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## Mozambique

### Country Reports on Human Rights Practices - [2005](#)

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The Republic of Mozambique is a constitutional democracy with an estimated population of 19.4 million. President Armando Guebuza was elected in December 2004 in what national and international observers judged to be generally free and fair elections, despite some irregularities. The Front for the Liberation of Mozambique (FRELIMO) has been the ruling political party since independence in 1975, heavily influencing both policymaking and implementation. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

Although the government took steps to discipline corrupt police, judges, and ministry officials, serious human rights problems remained. The following human rights abuses were reported:

- police use of excessive force resulting in some unlawful killings and injuries
- extremely harsh and life-threatening prison conditions, leading to several deaths
- arbitrary arrest and detention
- lengthy pretrial detention
- police harassment and arbitrary detention of journalists
- widespread domestic violence and discrimination against women
- abuse and criminal exploitation of children, including child prostitution
- trafficking in women and children
- discrimination against persons with disabilities and HIV/AIDS
- child labor in the informal sector and forced child labor
- poor enforcement of labor legislation

#### RESPECT FOR HUMAN RIGHTS

Section 1 Respect for Integrity of the Person, Including Freedom  
From:

##### a. Arbitrary or Unlawful Deprivation of Life

Although the government or its agents did not commit any political killings during the year, there continued to be reports that security forces committed unlawful killings.

Police excessive use of force and abuse remained a problem. In many cases there was little indication that police considered alternative tactics before resorting to the use of force and firearms. Authorities often failed to take appropriate action to investigate police violence and bring the perpetrators to justice. However, authorities expelled and, in some cases, brought criminal charges against dozens of officers for disciplinary offences.

According to a March press report, members of the police force tortured Joaquim Magaia, the alleged leader of a Maputo carjacking ring, who subsequently died while in police custody. While both the police and the Central Hospital of Maputo stated that Magaia died of malaria, no evidence was presented to confirm the cause of death.

In April police fatally shot a suspected gang member, known only as Dercio, during a search operation in Maputo. In a separate incident in April, police shot and killed six suspected gang members attempting to escape from the Matsinho administrative post in the central province of Manica. During a November interrogation related to the ongoing investigation, 1 of the 14 accused policemen drew a gun on the state attorney after ballistic evidence contradicted his testimony.

In June press reports accused police of torturing to death two alleged killers, Antonio Tamale and Pedro Chmabo, while in custody in police headquarters in Maputo.

In September police in Maputo reportedly shot a young man in the leg as he fled after refusing to submit to a search. The individual later died at Maputo's central hospital, and the case was under investigation at year's end.

Police authorities had not disclosed whether they were investigating the March 2004 incident in which police in Matola shot and killed two suspected car thieves.

No progress was reported on investigations by provincial authorities into the 2004 fatal shootings of four prisoners being held at the maximum-security jail in Beira, Sofala Province.

There were increased reports of abuse and violence by members of the Community Policing Councils, nonstatutory bodies set up by the Mozambican National Police (PRM) in many districts to prevent crime.

In July the League of Human Rights (LDH), a nongovernmental organization (NGO), reported that three alleged community police members beat a person to death in Quelimane, Zambezia Province. Authorities apprehended the community police members following the incident. LDH also reported incidences of rape and extortion by community police members in the same area. Provincial authorities claimed that the incidents were under investigation. In August community police shot and killed Jose Sungulane in Cheringoma, Sofala Province. Police indicated that Sungulane was shot while fleeing from police custody.

Extremely harsh prison conditions, often leading to serious illness, continued to result in the deaths of persons in custody (see section 1.c.).

The government continued to cooperate with international organizations and donors to clear suspected land mine areas. Between January and November the National De-mining Institute (IND) reported 18 accidents, resulting in 24 injuries and 21 deaths; 8 of the killed reportedly were children. On July 7, four children were killed and three others were injured while playing with unexploded ordnance.

The IND conducted civic education and public awareness campaigns to minimize land mine accidents. In late 2004 IND provided training for 45 teachers from schools in mine-affected areas in 2 districts of Gaza Province. IND reported that the training indirectly reached more than 180 thousand persons, 25 thousand of whom were school-age children.

In October unknown assailants shot and killed the director of the Maputo central prison in the Boane District. Public opinion pieces and media reports considered the shooting a reaction to the director's anticorruption efforts.

Clashes between political party supporters resulted in deaths during the year (see section 3).

Occasional mob violence occurred in both urban and rural areas. In July a mob of approximately 350 former Wackenhut security guards demonstrated outside company headquarters to protest a contract dispute. The crowd later dispersed into roving bands of 15 to 20 persons, physically attacking those who refused to join the walkout.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

While the law prohibits such practices, police continued to commit abuses. During the year human rights advocates and media outlets reported complaints of torture and other cruel treatment, including several instances involving the sexual abuse of women, beatings, prolonged detention, and death threats.

There were several reports of deaths resulting from police torture during the year (see section 1.a.).

LDH investigated an incident in Manica Province where members of the investigative police removed detainees from prison without authorization by prison officials. The prisoners allegedly were tortured and then returned. LDH reported that between January and May, police tortured 18 individuals, injuring some by gunshots. According to LDH, these cases were under investigation at year's end.

There were reports that police abused prostitutes and street children (see section 5).

#### **Prison and Detention Center Conditions**

Prison conditions were extremely harsh and life threatening.

