prostitution - or corruption of his/her descendant, shall be condemned with one to two year imprisonment and payment of a corresponding fine, with an additional suspension of his/her political rights for a period of twelve years. The guardian or anyone responsible for the education, rearing or guardianship of a person under the age of 12, who commits the same crime towards that child, shall be sentenced to six months to two years' imprisonment and payment of a corresponding fine, and shall have his/her guardianship or family council membership rights cancelled for a period of twelve years and shall be prevented from teaching or managing or running for the management of any educational institution.

Article 406 establishes further that all those who, usually, favour or facilitate debauchery or corruption of a child under the age of 21 years to satisfy dishonest desires of another person shall be sentenced to three to one year imprisonment and to the payment of a corresponding fine and suspension of their political rights for a period of five year.

Article 108 of decree 417/71 establishes that partial or total inhibition of parental power may be applied in the following cases: -when the parents excite their children to crime and corruption of customs.

- **Protection of children from all forms of violence;**

In terms of the legislation on abduction, it is worth mentioning that intentional deprivation of a child's right to a family is considered to be a criminal offence in its diverse facets. Article 342 of the Penal Code provides for a sentence of 2 to 8 years' imprisonment to the person who, through violent and fraudulent means, withdraws or takes, or helps to withdraw a child under the age of 7 from his/her house or from a place where, with permission from persons responsible for his/her guardianship or orientation, she/he may be.

Should this action happen to a person under the age of 21 years, the perpetrator shall be sentenced to imprisonment, with no prejudice to the crime of private incarceration, should the action happen according to the provisions of article 343 of the same code.

The law establishes further that occultation or exchanging a child by another child, or its theft are condemnable offenses, punishable with prison sentences of 2 to 8 years, should the child be under the age of 18.

As to those who refuse to reveal the whereabouts of these children, they are liable to prison sentences of 16 to 20 years in jail, in terms of article 344

Another legal provision protective of children's rights in this context is Article 340 of the Penal Code which defines the penalties for women who, not having given birth to a child, steals another woman's baby, or who, having given birth to a live or death child substitutes it with another; the penalties stipulated for these crimes is a jail sentence of 2 to 8 years, which is also applied, for collusion, to the husband or other persons who, knowledgeable of its practice, consent to its commission.

There are several cases in which one of the parentes separated abducts the child who is under guardianship of the other parent. To prevent situations such as these from happening, it is important to stress that in the act of applying for a passport for the child the parents are required to submit an affidavit. On the other hand, children are allowed to leave or enter the country only if accompanied by one of

the parents or with a written permission and authenticated by the notary from one of the parents. However, these mechanisms are not considered to be strong enough to impede illicit removal and not return of children.

The right to protection from abandonment is equally enshrined in Article 4 number 3 line e) of the Presidential Decree No. ..., by establishing the powers of the Ministry of Women and Social Welfare in support to children, namely the responsibility to give support to orphaned, abandoned and children in need of family care.

Equally, measures and recommendations are established in the Social Welfare Strategy on children, such as:

- To align the family location and reunification programme with current needs of the country.
- To align to individual needs and interests.
- To ensure that children accommodated in kindergartens and similar institutions benefit from the good rapport with the community.

Paragraph 1 of Article 1, Law 2053, on Family Abandonment, stipulates that those persons who, after a judicial decision to provide maintenance to children, fail to comply with this obligation for a period of over sixty days shall be sentenced to a redeemable imprisonment of up to six months. The law equally penalizes those who, by alienation or occultation of goods or income or other means, intentionally put themselves in a position in which they are unable to comply with their obligation for providing maintenance to children under their responsibility.

Still in terms of penalties, paragraph 1 of article 2 states that a non-redeemable correctional prison sentence of up to one year shall be imposed on those parents, guardians or other people entrusted with the guardianship of children who fail to provide them with regular economic and moral assistance, if this failure to do so results in moral harm to the children. Article 3 of the mentioned law further states that a non-redeemable correctional prison sentence of up to two years will be incurred by the spouse who abandons the marital domicile for over six months and, cumulatively, seriously infringe the duty to support the other spouse on the obligations inherent to parental power.

The other citizens are not exempted from the responsibilities of protecting children from abandonment; in terms of article 346 of the code under consideration, anyone who, finding a new-born child abandoned, or who, finding an under 7 child in an abandoned land, fails to present it to the nearest administrative authority, shall incur on a prison sentence of 1 to 2 years.

- **Compensation, including indemnization, to children victims of violence;**  
Civil Code provisions are applicable in relation to compensation for cases presented to a competent court; however, there are specific compensations for children who are not victims of violence.
- **Penalties applicable to perpetrators of violence against children;**  
In respect of legislation on abduction, it is worth highlighting that intentional deprivation of a child's right to a family is considered to be a crime in its diverse modalities. Article 342 of the Penal Code establishes that a prison sentence of 2 to 8 years shall be incurred by the individual who, by means of violence or fraud, takes or help to take a child under the age of 7 from its house or venue where, with due permission from the people responsible for its guardianship or orientation, he/she may be.

Should this action refer to a person under the age of 21 years, the said individual shall incur a prison sentence, with no prejudice to the sentence for the crime of private incarceration should this occur as described by article 343 of the same code.

