

Women's rights protection instruments ratified by Mozambique:

- **CEDAW**: ratified in 1997
- **CEDAW Protocol**: ratified in 2008
- **Maputo Protocol**: ratified in 2005

Respect! Although Mozambique has ratified the main international and regional women's rights protection instruments, their provisions are often violated in law and practice.

The Coalition of the Campaign is particularly concerned by the following continued violations of women's rights in Mozambique: the persistence of discriminatory laws; violence against women; limited access to property, education and healthcare; and obstacles to access to justice.

/ Some positive developments...

The Coalition of the Campaign acknowledges the recent adoption of several laws and policies aimed at improving respect for women's rights, including:

- The adoption of the new Family Code in December 2004 which provides for gender equality in all matters of family law (consent to marriage, divorce procedures, custody of children, sharing of household assets, etc.) and prohibits all practices that discriminate against women concerning polygamy, inheritance, minimum legal age for marriage, treatment of widows etc.
- Improvements in women's political representation. During the December 2004 elections, 87 women were elected to the National Assembly, of a total of 250 members (34.8%). The Prime Minister, 24 ministers, 2 deputy ministers and 2 province governors are women.
- The adoption on 21 July 2009 of a law on domestic violence.
- The ratification of the Optional Protocol to CEDAW in 2008.

/ But discrimination and violence persist

IN LAW

Although Mozambique has adopted several laws to protect women from discrimination and violence, several discriminatory laws and regulations persist:

- Several provisions of the Criminal Code, which dates back to the 19th century, are still awaiting reform.
- Amendments to the law on domestic violence (arts. 35 and 36) which stipulate that the law must be applied taking into consideration the need to "protect the family". Furthermore, the law on domestic violence does not sanction marital rape.
- Abortion is only allowed under limited circumstances according to a Ministerial Decree of 1978 (only three hospitals are permitted to perform abortions). The criminalization of abortion in the vast majority of situations causes the deaths of

thousands of girls each year. The Minister of Health submitted a law to parliament in 2009, but it remains pending.

- The inheritance law, awaiting review, contradicts the new Family Code concerning women's property rights.
- The new Family Code of 2004 has been amended to delete provisions regarding the recognition of common law marriage. Yet, in Mozambique, 54% of "unmarried" couples are in de facto marriages.

IN PRACTICE

The weight of traditions, which continue to be protected in order to safeguard the "Mozambican identity", together with the patriarchal vision of society, keep Mozambican women in a position of inferiority and impede the effective application of laws protecting their rights. Furthermore, it is not unusual for representatives of religious communities and traditional leaders to accuse women's associations of advocating "immorality" and "wanting to destroy the family".

• Discrimination in the family

Although forbidden by law (article 30 of the Family Code sets the minimum age for marriage at 18 years, for both girls and boys), early marriage is common, especially in the rural areas (in 2004, it was estimated that 21% of girls were married by the time they were 15). This is one of the main reasons for the low school enrolment rate for girls and the very high rate of early pregnancy (it is estimated that 24% of women between ages 15 and 19 already have 2 children). The government has taken measures to raise awareness of the general population on these problems, but there are no specific penalties for forced marriage.

Furthermore, although article 16(2) of the Family Code requires marriages to be monogamous, polygamy remains common, especially in rural areas. Regarding inheritance, customs are especially discriminatory. Widows are often expelled from their family home and receive no inheritance from their husbands.

• Violence

Although the adoption of the law on domestic violence in 2009 represents significant progress, its impact on the Mozambican society has been limited. A "domestic violence" unit has been created within the Ministry of the Interior but its means are too meagre to allow for effective action.

Domestic violence enjoys considerable social legitimacy stemming from a widespread view that the man, as the head of family, has the prerogative to use force to solve marital disputes conflicts. **WLSA Mozambique**

Rape accounts for half the reported cases of violence against women. Sexual abuse at school, including harassment of girl students by their teachers or by fellow students, has increased alarmingly. According to the Mozambican law, incest is rape with aggravating circumstances, but there is no specific government policy to control this type of violence. There is no sanction for marital rape.