Two National Directorates of Prisons, one under the Ministry of Justice (MOJ) and the other under the Ministry of Interior (MOI), operated prisons in all 10 provinces. As of December 2004 approximately 10 thousand prisoners reportedly were incarcerated in MOJ- and MOI-administered facilities combined. Overcrowding of MOJ prisons remained a serious problem. During the first half of the year, LDH visited 83 prisons, which held 7,660 inmates in facilities designed to hold 5,166 persons. LDH found that 366 detainees had been held beyond the 90-day preventive detention period. Of the facilities visited, 18 offered no medical care or assistance. LDH described 51 facilities as "physically inadequate." In detention facilities managed by MOI, overcrowding did not appear to be a serious problem. During the first half of the year, LDH visited 102 police station detention facilities around the country under MOI control. In all, 966 detainees were held in facilities designed for a maximum capacity of 1,312. However, 110 detainees were held beyond the maximum police station preventive detention period of 48 hours.

Reports continued that most prisoners received one meal per day, consisting of beans and flour. It was customary for families to bring food

to prisoners; however, there continued to be occasional reports that guards demanded bribes in exchange for delivering food to the prisoners. LDH identified five facilities where prisoners relied entirely on outsiders for food: Ilha de Mocambique, Monapo, Macomia, Mocimboa da Praia, and Palma.

There continued to be many reported deaths in prison, the vast majority due to illness. At least one inmate reportedly died from failure to receive timely medical treatment for injuries sustained during a fight at a high-security prison in Maputo. LDH reported that at least two other prisoners died at a high-security prison in Maputo from severe beatings by prison wardens.

In a series of prison visits conducted during the first half of the year, LDH found numerous health problems, mostly due to overcrowding and poor to nonexistent medical care. Malaria, skin diseases, and sexually transmitted diseases were among the most prevalent health problems. Both healthy and sick prisoners regularly were kept in the same cells. The spread of HIV/AIDS was a serious problem for the prison population. The government enlisted the help of the Community of Santo Egidio, an Italian NGO, for a public awareness campaign directed at the prison population. The campaign also included a limited antiretroviral treatment program.

LDH reported a lower number of minors under the age of 16 held with adults from the general prison population than in 2004, the result of action by child rights NGOs.

In MOI facilities, detainees not charged continued to be held with prisoners sentenced for "maximum security" offenses. In MOJ facilities, detainees who had been charged but not tried continued to be held with prisoners sentenced for "moderate security" offenses.

International and domestic human rights groups had access to prisoners, although at the discretion of MOJ and MOI, and such visits took place during the year. LDH noted a significant improvement compared with the last two years in access to MOJ and MOI facilities.

#### d. Arbitrary Arrest or Detention

While the law prohibits arbitrary arrest and detention, in actuality both practices continued to occur.

##### **Role of the Police and Security Apparatus**

Forces under the MOI, including the Criminal Investigation Police (PIC), the PRM, and the Rapid Intervention Force are responsible for internal security. An additional security body, the State Information and Security Service, reported directly to the president. The armed forces (FADM) are responsible for external security, but in practice hold domestic security responsibilities as well.

The police continued to be poorly paid, despite an increase in pay during the year. Trainee-level officers reportedly received approximately \$80 (2 million meticaïs) a month, while those at higher rank received approximately \$100 (2.5 million meticaïs) a month. Corruption and extortion by police were widespread. Authorities often used violence and arbitrary detention as a means of intimidation to keep persons from reporting abuses. Police impunity remained a problem. The PIC was criticized for being ineffective, and according to press reports, at times PIC officers may have been transferred to prevent them from making real progress on some investigations.

Police regularly detained persons for spurious reasons and demanded identification documents solely to extort payments. Many crime victims reportedly avoided police assistance because of expected demands for bribes and a lack of confidence that the police would help. A government-sponsored survey released in August ranked the police force at the top of the list of dishonest public institutions.

During the year the MOI reported that approximately 750 police officers were disciplined, including 260 expulsions. Professional training for police officers continued during the year; police officers formally trained at the police academy took over command of several police stations in Maputo from less trained officers. In November President Guebuza addressed 1,185 police academy graduates, stressing accountability, good behavior, and respect for laws and citizens.

A strategic plan of action and modernization for the PRM covering the years 2003 to 2012 continued. Seven of its nine "guiding principles" reflected respect for human rights. While the plan acknowledged the problem of abuse of police powers, it made no specific provision for ensuring greater accountability for such abuses.

##### **Arrest and Detention**

Although the law provides that persons must be arrested openly with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued arbitrarily to arrest and detain citizens. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to a judicial review of the case. The individual may be detained another 60 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than 8 years, the individual may be detained up to 84 days without being charged formally. With court approval, such detainees may be held for 2 more periods of 84 days each without charge while the police complete the investigative process. The law provides that when the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends.

The law provides that citizens have access to the courts as well as the right to representation, regardless of ability to pay for such services. However, due to a shortage of legal professionals, indigent defendants frequently had no legal representation.

The bail system remained poorly defined. Prisoners, their families, and NGOs continued to complain that police and prison officials

demanded bribes for releasing prisoners.

The government's Commission for Strengthening the Law continued to attempt to address the problem of overcrowding of jails and prisons by proposing a series of measures, including converting sentences to fines, creating open prisons, and suspending sentences for those sentenced to less than two years in prison. In December 2004 the Ministry of Justice inaugurated an open prison (minimum security) in the outskirts of Maputo. Neither the National Assembly nor the attorney general's office has considered the commission's recommendations during year, and none were implemented by year's end.

There were several reports that police harassed and arbitrarily detained journalists (see section 2.a.).

There were no reports of political detainees.

There continued to be reports of detainees who spent longer in pretrial detention than the period of the sentence they eventually received. By law a judge has 48 hours to validate a detention in any proceeding; however, this statute often was not enforced.