The Law establishes further, in more detail, that occultation or exchange of a child for another or stealing it are liable to a penalty of 2 to 8 years' imprisonment if the victim is under the age of 18 years old.

As to those who refuse to reveal the whereabouts of these children, they are liable to a 16 to 20 year prison sentence, in terms of article 344°.

Another legal provision protective of children's rights in this context is Article 340 of the Penal Code which states the penalties for women who, not having given birth to a child, who steals another woman's child, or who, having given birth to a live or death child substitutes it with another; the penalties stipulated for these crimes is a jail sentence of 2 to 8 years, which is also applied, for collusion, to the husband or other persons who, knowledgeable of its practice, consent to its commission.

There are several cases in which one of the parentes separated abducts the child who is under guardianship of the other parent. To prevent situations such as these from happening, it is important to stress that in the act of applying for a passport for the child the parents are required to submit an affidavit. On the other hand, children are allowed to leave or enter the country only if accompanied by one of the parents or with a written permission and authenticated by the notary from one of the parents. However, these mechanisms are not considered to be strong enough to impeded illicit departure and not return of children.

In terms of paragraph 1 of article 395 in the Penal Code, abduction of an under 12 child with dishonest purpose is always considered as a violent crime; On the other hand, abduction of a virgin child, above the age of 12 but below the age of 18

years, is considered as an aggravating circumstance of the crime of *rape*, in accordance with the law; should the rape not take place, the crime of abduction by seduction shall be punishable with a prison sentence of up to 1 year. Rape, when practised with children older than 12 but younger than 18 years, is punishable imprisonment of 2 to 8 years.

In terms of ordinary legislation, child protection from maltreatment starts with the legislation related to protection in the family. Thus, it is important to retain what is stated in article 108 of the Statutes for the Jurisdictional Assistance to Children, which establishes the possibility of partial or total inhibition of parental power of those who seriously maltreat their children (line c), or when parents have been condemned as authors, accomplices or colluders of crimes committed against their children or, as repeaters, for crimes committed against children (line f).

Maltreatment and cruel treatment against children continue to occur in the country, despite constitutional prohibition, laws in force and awareness raising campaigns described below. The most frequent cases of maltreatment are related to the treatment given to children suspected of theft in which people tend to take justice in their hands, knowing of the unimputability of children, they chose to submit the children suspected of theft other cases considered to be illicit to maltreatment and aggression. Although in a more reduced scale, there are isolated cases of police officers who, unaware of the norms and children's rights, continue to use aggression as a way of persuading these children to confess the crimes they are accused of. These children are eventually put in freedom given their unimputability status or the lack of alternative norms of deprivation of their freedom. This phenomenon occurs mostly to street children and teenage-addicts, frequently subjected to collective aggression when they are caught in an act or with a stolen good.

The Penal Code contains articles on protection of children from abuse of their property and physical and moral integrity in cases of rape, indecency, rape, pandering, infanticide; it establishes further the penal measures for those who incite or practise acts violence against children, through coercion, incitement or even participation. However, they still lack details to be more than simple criminal prohibitions.

The Statutes for Jurisdiction Assistance to Children establishes the possibility of inhibit parental power in cases of presence of sexual abuse or incitement to corruption; the above Statutes expressly provide for measures for prevention of crimes applicable for offences committed by children.

- **Reintegration and rehabilitation of children victims of violence.**  
Support centres for women and children victims of violence have been set up, most of them belonging to civil society organisations, which provide psychological and legal support to children who are victims of violence.

4. **Please indicate whether there are legal instruments on all types of violence against children, including physical violence, sexual violence, psychological violence, injury, abuse, maltreatment, sexual exploitation that occur:**
- **In the family/household;**

There is not a specific law but there are provisions in addition to those that have been mentioned:

In terms of ordinary legislation, the right to life is contained in Article 60 of the Civil Code, consecration of legal protection from illicit offences or threats practised against the citizens, at large; on the other hand, article 368 of the Penal Code sanctions voluntary homicide and manslaughter with prison sentences in which aggravating or attenuating circumstances depend on how they occurred.

There is prohibition of abortion in article 358 of the Penal Code which sentences of 2 to 8 years' imprisonment. The law only authorizes abortions in exceptional circumstances, after due compliance with all legal requirements.

Infanticide, defined as the interruption of the life of a child within 8 days after birth, is an offence punishable with a 20 to 24 years' imprisonment; should this offence be committed by the mother, then she will receive 2 to 8 years' imprisonment (article 356 of the Penal Code).

It is worth mentioning that these are considered to be public criminal offences, and as such they can be reported by anyone.

- **In schools and pre-school and education centres (both formal and informal, public and private).**

General legal provisions and administrative guidelines and policies are in place to deal with these issues in schools.

- **Military schools**

N/A

- **Institutions, including support, residential, health and mental health institutions;**

The Penal Code is applicable. The Minimum Standards for support of children in difficult circumstances in public and private institutions are being developed.

- **In the law enforcement and public order context, including detention centres or prisons;**

The Penal Code is applicable. There is a reform policy and strategies in the police and prison areas.

- **In neighbourhoods, streets and community, including the rural areas:**

Not specifically, but community policing is being developed.