• Obstacles to access to property

Although the Land Law adopted in 1997 and the Family Code 2004, explicitly provide for equal property rights, in practice the application of these provisions is problematic. Yet women account for more than half of those working the land. In this area, resistance to the law is especially strong due to the weight of traditions.

• Obstacles to access to education

Many schools and health care facilities were destroyed during the civil war and by the natural disasters that struck the country in 2000, 2001 and 2007. Lack of schools is one of the reasons for the massive female illiteracy and the low female enrolment rate although, theoretically, primary school education (7 years) is compulsory. The

The Coalition of the Campaign calls on the authorities of Mozambique to:

- **Reform all discriminatory legislation** in conformity with CEDAW and the Maputo Protocol, particularly the discriminatory provisions of the Criminal Code, the Family Code, the law on domestic violence and inheritance law.
- **Strengthen laws and policies to protect women from violence and support victims**, including by: adopting all necessary measures to ensure the effective implementation of the law on violence against women, including domestic violence, and adopting measures to sanction marital rape; allocating additional financial resources to the fight against domestic violence; adopting measures, including severe sanctions, to eliminate sexual abuse of young girls in school.
- **Eliminate obstacles to the education of girls and women**, in particular by: ensuring equal access to all levels of education; adopting measures to retain girls within the education system, including pregnant pupils; and launching awareness raising programmes to overcome stereotypes and traditional attitudes.
- **Take measures to guarantee women's access to adequate health care**, including obstetrical care and family planning; ensure access to contraception.
- **Take all necessary measures to ensure women's access to justice**, in particular by addressing the shortage of judges, facilitating women's access to these positions and ensuring training of police and legal personnel.
- **Adopt all necessary measures to reform or eliminate discriminatory cultural practices and stereotypes**, including awareness-raising programmes targeting men and women, governmental, traditional and community leaders.
- **Ensure the implementation of all recommendations issued by the CEDAW Committee** in June 2007.

annual national budget allocates 20% to education but only some 40% of children go to school. Notwithstanding the state's awareness-raising campaign (radio and TV flashes, input from national celebrities and religious leaders) and the creation of boarding houses for girls who live too far away from school, most families still only consider sending their sons to school. Early marriage is also a major cause for girls to drop out of school.

• **Obstacles to access to health**

Besides the common health problems facing the whole population - 52% of the country benefits from health coverage - women also have to confront problems linked to maternal, sexual and reproductive health. Furthermore, AIDS affects more women than men. Although the government has introduced free prenatal care, the maternal death rate is still a high (480 per 100,000 births), although only half of what it was ten years ago.

• **Obstacles to access to justice**

Women's access to justice is impeded due to a lack information on their rights and the laws that protect them, the cost of proceedings and the lack of training of police and legal personnel. The creation of community tribunals to make up for the shortage of judges and lighten the burden of the official state courts has not improved the situation. The community tribunals are composed of only 10% women and are apply traditional law, which is particularly discriminatory against women.

PRINCIPAL SOURCES

- Focal Point: WLSA-Mozambique
- Liga Moçambicana dos direitos humanos (LMDH), www.lmdh.org.mz
- FIDH and LMDH, Women's rights in Mozambique, May 2007, www.fidh.org
- CEDAW Committee Recommendations, June 2007
- Inter-Parliamentary Union, www.ipu.org

For more information on women's rights and the actions of the campaign in Mozambique, see: www.africa4womensrights.org

THE CAMPAIGN FOCAL POINT IN MOZAMBIQUE

WLSA-Mozambique



WLSA-Mozambique is a member of the regional network Women and Law in Southern Africa (WLSA). The organisation seeks to promote gender equality through the identification of favourable initiatives and obstacles to legislative and political changes.

www.wlsa.org.mz