In June the Commission for the Strengthening of the Law ordered expedited trials for the estimated 755 prisoners in Sofala Province, many of whom had been detained past their preventive detention period.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the executive branch and the FRELIMO party heavily influenced an understaffed and inadequately trained judiciary. The judicial system continued to suffer from a lack of transparency and often did not comply with the principles of promotion and protection of human rights. Approximately 112 of the country's 128 judicial districts had functioning courts. A shortage of judges and qualified staff was a major problem. There were approximately 190 judges (or about 1 judge per 100 thousand inhabitants), 75 of whom held law degrees as required by law for all judges appointed after 2000. Of the 1,065 staff employed by the courts, 3 percent held university degrees and 53 percent did not have secondary school diplomas. Continuing problems included chronic absenteeism, unequal treatment, deliberate delays, and omissions in handling cases.

The press reported that 57 legal proceedings against judges and MOJ officials took place during the year, 26 of which were still pending investigation at year's end. Despite the statistics, observers believed the problem of unprofessional magistrate behavior was much worse.

The president appoints both the supreme court president and vice president. The Higher Judicial Magistrate's Council (CSMJ) prepares supreme court nominations and submits a list of qualified potential supreme court nominees to the president. Members of the CSMJ tended to be either FRELIMO members or FRELIMO-affiliated. The president makes all other judicial appointments.

There are two complementary formal justice systems: the civil justice system and the military justice system. The Supreme Court administers the civil system, and the Ministry of National Defense administers military courts. Under the Supreme Court there are province- and district-level courts, and each province has a court of appeal. Cases in military courts may be appealed to the Supreme Court. Civilians are not under the jurisdiction of, or tried in, the military courts.

There also are courts that exercise limited, specialized jurisdiction, such as the administrative court, the customs court, and the maritime court. The constitutional council is charged with determining the constitutionality of laws and decrees, supervising the electoral process, declaring and validating electoral results, and ruling on electoral disputes. A separate court system exists for minors of 16 years of age and younger. The government may send minors to correctional, educational, or other institutions.

In 2004 the number of candidates to enter the magistrate rolls increased significantly, and the Legal Training Center trained 20 new-entry magistrates. During the year 39 law students enrolled in the center's 10-month training course.

#### **Trial Procedures**

Persons accused of crimes against the government are tried publicly in regular civilian courts under standard criminal judicial procedures. Members of the media may attend trials, although space limitations prevented the general public from attending. A judge may order a trial closed to the media in the interest of national security or to protect the privacy of the plaintiff in a sexual assault case. There is no trial by jury.

In regular courts all accused persons, in principle, are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders for the accused, such assistance generally was not available in practice, particularly in rural areas. LDH reported that most citizens remained unaware of this right, and many had no access to legal counsel. Some NGOs continued to offer limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses.

Outside the formal court system, local customary courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Respected local arbiters with no formal training staffed customary courts.

#### Political Prisoners

There were no confirmed reports of political prisoners; however the Mozambican National Resistance (RENAMO) continued to claim that all

persons convicted and sentenced in connection with the 2000 nationwide demonstrations were political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice. However, opposition party members alleged that government intelligence services and ruling party activists continued without warrants to monitor telephone calls, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas of the country, including in Cabo Delgado and Nampula provinces. By law police require a warrant to enter homes and businesses and also to monitor telephone calls.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the law provides for freedom of speech and of the press, in practice there were some restrictions on these rights. Police harassed and arbitrarily detained journalists. Journalists generally practiced self-censorship regarding politically sensitive issues. The NGO Reporters Without Borders noted significant improvements in press freedom compared with previous years.

The independent media were active and expressed a wide variety of views. The government maintained majority ownership in *Noticias*, the main newspaper and the only daily with nationwide distribution. *Noticias*, the daily *Diario de Mocambique*, and weekly *Domingo* largely reflected the views of the government but also demonstrated a willingness to critically examine government actions. Following a series of fuel price hikes in June, *Noticias* reported on a meeting with Transport Minister Antonio Mungwambe in which participants publicly complained about the rising cost of living.

There were numerous private radio stations that operated throughout the country. Radio Mozambique, which receives 60 percent of its operating budget from the government, was the most influential service and generally was considered unbiased and fair.

The Media Institute of Southern Africa (MISA) again noted that the process for obtaining a radio operating license was often long, convoluted, and politically biased. According to MISA, the country required a new law clearly delineating the difference between commercial and public radio.

The government supplied 80 percent of the operating budget for Televisao de Mocambique (TVM), the most widely viewed television station. While TVM provided more balanced news coverage than in previous years, it retained a strong government and FRELIMO party bias. In April and May TVM provided little coverage to a controversial parliamentary debate on government accounts in which the administrative court, in an unprecedented move, ruled that state funds had been widely misused.

The international media were allowed to operate freely.

Police and other officials harassed and arbitrarily detained local journalists during the year. On January 22, police threatened and manhandled reporters to block them from covering the return to the country of Anibal dos Santos Junior, the man responsible for the 2000 murder of Carlos Cardoso, the country's foremost investigative journalist. Authorities insisted that police acted within the law.

On February 7, members of the riot police detained two journalists from the Beira daily paper *Diario de Mocambique* and seized their camera equipment after the journalists photographed a police search operation. Following the incident, the riot police commander reportedly acknowledged that police were in the wrong and ordered the equipment returned. The journalists reported that the camera's memory had been erased.

On April 12, private security guards assaulted two journalists from the private television company STV while they were setting up filming equipment on a public street. The guards seized and damaged their equipment during the altercation and returned the equipment only after police intervened. Government criminal proceedings against the security guards were ongoing at year's end.