- **In the workplace (informal and formal);**  
The law prohibiting discrimination in the workplace on the grounds of one's serostatus.
  - **In sports and sports venues.**  
There is nothing.
5. **Please state if your legal system explicitly forbids corporal punishment of children, in any circumstances, including in the family. Please give examples on the existence of any legal provisions protecting whoever applies such punishment, including in the family. What are the applicable penalties for those who administer corporal punishment on children, including in the family context.**

In terms of ordinary legislation, child protection against maltreatment commences with the legislation on protection of the family. Thus, it is important to retain the contents of article 108 of Statutes for Jurisdictional Assistance to Children, which provides for the possibility inhibition of partial or total parental power of those parentes who seriously maltreat their children (line c), or when the parents have been sentenced as authors, accomplices or colluders for criminal offences committed against their children or, repeaters, for crimes committed against children at large (line f).

Maltreatment and cruel treatment cases against children continue to occur in the country, despite constitutional prohibition, laws in force and awareness raising campaigns described below. The most frequent cases of maltreatment are related to the treatment given to children suspected of theft in which people tend to take justice in their hands, knowing of the unimputability of children, they choose to submit the children suspected of theft other cases considered to be illicit to maltreatment and aggression. Although in a reduced scale, there are isolated cases of police officers who, unaware of the norms and children's rights, continue to use aggression as a way of persuading these children to confess the crimes they are accused of. These children are eventually put in freedom given their unimputability status or the lack of alternative norms of deprivation of their freedom. This phenomenon occurs mostly to street children and teenage-addicts, frequently subjected to collective aggression when they are caught in an act or with a stolen good.

Equally, in recent years, the number of cases of cruel violence against children committed by strangers is growing. For example, recently, an 8-year old male child had his genital organs amputated.

The Penal Code contains articles on protection of children from abuse of their property and physical and moral integrity in cases of rape, indecency, rape, pandering, infanticide; it establishes further the penal measures for those who

incite or practise acts of violence against children, through coercion, incitement or even participation. However, they still lack details to be more than simple criminal prohibitions.

The Statutes for Jurisdictional Assistance to Children establishes the possibility of parental power in situations of sexual abuse or incitement to corruption; the said statutes expressly contemplate the measures for preventing the occurrence of crime for cases of children practising offences.

The Social Welfare Policy paper and Social Action Strategic paper for children envisage multi-sector support and protection programs for children victims of violence in the family and promote creation of mechanisms for prevention, counselling and support of the victims and their families.

6. **Please provide information on whether the penal code is permissive of corporal punishments and/or death penalty for crimes committed by persons under the age of 18.**

The Penal Code does not specifically authorize or forbid corporal punishment. The Law prohibits the death penalty. The Constitution and the Civil Code mention protection to life, physical integrity and unimputability of persons under the age of 21, and the situations in which cases of unimputability is applicable; therefore, there is no room for application of corporal punishment to persons under the age of 18.

7. **Please provide details on the existence of legislation that deals specifically with persecution and sexual harrasment.**

Generally speaking, article 391 of the Penal Code attributes imprisonment to people who commit indecent acts against person of the opposite sex committee with resort to violence to satisfy lascivious passions or for any other motives. With regard to children, this article states specifically that should the offended person be under the age of 16 years, the sentence will be the same, if it is not proven that there was violence. Article 392 of the Penal Code establishes further that rape by seduction of a virgin woman above twelve but below 18 years of age is punishable with a 2 to 8 years' imprisonment; by force of article 394, this sentence can be aggravated to 8 to 12 years imprisonment if rape has been committed on an under twelve year old child.

8. **Please provide information on the treatment given to traditional harmful practices, among which, female genital mutilation, premature marriages or honour related crimes.**

To the Government of Mozambique, early marriages are a concern. This issue has been raised in the Family Law as one of the most controversial issues. By law, the

minimum age for contracting matrimony is 18 for both sexes, although in some local cultures children as young as 14 are incited to marry.

The Constitution consecrates acknowledgement and respect for culture, but with regards to practices that are deemed to be harmful to the citizens' health and physical integrity they are not only fought against but also punishable in accordance with the law, as they come into direct conflict with the Law.

9. Please provide information on the applicability of specific provisions for all types of violence against children to non-citizen children and children with no nationality, including those who seek asylum and the displaced children. If there are no specific provisions applicable to this group of children, please provide details on the protection they are offered.

Children with no nationality or non-citizen children (refugees and displaced) are covered by the United Nations Convention on the Statutes of Refugees, Convention on the Rights of the Child, African Charter on Children's Rights and Welfare, and the Constitution of the Republic of Mozambique in the chapter on National Law. There aren't so many reports of cases of violence against children in which it was necessary to resort to international or regional human rights standards. There have been reports of cases of violation of parental power on the part of one of the parents.

10. Please provide information on eventual differences in the definition of violence and in que legal framework, according to:

- sex or sexual orientation of the victim and/or perpetrator;

According to the Mozambican legal framework there is no distinction of the saction to be applied for the specific case of violence. So, for this reason, there are no sanctions on based on sexual orientation of the victim or perpetrator; however, the definition of the sanctions takes into account the victim's age, relationship between the victim and perpetrator that can be used as aggravating or attenuating circumstances.