On December 1, the Supreme Court-ordered retrial for Anibal dos Santos Junior began.

While defamation of the president is prohibited, it was not invoked during the year.

In March a Maputo City judge barred the media from covering a libel case brought by Attorney General Joaquim Madeira against Momad Asif Abdul Satar, one of six men sentenced to prison in 2003 for the 2000 murder of Carlos Cardoso.

By year's end seven suits for defamation and libel had been brought against newspapers, three against a single newspaper in Zambezia.

There were no government restrictions on the Internet.

While the government generally did not restrict academic freedom, there were reports that teachers at the university, secondary, and primary school level felt pressure to align themselves with FRELIMO, particularly in the central and northern provinces.

In February the state-run Eduardo Mondlane University (UEM) dismissed two RENAMO parliamentary deputies from their director positions at the university. Both remained at UEM as lecturers, although without the additional salary and benefits that go with a directorship at the institution. Under university regulations the vice chancellor may appoint or dismiss university directors, but observers suspected political harassment because both individuals were RENAMO deputies.

#### b. Freedom of Peaceful Assembly and Association

##### **Freedom of Assembly**

Although the law provides for freedom of assembly, there were reports during the year of authorities using force to disperse demonstrations. While the law regulates public demonstrations, it does not apply to private gatherings held indoors and by individual invitation, nor does it affect religious gatherings or election campaigning.

On February 9, riot police violently dispersed a peaceful student demonstration outside a public secondary school in the northern city of Nampula. According to reports, police beat students with batons and rifle butts. Although the Nampula police commander indicated that his command conducted internal investigations, no police officer was punished by year's end.

During the year relations improved between the government and the Madjermane, a group of more than 10 thousand citizens who worked in the former East Germany until the early 1990s and who protested their perceived lack of benefits for their past work by occupying the German Embassy in Maputo for several days in July 2004. After the government banned the Madjermanes in 2003 from participating in public events, it formally invited them to participate in the May 1 Worker's Day march and in the June 25 independence celebrations. On December 12, the Ministry of Labor announced that the government would pay the Madjermane group \$48.2 million in reparations and would provide additional medical benefits to 882 workers who sustained work-related injuries while in the former East Germany.

##### Freedom of Association

The law generally provides for freedom of association, although the government imposed some limits on this right. According to the law a political party is required to demonstrate that it has no regional, racial, ethnic, or religious exclusiveness and must secure at least 2 thousand signatures to be recognized (see section 3). There were approximately 47 registered political parties.

A government decree regulates the registration and activities of foreign NGOs. Nonpolitical foreign NGOs and religious groups must register with the Ministry of Foreign Affairs and Cooperation (MFA) and are required to provide significant details on their organization's projects, staffing, and finances. Domestic NGOs must register with the MOJ. The registration process for foreign NGOs and religious groups reportedly involved significant discretion on the part of government officials and regularly took several months. Unlike in previous years, there were no reports during the year that NGOs had to make illegal payments to stay in operation.

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

The law requires local religious institutions and missionary organizations to register with the MOJ, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. The MOJ routinely granted registration to applicants. The Christian Council of Mozambique, an umbrella organization for several Protestant churches, reported that not all religious groups registered but that unregistered groups worshipped unhindered by the government.

Unlike in previous years, there were no reports of Christian-Muslim tension or harassment of foreign missionaries by local authorities during the year. By year's end all foreign missionaries expelled in the past several years from the northern town of Montepuez by the local government on suspicion of being RENAMO spies had returned and resumed their activities.

The law governing political parties specifically forbids religious groups from organizing political parties and any political party from sponsoring religious propaganda.

The Catholic Church and some Muslim communities continued to request the return of certain properties nationalized by the government in the years immediately following independence, including schools, health centers, shops, and residences. According to the Office of the Archbishop of Maputo, the Catholic Church sought the return of approximately one hundred facilities throughout the country and awaited an agreement between the Vatican and the government intended to regulate the return of such properties.

##### Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts, reported during the year. There was a very small Jewish population.

For a more detailed discussion, see the 2005 [International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

While the law provides for these rights, the government sometimes infringed upon them.

Traffic checkpoints are legal and under the jurisdiction of traffic police. The number of police traffic checkpoints in Maputo increased markedly as part of a broader crackdown on crime after President Guebuza came into office in February. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities sometimes abused and bribed citizens at checkpoints. Although there were fewer reports compared with previous years, there were some instances in large cities where police stopped foreigners and ordered them to present original passports or resident papers, sometimes refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police, including members of community police councils, also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers (see section 1.d.).

The law prohibits forced exile, and the government did not use it.

### Protection of Refugees

The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protections to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum, although refugees faced persecution. The government cooperated with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. UNHCR noted that coordination improved under the Guebuza administration but acknowledged that problems remained, particularly concerning budget levels and refugee screening processes.

In December 2004 the government began issuing identification cards to refugees and asylum seekers that allow refugees to seek employment, enroll in school, open bank accounts, and rent accommodation. UNHCR reported that despite the issuance of identification cards, the government continued to limit refugee movement within the country. Refugees must request authorization to move outside the geographic region in which they have been registered. In addition refugees residing within the Marratane camp must request authorization to leave its boundaries, which has perpetuated the extracting of bribes by officials.