- minimum age of the victim and/or perpetrator;

The law does not define violence against people on the grounds of age; age is considered as an aggravating factor in the punishment of criminals.

- the relationship between the victim and perpetrator including, though not exclusively, infanticide, sexual violence in the marriage, incest and sexual abuse within the family, and corporal punishment.

Infanticide is clearly forbidden by the Penal Code; however, the definitions of crimes such as sexual violence against children, incest, sexual abuse and corporal punishment are clearly defined in the law.

Please provide information on eventual recent overall reviews of the legal instruments for dealing with violence against children.

There has not been any specific review of the laws on violence against children. However, there was a general legal review that included child protection against violence.

**11. State any studies and surveys aimed at assessing the impact of legal measures taken with regard to the problematic of violence against children.**

Implementation of the Convention on the Rights of the Child in Mozambique	Republic of Mozambique	Submitted to UN
Demographic Statistics and Indicators	INE	On a disc
Demographic Statistics on Children and Teenagers in Mozambique	INE	Does not have
Prevalence of trafficking of children for purposes of sexual exploitation in South Africa	Molo Songololo	Does not have
Gender and Labour Rapid Assessment	MINTRAB - UNICEF	On disc
		On disc
Prevalence of sexual exploitation of children in Southern Africa	ECPAT International	
Factors influencing child rights violations, prostitution and child sexual abuse – A study case of Ressa Garcia	Baleira – ADDC/Campaign	On disc
Vicious Cycle of Sexual Exploitation, HIV/AIDS, Vulnerability & Violations of Children's Human Rights	UNICEF	At UNICEF
National Survey on the Reproductive Health & Sexual Behaviour of Young People and Adolescents - INJAD	INE	On disc
Childhood on the Market, Teenage prostitution in Southern Africa	Perschler – African Security Review	At UNICEF
		On disc
Including observations of the Committee on the Rights of the Child: Mozambique	UNCRC	
Arch Report on "Children in Conflict with the Law"	Save the Children Norway	On disc
		At UNICEF
Final Review for the care and protection of children	MMCAS/UTREL, University of the Western Cape	
Prevalence of trafficking of women and children in the Southern Africa Region	IOM	On disc
Prevalence of trafficking in human beings, especially women and children, in Africa	UNICEF/Innocenti	On disc
Traditional Practices in Respect of Sexuality and Representations on Health and Disease	Dr. A. M. Loforte, CEP, Faculty of Arts, Eduardo Mondlane University	On disc
		At UNICEF
National survey on violence against women –	UN/MMCAS	

zambique – First draft

At UNICEF

**Courts in Charge of the issue of Violence against Children**

12. Please identify the existing judicial institutions in your country that are in charge of the issue of violence against children. State whether the children and family courts have any specific responsibility concerning this issue.

There is one Children's Court in the Country's Capital city. In places where there are none, the Judicial Courts through their criminal and civil sections are the ones in charge of solving issues related to violence against children. However, in cases of violence among children, children committing crime, the Children's Court has jurisdiction and measures of assistance must be applied, education or correction, or in case of establishment of maintenance or regulation of paternal power – which are included in the emotional and economic violence, the Children's Courts are responsible for their resolution.

**Minimum Age for sexual activity**

13. Provide information on the established minimum age allowed for sexual activity. Is that age different for girls and boys? And for heterosexual and homosexual activities?

The national law does not expressively establish the age to allow sexual activities. The minimum age to get married is 18 years old. The law does not make any reference concerning homosexual and heterosexual activities.

14. Provide information on the minimum age for marriage for women and men.

The minimum age for marrying has been upgraded from 14 and 16 for girls and boys respectively, to 18 years old for both males and females. But in circumstances where there is family consent a 16-year-old girl can get married.

**Children's Sexual exploitation**

15. Provide information on legislation and other measures of prevention of children's commercial sexual exploitation, including the practice through prostitution and other forms of illicit sex. Give details of the means used to ensure that there is no crime of the child victim of exploitation. Provide information on the legislation and other measures of prohibition of all forms of sale or child trafficking, including by the parents themselves.

The legislation on child commercial sexual exploitation is diverse and as previously stated, there are plans for a review. However, there is a prohibition and penalization against acts of corruption and pandering.

Pornography and pernicious information

- 16. Provide information on the legislation and other measures of prohibition of production, possession and dissemination of child pornography. In special, please provide information on the type of controls of the production and dissemination of pornographic materials on the Internet.**

By implication, the penal code is applicable in prohibiting the production and dissemination of child pornography. In addition, the law 6/99 regulates the sale and distribution of pornographic material to the public and prohibits the sale of these materials to the children (Please refer to the details below). Immigration officers and authorities have the mandate to inspect any luggage that enters the country and can confiscate any illegal pornographic material and ensure that the persons involved be prosecuted. The country has not as yet developed measures to protect the children from Internet pornography, so far this has not been considered to be an issue.

- 17. Provide information about the legislation or guidelines to protect children against information and offensive materials broadcasted through the media, Internet, videos, electronic games, etc. -**

By implication, the Constitution of the Republic and the Penal Code forbids the dissemination of information and materials offensive to children. Although there are children's preventing measures from information and harmful materials under the Law previously referred to, there are still negative messages broadcasted through movies, videos and other means, which due to the contents can have inadequate influence for the children's moral and mental development.