The number of refugees decreased significantly over the past year. As of September the refugee population was approximately 7,100, with the majority (6 thousand) located at Marratane refugee camp. Refugee camp conditions met minimal standards, although camp conditions improved in some areas during the year. UNHCR continued to report conflicts among rival Congolese groups and between Rwandans and Congolese. UNHCR also reported acts of physical violence, including rape and domestic disputes, within the camp. While the government provided police security in the camp, UNHCR recruited additional persons from within the camp to supplement the generally ineffective government police force.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

#### Elections and Political Participation

In December 2004 citizens elected Armando Guebuza of the FRELIMO party as president in the country's third multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities in parts of the country during the campaign season and in the subsequent vote count. FRELIMO used significant state funds and resources for campaign purposes, in violation of election law. RENAMO issued complaints of election fraud to several agencies, including the Constitutional Council. On January 20, the Constitutional Council affirmed Guebuza as the winner.

The National Electoral Council issued a series of nonbinding recommendations for future elections, including the establishment of a single, consolidated voter registration list (there were three in the 2004 election). Other remedies tracked closely with advice given by national and international election observation groups, including the European Union and Carter Center.

On May 21, citizens of the small northern town of Mocimboa da Praia voted in a by-election to fill the vacancy caused by the death of the previous mayor. In the by-election the FRELIMO candidate defeated the RENAMO candidate. RENAMO alleged polling irregularities in the vote count, police intimidation, and police detention of several members and sympathizers.

On September 6, at least 8 persons were killed and 47 injured in a clash between FRELIMO and RENAMO supporters over the disputed mayoral election in Mocimboa da Praia. Authorities issued arrest warrants for three RENAMO officials believed responsible for inciting the violence. While some press reports suggested an ethnic or tribal dimension to the violence, the government stated that political differences fueled the clashes.

There were 87 women in the 250-seat National Assembly. Women held 6 of the 24 ministerial positions and 6 of the 18 vice ministerial positions. Luisa Diogo retained her role as prime minister. Women held more than 30 percent of the seats on FRELIMO's 2 governing bodies, the Political Commission and the Central Committee.

Members of many ethnic groups held key positions in both the legislative and executive branches. There was no evidence that specific ethnic groups were excluded.

## Government Corruption and Transparency

Corruption was widely perceived to be endemic. Low-level government officials use corrupt practices to supplement low incomes, while high-level elite were believed to employ corrupt practices to enhance their wealth, consolidate their positions, and prevent competition. Corruption largely resulted from a lack of checks and balances among the three branches of government, minimal accountability of elected officials, and a culture of impunity.

President Guebuza stated that fighting corruption was a priority of his administration, with a particular focus on judicial corruption and malfeasance among low- and middle-level government officials. In August the attorney general announced the establishment of the Central Office for the Combat of Corruption (GCCC), which replaced the attorney general's anticorruption unit (UAC). The GCCC functioned as an autonomous unit under the attorney general's office, with its own state budget and authority to hire additional permanent full-time staff. Some observers continued to blame the judiciary for hampering efforts by the attorney general's office's to fight corruption, citing the low number of cases accepted by the court system.

According to the attorney general's annual report, between 2002 and June the UAC received 128 corruption cases: 70 remained under investigation, 30 cases were in court, 15 were dropped, 9 were sent to other institutions for consideration, and 4 were appended to other cases. Of those cases in court, none had resulted in convictions by year's end. There were several new cases of corruption reported during the year.

In May the PIC arrested the administrative manager of the main secondary school in the northern province of Nampula on suspicion of misappropriating funds earmarked for the improvement of the school's facilities. He was subsequently dismissed from his position, demoted, and transferred to the Provincial Directorate of Education.

In late December the minister of interior announced that an internal audit revealed nearly \$9 million (220 billion meticaïs) in unaccounted-for funds. The auditors also discovered 55 "ghost workers" drawing wages from the ministry payroll. The minister identified 4 policemen who admitted to extorting money from a student and noted that during the year disciplinary proceedings for corruption were started against 135 policemen, 36 of whom were expelled from the police force.

In August the labor minister dismissed the director general of the National Social Security Institute (INSS) for alleged corruption and mismanagement. More than a dozen other senior INSS officials either were dismissed or reassigned within INSS.

During the year the UAC and GCCC investigated alleged siphoning of public funds by high-ranking officials in various ministries, including former minister of education, Alcido Nguenha.

During the year the NGO Etica Mozambique established corruption reporting centers in most major cities to provide citizens greater access to mechanisms to report corruption crimes. However, management and resource constraints severely limited their capacity to receive reports. The media continued to be one of the main forces fighting corruption, reporting and investigating numerous corruption cases.

There are no laws providing for the right of public access to information, and in practice the government restricted citizens' access to public information.

The law requires that all members of the government declare and deposit their assets to the Constitutional Council but does not require that such information be made available to the general public. During the year Minister of Finance Manuel Chang made public the list of assets he furnished to the Constitutional Council.

## Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials often were cooperative and responsive. Registration procedures for NGOs often were lengthy (see section 2.b.).

In March a number of constitutional amendments passed by the National Assembly in 2004 came into force, including the creation of an independent ombudsman to investigate allegations of abuses (such as human rights violations) by state officials. The ombudsman had not been named by year's end.

LDH criticized the Ministry of Justice's Human Rights Department, created in 2004, for having too little contact with civil society.

## Section 5 Discrimination, Social Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, but in practice discrimination persisted against women, persons with disabilities, and persons with HIV/AIDS.

### Women

Although official statistics were not kept, reports indicated that domestic violence against women, particularly spousal rape and beatings, was widespread. In many circles women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from

taking legal action against abusive spouses. There is no law that defines domestic violence as a crime, but laws prohibiting rape, battery, and assault may be used to prosecute domestic violence.