As far as pornography and other similar materials (the sale, showcase, hiring out and showing video cassettes) are concerned, article 9 of Law 6/99 defines the duty of the video cassettes salesperson to take into consideration measures for public exhibition and access to inappropriate videos for children aged 18 (article 10).

The Higher Council of Communication was established to define the norms and its members' codes of conducts, nevertheless it is still inefficient and its regulations do not have the legal force.

Duty to report cases of violence against children

- 18. Provide information on legislation, regulations or administrative guidelines demanding indictment to the relevant institutions of all forms of violence and abuse practised against children in any circumstance. In case of existence of legislation, regulations or administrative guidelines concerned to indictment to such cases, please indicate whether all citizens are obliged to do so or whether the obligation applies only to determined professional groupings. Give details about any sanctions applicable to those who do not do so.**

The law obliges any body that finds a 7-year-old abandoned child to inform to the competent authorities. However, the duty to report mal treatment and violence against the children of professionals is not clearly specified in the law.

Proceedings related to lodging complaints

**20. Give information about any proceedings related to lodging complaints about all forms of violence against children, perpetrated:**

The Penal Code is generally applied to the majority of the cases. Where there is evidence and the case is reported to the police, the offender is detained and a legal process is prepared to be taken to court for a decision. In cases where there is no evidence, the suspect cannot be detained. In these cases, an investigation process is conducted which includes Legal Medicine tests.

- **In the family/in the household**

Any member of the family or the father or the tutor or the head of a household has the duty to report cases of violence against children of the family. The family member who fails to report cases of violence against children in the family becomes an accomplice of the crime.

- **In schools and in pre-schools and education centres (both formal and informal, public or private);**

By implication all teachers are obliged to lodge complaints to police about the cases of violence against children in schools, nevertheless it is not clear whether this is a crime if it is not reported.

- **In military schools;**

N/A

- **Institutions, public and private, including support, residential, health and of mental health institutions.**

The duty of the parents or members of the family stated above is also applied here, any one responsible for an institution who fails to report complaints to the authorities about the cases of violence against children in the organization becomes an accomplice of the crime.

- **In the context of law enforcement and public order in detention centres or prisons;**

All citizens have the duty to lodge complaints on all actions of violence against children but it is not specifically indicated that the person who fails to report she/he is committing a crime.

- **In neighbourhoods, streets and community, including rural areas;**

The previous response is applicable

- **In the workplace (formal and informal)**

Same as above

- **In sports and in sports venues**

Same as above

The proceedings related to lodging complaints follow the following process.

The person reports the case to the police, Courts, attorneys or to support organizations. The process is sent to the Criminal Investigation Department of the Police for investigation and preparation of lawsuit file, which is then sent to court.

These proceedings are accessible when they are available; however, the lack of legal culture and the lengthy delays in the process often makes the families withdraw the complaints or the suspects end up being acquitted for the lack of evidence.

The existing legal aid system is extremely inefficient and insufficient. There are too few lawyers or legal practitioners for the population, associated to the fact of delays in the court proceedings.

Measures have been introduced with view to enhancing people's knowledge in lodging complaints, the establishment of human rights organisations has been encouraged, phone lines for reporting cases have been opened, there are radio and television programs about children's rights, offices have been set up at police to deal with issues of domestic violence, studies have been conducted and lectures that mobilized communities to discuss this issue in an open manner, children's parliament has become forum for discussion of the problems that children face and a process of establishment of a database at a national level is underway in order to monitor and alert the society about this problem.

21. **State whether these proceedings are accessible to children or to people who act on their own behalf or if there is legal aid to facilitate the lodging of complaints and in what circumstances it is available.**

They are more accessible to the people who act on their behalf rather than to the children themselves; the children are not aware of the existing mechanisms; there are some telephone hotlines lines run by NGOs working in the area of children's rights; those phones operate on an irregular basis (whenever there is available of



funds). The formal mechanism, instituted by law is the lodging of complaints at police stations.

22. **What steps have been taken to enhance people's knowledge on the possibilities of lodging complaints on acts of violence against children?**

There are steps accessible because they exist. However, due to poor diffusion, very often they are not applied or people do not follow the required procedures, which results in acquittal of the accused by for lack of material evidence.

Awareness campaigns have been conducted through radio, television and workshops to improve general public awareness about the problem of violence against children. Equally, information on existing NGOs that provide legal assistance to children has reached many people through information sharing among people.

23. **Please provide information on procedural or witness norms that can be applied in the proceedings on violence against children.**

There are no special proceedings or norms that are applicable to cases of violence against children unless the person who commits the crime is a child; in this case, the Children's Court deliberates on the case.

24. **What are the usual outcomes of trials on the acts of violence against children (for example, compensation, punishment of the perpetrator, rehabilitation of the perpetrator, family therapy).**

Please refer to information above

25. **What are the usual outcomes of trials in which the children and youths considered guilty of committing violence (for example, imprisonment, corporal punishment, community work, rehabilitation of the perpetrator, family therapy).**

The Judicial Courts through their civil and criminal sections are the institutions in charge of trying issues related to the violence against children. However, in cases of violence among children, it is the Children's Courts that have the jurisdictional mandate to try them. Measures available to them are assistance, education and correction.