The government and NGOs worked together to promote women's rights. The Women and Children's Police Unit was expressly concerned with the issue of domestic violence. Of the 18 police squadrons in Maputo, 16 had Women and Children's Centers, which provided assistance in cases of physical and sexual assault, including domestic abuse. Between March and November, the Nucleus of Feminist Associations of Zambezia (NAFEZA) conducted 33 campaigns and workshops in several Zambezia districts to raise awareness of the harmful effects of domestic violence. NAFEZA also held a workshop with the PRM in Zambezia on domestic violence, which resulted in the creation of the first all-female police unit in the province.

The law prohibits rape but not spousal rape. Penalties ranged from 2 to 8 years if the victim is 12 years of age or older, and 8 to 12 years if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it commonly was regarded as a problem. The rape law was not effectively enforced, and trials rarely occurred. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system.

Prostitution is legal, although several laws against indecency and immoral behavior govern prostitution and restrict it to certain areas. The practice was widespread and particularly prevalent along major transportation corridors and border towns where long-distance truckers stayed overnight. Young women without means of support were at the greatest risk for being drawn into prostitution. There continued to be reports that police officers sexually abused prostitutes and demanded bribes in exchange for allowing them to work. Such cases rarely were reported in the media.

Numerous development organizations and health-oriented NGOs emphasized programs to improve women's health and increasingly focused resources on combating the spread of HIV/AIDS and sexually transmitted diseases among sex workers.

Sexual harassment was illegal and considered pervasive in business, government, and the education sector. Although no formal data existed, the media reported numerous instances of harassment during the year. In August the press reported that authorities dismissed the district administrator of Muecate, in the northern province of Nampula, over accusations of sexual harassment.

Forced marriage (with girls and women) commonly was perceived as a problem.

With the exception of some ethnic groups, the groom's family provided a dowry to the bride's family, usually in the form of livestock, money, or other goods. This exchange contributed to violence and other inequalities, due to the perception that the women subsequently were "owned" by the husband.

In February the Family Law went into effect, which raises the age of marriage to 18 for both sexes, eliminates husbands' de facto status as heads of families, and legalizes civil, religious, and common law unions. While the law does not recognize new cases of polygamy, women already in polygamous marriages are granted full marital and inheritance rights. The law defines more narrowly women's legal rights with regard to property, child custody, and other issues. Despite public awareness campaigns in some areas of the country, the majority of women remained uninformed about the law.

Customary law was still practiced in many parts of the country. In some regions, particularly the northern provinces, women had limited access to the formal judicial system for enforcement of rights provided under the civil code and instead relied on customary law to settle disputes. Under customary law, women have no rights to the disposition of land.

The law grants citizenship to the foreign-born wife of a male citizen but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination, and women in the workplace often received lower pay than men for the same work.

## Children

The government's focus on children's rights and welfare increased during the year, but significant problems remained.

With the assistance of the NGO the Community Development Foundation (FDC) and the UN Children's Fund (UNICEF), the government formed the Child Protection Committee in 2004.

Education was compulsory through the age of 12, but enforcement of compulsory education laws was inconsistent due to the lack of resources and the need for additional schools. Public education was free, but most families must pay an enrollment fee for each child and purchase books and other school supplies. Children from families with especially low incomes are exempt from fees, but for most families, fees and associated costs remained a significant financial burden.

The number of primary schools in the country increased slightly during the year, although many remained overcrowded. The Ministry of Education made progress in increasing enrollments at all levels, but significant challenges remained. In 2004 approximately 73 percent of primary school-age girls and 78 percent of boys were enrolled in primary schools. Completion rates were much lower, especially for girls.

Newspapers continued to report that the parents of school children had to bribe teachers or officials to enroll their children in school. Parents

often were willing to make payments since classroom space was insufficient for all children wishing to attend school, particularly from the eighth grade onward. Other reports indicated that girls exchanged, or were forced to exchange, sex with teachers for passing grades. A June report by Save the Children stated that sexual abuse in schools was common. The report also noted that in instances where a desired outcome was achieved (awarding a passing grade), many girls and their families did not recognize the act as abuse. According to Save the Children, ministry officials denied the allegations noted in the report.

In an ongoing national campaign launched in June by the Ministry of Justice and UNICEF, officials registered approximately 40 thousand previously unregistered births.

In September the government, with support from UNICEF and the World Health Organization, launched a country-wide immunization campaign for children under the age of 15. More than 8 million children received vaccinations for measles and polio.

The government took steps to address the problems of the HIV/AIDS orphans in the country. It was estimated that 1 in every 5 households cared for at least 1 orphan, and estimates indicated that the number of children losing either 1 or both parents to AIDS would rise to 600 thousand by 2010. Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, developed programs to provide health assistance and vocational education for HIV/AIDS orphans.

There were reports of several cases of child abuse during the year. According to police, there were incidences of teachers hitting and threatening pupils with violence.

The Family Law sets the minimum age for civil marriage at 21 years, although persons between 18 and 20 may marry with parental consent. Despite the law, local customs, primarily in the northern provinces and in Muslim and South Asian communities, created a pattern of premature marriage. The NGO Mulheid and others worked to combat this custom through education campaigns on the dangers of the practice, including the spread of HIV/AIDS.

Exploitation of children below the age of 15 continued, and child prostitution remained a problem (see section 5, trafficking). The law prohibits pornography, child prostitution, and sexual abuse of children under 16. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded child labor may be punished by prison sentences and fines. In practice perpetrators of these crimes rarely were identified and prosecuted, and punishment was not commensurate with that of a serious crime.

While the law prohibits the access of minors to bars and clubs, the government did not have adequate resources to enforce the law effectively. During the year the government trained police to aid child prostitutes and held a series of seminars to assist police in handling cases of child sexual abuse.

The trafficking of children for sexual exploitation and labor remained a problem (see section 5, Trafficking).

Child labor remained a problem, principally in the rural areas (see section 6.d.).

The country continued to have a problem with street children. There were no reliable figures on the number of street children nationwide. In 2004 the NGO Rede de Crianca, comprised of 33 community organizations that work with youth in Maputo, identified 3,419 street children in their programs.

The Maputo City Office of Women and Social Action continued its program of rescuing abandoned orphans and assisting single mothers who head families of three or more persons. They also offered special classes to children of broken homes in local schools. NGO groups sponsored food, shelter, and education programs in all major cities.

#### Trafficking in Persons

The law does not prohibit trafficking in persons, and there were numerous reports that persons were trafficked to, from, or within the country. Traffickers can be prosecuted using existing laws on sexual assault, rape, abduction, and child abuse, but no such cases have been brought before a court. There were investigations of trafficking and arrests during the year.

In 2004 the Department of Migration signed an agreement with its counterpart in South Africa to share information on trafficking in persons and facilities. The Ministry of Interior provided training in women's and children's protection, including trafficking in persons, to police officers serving in Maputo, Beira, and Nampula. The MFA was charged with working with the United Nations to implement two international antitrafficking conventions.

The country is a point of origin for trafficked women and children. Poverty, a history of child migration, and weak border controls all contributed to trafficking. In a widely cited 2003 study, the International Office on Migration (IOM) reported that approximately one thousand Mozambican women and children were trafficked to South Africa every year. Reportedly, most traffickers brought their victims to South Africa through Swaziland, where border controls were particularly weak. Trafficking victims came from both urban and rural backgrounds. The majority of victims were women and children, and they were trafficked for both sexual exploitation and forced labor. Many of the women trafficked were sold to brothels in Johannesburg or sold as concubines or "wives" to mineworkers in South Africa. Boys were trafficked as laborers on South African farms.

IOM conducted an inquiry in April that indicated women continued to be trafficked from the country and sold to mine workers at a mining

district west of Johannesburg, known as the West Rand. Taxi drivers commuting between the two countries recruited young women from rural areas such as Macia and Chokwe in Gaza Province, as well as Maputo. The highway running through Maputo was another major recruiting ground for traffickers. In September South African police rescued three teenage Mozambican girls from traffickers and returned them to Mozambique.

In March police in Quelimane, Zambezia Province, arrested 2 men for attempting to sell an 11-year-old boy. The men were arrested, but it was not known whether charges were filed at year's end. In November police detained a minibus driver in the Manica Province for selling 35 children to farms and domiciles in the area. The man reportedly offered the children employment at his own residence, but instead sold them for the equivalent of \$4 (100 thousand meticaís). By year's end the man remained in detention pending formal charges by police.

Child prostitution appeared to be most prevalent in Maputo, Nampula, Beira, and at border towns and overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution was reported in Sofala and Zambezia provinces. Some NGOs were working with child prostitutes by providing health care, counseling, and training in other vocations.

Traffickers were principally Mozambican or South African citizens, but involvement of Chinese and Nigerian syndicates also was reported. Trafficking groups of Mozambican origin included small networks of citizens based in Maputo and Nampula, and there were reports that organized crime groups were involved. Traffickers often lured victims from discos, bars, and markets promising better jobs in South Africa. Once there, they were threatened with exposure of their illegal status and forced to work for little or no pay. Often women were sexually assaulted en route to their destination or once they arrived in South Africa.

During the year the government attempted to provide basic protection for victims of trafficking. The Ministry of Women and Social Action provided counselors to help women and children victims of violence, including trafficking. Trained police officials continued to staff women's shelters at police stations to protect trafficking victims in Maputo, Beira, Nampula, and several large towns in Gaza Province.

The local NGOs Civic Education Forum and Terre d'Hommes opened an assistance center for repatriated trafficking victims in Moamba. The shelter served women and children and was located near the Ressano Garcia border post, a major thoroughfare for trafficked persons.

The Ministries of Interior and Women and Social Action actively participated in NGO and international organization-sponsored education campaigns for women in vulnerable communities by presenting information about trafficking-related laws and police services.

#### Persons with Disabilities

Although the law stipulates that citizens with disabilities shall fully enjoy the same rights of all citizens, the government provided few resources to implement this provision. Discrimination was common against persons with disabilities in employment, education, access to healthcare, or in the provision of other state services. The law does not mandate access to buildings for person with disabilities.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited accessibility to buildings and transportation, and a lack of wheelchairs. Special access facilities were rare. Electoral law provided for the needs of voters with disabilities in the polling booths. There were few job opportunities for persons with disabilities in the formal sector.

The Mozambican Association for the Blind and Vision Impaired (ACAMO) launched a year-long campaign to heighten public awareness of the discrimination in education, jobs, and housing faced by the approximately 700 thousand visually impaired citizens.

A school for the blind benefited 70 students. The government also provided several recreation centers for the blind and vision impaired, but according to ACAMO they were too few and badly placed to provide tangible benefit to the community. Although the government operated mental health facilities, conditions were extremely poor.

The Association of Disabled Mozambicans, the primary advocacy group in the country for persons with disabilities, reported that the government was beginning to exhibit a more positive attitude towards persons with disabilities. The group worked closely with the government to start a disabled sports federation, which was launched in May.

#### National/Racial/Ethnic Minorities

There were reports of tension between newly arrived Chinese guest workers, often used in construction, and citizens in Beira, Sofala Province.