A common outcome when a child or an adolescent commits an infringement it is their freedom, since there is no rehabilitation, correctional or educational establishments envisaged in the Statutes for Jurisdictional Assistance to Children. Given the fact that children enjoy legal unimputability, it follows that maltreatment of children in prison institutions is not possible.

There are no operational alternative measures in relation to children in conflict with the law, however there are children under 16 unaware of the criminal offences committed, children between 16 and 18 are treated like adults. Children under 16 years who committed crimes should be sent to the rehabilitation centre, there are centres but they are not operational.

## **II - Institutional Framework and Resources meant for Dealing with the Problem of Violence against Children**

*This section has the objective of determining if your country has an institution of coordinating multi-sectorial activities in the area of violence against children, including prevention, protection, compensation, reintegration and rehabilitation.*

The questions below are meant for specific institutions operating in the area of violence against children. Even though there are institutions/authorities/resources these do not specifically deal directly with violence against children, but this aspect is a part of it. For this reason the responses in this section are not in an affirmative form, however we have indicated that this aspect is dealt with by sectoral ministries.

**26. Have authorities, structures and government mechanisms been put in place, including at federal, state/provincial, municipal and local levels, responsible for the problematic of violence against children?**

**If yes, please identify those authorities, structures and mechanisms and describe how they ensure coordination.**

The Ministry of Women and Social Welfare Action (MMAS) is the institution responsible for the coordination of all matters related to children, particularly those who are in difficult or vulnerable situation (including orphans, street children, disabled children, poor children, among others).

The Ministry of Interior ((MINT) does it through the Support Centres for Women and Children) at national, provincial and distrital levels.

The Ministry Justice provides protection through the application of laws by the courts.

It is important to stress that the Social Welfare Policy, adopted through Resolution No. 12/98 by the Council of Ministers establishes the principle of development of integrated and multi-sector support and protection programs for children victims of family violence, as well as setting up of mechanisms of prevention and counselling on these phenomena, such as legal support service and the juvenile justice system.

27. **Is there a specific governmental authority entrusted with the responsibility to deal with the problematic of violence against children? If YES, please give details.**

There are no specific mechanisms responsible for the issue of violence against children. However, this can be done through the Ministry of Women and Social Welfare Action (MMAS) which ensures supervisory coordination and information gathering activities.

28. **Does your country provide specific financial and/or human resources to the overall issue of violence? If YES, please indicate the degree of such allocations.**

Yes, though not specifically. The financial resources are allocated to MINT and to MMAS (which tutelates the area of children) and these, on their turn, distribute the funds to the various programmes. It is worth mentioning that the funds allocated to MMAS are insufficient for the amount of activities and responsibilities of this Ministry.

29. **Does your country allocate specific financial and/or human resources to activities related with the issue of violence against children? If YES, please give details.**

No; however, funds allocated to MMAS, MINT and the Ministry of Education and Culture (MEC) are also meant for these aspects.

30. **Does your country get resources from international or bilateral donors towards the issue of violence against children? If YES, please indicate the degree and way those resources are to be used.**

Yes. The partners of the Government of Mozambique allocate financial and technical resources for prevention, assistance and social reintegration. UNICEF, through MINT (support centres for women and children); MMAS (through the setting up of community committees/activists for awareness raising, technical assistance, etc.), Ministry of Justice (through the allocation of funds and technical assistance in the process of legal review of child protection instruments). Most of the assistance is for the state budget.

31. **Does your country contribute to the efforts undertaken by other countries in response to the issue of violence against children? If so, how?**

Yes. For example, in cases of marital disputes in which one of the spouses unilaterally decides to take their children abroad, if one or both are Mozambicans, the authorities try to find a decision in the best interests of the child. When there is evidence of child trafficking for child prostitution in neighbouring countries, the authorities coordinate in order to bring/take the children back to their own countries.

32. If there is a national human rights institution - such as a human rights commission or provider - or a body specifically dealing with children's rights in your country; does it play any role or does it have competence in the field of violence against children, including in receiving complaints?  
If YES, please give details.

No. However, there is the General Public Prosecutor's Office which deals with the rights of all citizens.

33. Are there any parliamentary structures (for example, specialized commissions) dealing specifically with the issues of violence against children?  
If so, please give details.

Parliamentary Human Rights and Legal and Social Affairs, and Gender and Environmental Commissions consider, among others, issues to do with Children's Human Rights including protection from violence.

34. Have there been recent parliamentary initiatives on violence against children?  
If so, please give details.  
Yes.

For example, the Law Regulating Access of Children to Public Venues for Night Entertainment and Consumption of Alcohol and Tobacco.

### III. Role of the Civil Society on the Issue of Violence against Children

*This section is intended at collecting information on the civil society activities on issues related to violence against children.*

35. Please describe relevant initiatives related to the issue of violence against children undertaken by the civil society in your country, including the institutions (academic, professional associations, womens associations, students associations, community-based groups, faith-based organisations, national non-governmental organisations, international non-governmental organisations) involved and their main activities (including advocacy, awareness raising, research and prevention, rehabilitation and treatment of children victims of violence, as well as provision of services and resources).