#### Other Societal Abuses and Discrimination

NGO and press reports indicated persons with HIV/AIDS often faced discrimination in the workplace and rejection by their family. The law prohibits discrimination on the basis of HIV/AIDS, and the Ministry of Labor intervened in cases of perceived discrimination by employers.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides that all workers are free to join or refrain from joining a trade union, and workers exercised these rights in practice. As of December 2004, 543,582 workers in the formal sector were registered with the National Social Security Institute, although not all registered workers were unionized. In October informal workers were declared official members of the Mozambican Workers' Association (OTM) during the launch event of the National Association of Workers and Operators in the Informal Sector. An estimated 6 percent of the population worked in the formal sector, and 10 percent of these workers were unionized. Some unions alleged that OTM was under the influence of FRELIMO.

#### b. The Right to Organize and Bargain Collectively

Although the law protects the right of workers to organize and engage in collective bargaining, less than 2 percent of the work force was covered by collective bargaining contracts. The government did not set private sector salaries. Existing unions were responsible for negotiating wage increases.

The law explicitly provides for the right to strike, and workers exercised this right in practice; however, civil servants, police, military personnel, and workers in other essential services (including sanitation, fire fighting, and health care) did not have the right to strike. Repeated government promises to amend the law to provide full organizing and collective bargaining rights to public officials remained unfulfilled. The law specifies that strikers must notify police, the government, union, and employers 48 hours in advance of intended strikes. The law forbids retribution against strikers, the hiring of substitute workers, and lockouts by employers. There were reports that many companies continued to engage in antiunion discrimination: skirting regulations by replacing persons at the end of contracts, dismissing workers for going on strike, and not abiding by collective bargaining agreements.

Workers in the small number of export processing zones were subject to the same labor regulations as other workers, and worker rights generally were respected in practice.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children, and while there were few reports that such practices occurred in the formal economy, forced and bonded labor, particularly by children, were common in the rural areas (see sections 5, 6.d., and 6.e.).

#### d. Prohibition of Child Labor and Minimum Age for Employment

While the law prohibits child labor, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between 15 and 18 to work, but the employer is required to provide for their education and professional training and ensure conditions of work are not damaging to their physical and moral development. Children between 12 and 15 are permitted to work under special conditions authorized jointly by the ministries of labor, health, and education. For minors under 18, the maximum workweek is 38 hours, and the maximum workday is 7 hours. Minors under 18 are not permitted to work in unhealthy or dangerous occupations or those requiring significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Although the law prohibits forced and bonded labor by children, children in rural areas were forced to work, particularly in commercial agriculture, as domestics, and in prostitution. The major factors contributing to the worst forms of child labor were chronic family poverty, lack of employment for adults, breakdown of family support mechanisms, changing economic environment, lack of education opportunities, gender inequality, and the impact of HIV/AIDS. Children, including those under the age of 15, commonly worked on family farms independently in seasonal harvests or commercial plantations, where they were paid on a piecework basis and picked cotton or tea leaves. In the urban informal sector children performed such tasks as guarding cars, collecting scrap metal, working as vendors, and selling trinkets and food in the streets.

Unlike in previous years, there were no reports that children were used to settle financial and other disputes.

Children orphaned by HIV/AIDS often were forced to work because they were left without family support.

The Ministry of Labor regulates child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions. Violations of child labor provisions are punishable with fines ranging from 1 to 40 monthly salaries at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal child labor. The Labor Inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside of the capital where a majority of the abuses occurred. Although the government provided training for police on child prostitution and abuse (including pornography), there was no specialized child labor training for the Labor Inspectorate. The government disseminated information and provided education about the dangers of child labor.

#### e. Acceptable Conditions of Work

In June the government granted a 14 percent increase in the statutory minimum wage for all salaried workers. The new minimum wage was approximately \$53 (1.3 million meticais) per month for workers in industrial and service sectors and \$39 (935 thousand meticais) per month for those in the agricultural sector. Despite the increase, which was above the inflation rate reported for 2004, neither minimum wage provided a decent standard of living for a worker and family. Although the industrial sector frequently paid above minimum wage, there was little industry outside of the Maputo area. In addition less than 10 percent of workers held salaried positions, and the majority of the labor force worked in subsistence farming. Many workers used a variety of strategies to survive, including finding a second job, maintaining their own gardens, or depending on the income of other family members.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Planning and Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. Workers generally received benefits, such as transportation and food, in addition to wages.

The standard legal workweek is 40 hours but can be extended to 48 hours. After 48 hours, overtime must be paid at 50 percent over the base hourly salary. Overtime is limited by law to 2 hours per day and 100 hours per year. Foreign workers are protected under the law.

Worker complaints continued during the year concerning employers deducting social security contributions from wages but failing to pay them into accounts and lack of access to the social security system. In August the director of the National Social Security Institute was dismissed for alleged corruption and mismanagement.

In May authorities in the northern province of Nampula launched an investigation into worker complaints of beatings, arbitrary firings, forced labor while sick or injured, and extremely low wages in several private companies, particularly the Ramiane Sisal Company.

In the small formal sector, health and environmental laws were enacted to protect workers; however, the Ministry of Labor did not effectively enforce these laws, and the government only occasionally closed firms for noncompliance. There continued to be significant violations of labor legislation in many companies and services. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment; in practice threats of dismissal and peer pressure restricted this right.

The minister of labor reported 107 labor accidents between January and November, 5 of which resulted in deaths. While the law imposes fines for recurring accidents, no fines were imposed during the year. The law also requires that companies insure workers, but ministry of labor estimates indicated that only between 50 and 60 percent of companies actually provide coverage.

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