- Launching of the Campaign Against Sexual Abuse of Children;
- Launching of the Program "All Against Violence", which has the participation of: *Forum Mulher, Muleide, Liga dos Direitos Humanos, Associação Moçambicana das Mulheres de Carreira Juridica*, Mozambican Women's Organisation in assisting victims of violence;
- Establishment of Children's Network;

- Positive CBO work in identifying and integrating orphan and vulneral children;
- Some NGOs provide psychosocial support, for example, HelpAge International, Douleururs Sans Frontières; Kulaya, Reconstruindo Esperança;
- Various studies have been conductes, including:
  - a) Children in conflict with the law – Save the Children - Norway;
  - b) Child prostitution, child sexual abuse and child labour – Campaign against sexual abuse of children and Terre des Hommes;
  - c) Children of Mozambique/The lost of survivor – Save the Children US;
  - d) Research on Sexual Abuse in Schoold – Save the Children Norway/Birgitt Bagnol-Pisa Paga
  - d) Campaigns with banners, posters and brochures, radio programmes, TV debates;
  - e) Training of social activists and workers;
  - f) Printing of awareness raising materials: t-shirts, caps;
  - g) Child prostitution, sexual abuse and child labour – Terre des Hommes;

**36. Please describe the kind of support given by your Government to these activities and to the efforts for the coordination of government and civil society initiatives.**

- Reform of child protection legislation;
- Organisational capacity building;
- Financial support to organistations working with OVCs and CNCS (National Aids Council);
- Coordination of activities.

**37. Please describe the role played by the mass media in relation to the issue of violence against children.**

There is little sensitivity of the mass media in treating issues related to violence against children, except when they are trying to seek sensenationalism. It is important to take into account that there are reports of complaints that could serve as important sources of information, but the civil society does not followup on the cases.

#### **IV. Children as Actors in Resolving Issues of Violence**

*This section has been developed to obtain information on chlidren's activities within the issue of violence.*

**Please provide information on the involvement and consultation of children in the process of developing activities, program and policy implementation and monitoring designed to deal with violence against them. Please give details about the children involved, including their ages.**

Child Parliament, established in 2001 at national and provincial levels, is the main consultative forum on their rights and priorities.

The report writing process on the implementation of the Convention on the Rights of the Child is participatory. Children aged 10-18 were consulted in mapping aspects for review of child protection legislation through discussion groups and individual questionnaire.

38. **Please describe involvement – should there be any – of children in the development of special procedural and witness norms applied in court audiences on cases of violence against children. Please describe the children involved, including their ages.**

This component has not been thoroughly exploited, and their involvement in the design phase of the review process is ongoing.

39. **Please describe the quantity and type of resources provided in support of children's participation in activities meant for doing away with violence against children.**

UNICEF provided US\$ 20,000 for children's participation in the child protection legal review, US\$ 20,000 for children's participation in the midterm review of the cooperation program between the Government, UNICEF and Save The Children Norway, and a further US\$ 60,000 donation towards the Children's Parliament.

## V. Policies and Programmes on Violence against Children

*A comprehensive policy, which deals with violence against children, is one that deals with its multiple aspects, one that operates in all scenarios where violence occurs and which includes components such as prevention, protection, and medical, psychological, legal and social assistance to victims, their rehabilitation and reintegration, as well as with interventions towards the perpetrators. Such a policy differs from specific programmes that deal with selected sub-types of violence against children or their effects on populations and specific circumstances.*

40. **Does your Government have in place a comprehensive policy on the issue of violence against children?**

**If so, please describe in detail the gender-specific provisions included in the policy.**

The government does not have in place a specific policy on the issue of violence against children. However, the Social Welfare policies and the Social Welfare Strategy on children are very sensitive on issues of Children's Rights and contain chapters dealing with violence against children.

41. Does your Government implement specific programmes for prevention and response to violence against children, or does support other agencies to do it on its behalf?

If YES, please provide us with summary reports, or URLs or those programmes and, using the table below, please indicate the circumstances and types of violence they cover:

	Physical	Sexual	Psychological	Negligence	HTPs	Other
Family/house	X					
School	X	X				
Institutions						
Neighbourhood/Community	X	X				
Place of Work						
Law and Order		X				
Other						

Does your government monitor the impact of the policies and programmes on violence against children?

If YES, please describe the monitoring systems and provide a URL or any other reference in which the system and medium-term results are described in a more detailed manner.

Through the Balances of the Social and Economic Plans. However, it is recognised that they are not efficient. On the other hand, some actions related to children which end up involving the issue of violence against children. E.g., when the report on the implementation of the Convention, Report to INTERPOL are being prepared.

There isn't as yet a systematic data collection system on children and their fundamental rights, capable of evaluating tendencies, priorities and needs. Regular identification and indicator and statistics collection mechanisms exist at sector level, with emphasis on the systems of the Ministries of Education, Health and National Statistics Institute. The Ministry for Coordination of Social Welfare also has in place indicators on children benefiting from its programmes, especially at provincial level. Just like this sector, the data available in all other institutions is weak for their partiality because they largely only refer to the groups benefiting from the programmes; thus, the figures and true degree of groups with no access remains unknown; this aspect does not give us a global picture of the issue of children necessary for the formulation of correct and adequate policies and strategies for its solution

42. Does your Government participate in violence against children activities, coordinated at international level?

If YES, please provide details.

Yes. Mozambique has participated in the regional campaign against child abuse and in many conferences on this matter among them the World Congresses Against Child Trafficking and Sexual Exploitation.

#### **VI – Information gathering, Analysis and Research**

*The purpose of this section is to present an overview on information systems and data on violence against children that can be used to inform, plan and monitor policy, legal and programmatic interventions on the issue of violence against children.*

43. In the past five years, has an epidemiological inquiry or on victimisation or any other type of population-based research been held having as an object all types of violence against children?

If YES, please give detail or references or provide attachments of them.

They are not specific, but the following studies are relevant:

Studies conducted in the field of Child Protection

- Study on the reform of child legislation in Mozambique
- Study on Children in Conflict with the Law (Save the Children Norway)
- Child Prostitution, Sexual Abuse and Child Labour in Mozambique – specific case of Maputo, Nampula and Tete 'MMCAS, UNICEF.
- Study on Child Prostitution and Sexual Abuse in Manica, DPMCAS Manica.
- Exploitation of children in the South of Africa, ECPAT International.
- National Study on reproductive and sexual behaviour of youths and teenagers INJAD.
- Statistics of Lustica and Crime 1998'1999, INE.
- Human trafficking, especially women and children in Africa, UNICEF, INNOCENTI
- Women and child trafficking in the Southern African Region, IOM.
- Cultural practices related to sexuality and representations of health and disease, Loforte.
- Care and Protection mechanisms for OVCs in the context of HIV AIDS.
- UN study on Violence (University of Eduardo Mondlane).
- National Study on reproductive and sexual behaviour of youths and teenagers INJAD

44. Have small-scale studies or interviews representatives of parentes and children been conducted on violent victimisation of children? If so, please provide details.

Yes. Small-scale studies have been conducted at the Maputo Central Hospital's Child and Juvenile Psychological Rehabilitation Centre, SC-Norway in Manica Province, SC-UK in Zambézia Province.



Yes. Small-scale studies have been conducted at the Maputo Central Hospital's Child and Juvenile Psychological Rehabilitation Centre, SC-Norway in Manica Province, SC-UK in Zambézia Province.

- 45. In the past five years, has your government conducted or commissioned scientific research projects on the issue of violence against children?  
If so, please indicate the research topics and where the respective findings can be consulted in more detail.**

Not specifically, but it was included in the legal framework for protection of children.

- 46. Have studies or surveys been conducted on the impact of legal measures taken aimed at fighting violence against children?  
If so, please provide details or references, or attach them.**

Yes. Legal Review towards Child Protection in Mozambique.

- 47. Does the Government have in place a system of formal inquiries on the deaths in which the involvement of some form of violence is known or suspected?  
Please provide details.**

Investigation is conducted whenever there is a suspected death.

**Are reports regularly (for example, annually) published with statistical profile of deaths, investigated by the system, in which use violence is suspected? If so, what is the percentage of assassinations of persons under the age of 18?**

Yes, the Prosecutor's Office Annual Report and national statistics on crime produced by INE annually.

- 48. If the Government publishes such reports, please indicate the manner in which they are classified for such (Please verify what is applied):**

**49. Please provide us with the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003.**

Figures for the years indicated are not known. In 2004, the support centres of the victims of violence supported 16,000 women and children; even this number is not disaggregated; it is estimated that 50% of the victims are children. According to figures in the Public Prosecutor's annual report for 2004, there were 134 cases of violence against children at the same time there were 110 cases of violence against women.

## VII – Awareness Raising, Advocacy and Training

*This section is intended to gather information on all awareness raising, advocacy and training activities regarding the issue of violence against children which have been undertaken by your Government.*

54. In the past five years, has your Government conducted or commissioned awareness or prevention campaign in connection to violence against children? If so, please describe the recent campaigns, including the circumstances and types of violence they were directed at as well as the target audience (the public at large, caregivers, teachers, etc.).

Yes.

All Against Violence is a civil movement by NGOs providing psychosocial support to women and children victims of violence. The government is also part of the national campaign against child abuse and is in the process of approving the national plan against sexual abuse and exploitation of children. Also, through existing Offices for the Support of Victims of Domestic Violence at police stations, several materials have been produced and cases are being reported in the media with view to alerting public opinion on the phenomenon and incentivating people to come forward and denounce these cases.

55. How have campaign messages and information been disseminated (please check everything in this respect)?

Press	X
Radio	X
Television	X
Theatre	X
Schools	X
Other	X

56. In the past five years, has your Government conducted, commissioned or sponsored training programmes in the field of violence against children? If YES, please state, among the following areas, those which were covered by the latest programmes and which groups benefited from that training (please check everything in this respect).

Yes

	Prevention	Protection	Compensation	Rehabilitat on	Penalties
Health workers (including paediatricians, nurses, psychiatrists and dentists)					
Public health professionals					
Social workers and psychologists					
Teachers and other educators					
Court Officials (including judges)					
Police	X	X			
Prison wardens					
People working with juvenile delinquents People from institutions Parents/Care providers					
Other (please specify) (support victims of violence)			X	X	