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2010 Human Rights Report: Mozambique

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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Mozambique has a democratic constitution and an estimated population of 22.4 million. President Armando Guebuza was reelected in October 2009 in a contest criticized by several national and international observers, including the EU and the Commonwealth, as lacking a "level playing field" and faulted for lacking transparency, integrity, impartiality, and independence. Domestic and foreign observer groups and local civil society expressed concern over the electoral procedures that preceded the balloting, particularly the exclusion of six of nine presidential candidates and disqualification of one opposition party's parliamentary candidates from seven of 11 provinces. Freedom House has since removed the country from its list of electoral democracies. There were instances in which elements of the security forces acted independently of civilian control.

Incidents of serious human rights abuses, including vigilante killings, occurred during the year. Security forces continued to commit unlawful killings. Prison conditions remained harsh and life threatening, resulting in several deaths. Arbitrary arrest and detention, as well as lengthy pretrial detention, were problems. An understaffed and inadequately trained judiciary was inefficient and influenced by the ruling party. Political and judicial decisions involving independent media outlets constrained press freedom. Societal problems including domestic violence, discrimination against women, abuse, exploitation, and forced labor of children, trafficking in women and children, and discrimination against persons with HIV/AIDS remained widespread.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings; however, human rights activists and domestic media sources reported that security forces arbitrarily killed some persons during the year, including at least 13 during the violent protests on September 1 and 2.

According to a 2010 report by international nongovernmental organization (NGO) Amnesty International (AI), police were responsible for a number of human rights violations, including extrajudicial executions, excessive use of force sometimes resulting in death, arbitrary arrests and detentions, as well as torture and other cruel, inhuman and degrading treatment and deaths in custody. In the majority of cases no investigations were carried out, and police officers were not disciplined. AI noted that victims and/or their families did not receive any information and were left without remedies or justice.

Examples of arbitrary or unlawful killing by police included:

On March 29, a Maputo police officer shot and killed a citizen after a verbal altercation. There were no further developments by year's end.

On April 9, a police officer in Beira was detained for killing a civilian. The investigation was ongoing at year's end.

On September 7, a Matola police officer shot and killed an unarmed person alleged to have stolen a chicken. There were no further developments by year's end.

There were no further developments in the September 2009 killing of a man by police for stealing a vehicle's side mirror.

High levels of crime in and around Maputo City and continued violence against police by criminal gangs were likely factors in the number of unlawful killings committed by security forces. During the year 10 police officers in Maputo City were killed; gangs were suspected in each case.

There was no further information available in the following 2008 cases: the February killing of five persons in Maputo and at least one other person in Chokwe who were protesting increases in the cost of living, and the August shooting death of a person in Maputo by a police officer during a personal dispute.

There were a few reports of death resulting from police abuse. For example, in May eight prison guards in Gaza Province tied up and beat to death a prisoner in Mabalane Prison. The Ministry of Justice conducted an investigation, and the guards were suspended. No charges had been filed by year's end.

Killings by vigilante groups continued to be a problem. For example, there were 14 reported lynchings in the city of Beira and nine lynchings in the city of Manica during the year. While the government strongly condemned the killings, it was unable to identify the perpetrators and bring them to justice. The League of Human Rights (LDH) and other civil society groups claimed these killings were related to the increased cost of living, high unemployment rates, sustained high levels of crime, lack of police presence in outlying metropolitan neighborhoods, and an ineffective justice system. Most targets of such killings were suspected muggers, thieves, sexual abusers, and drug dealers.

There were no developments in the 2009 and 2008 deaths of several persons at the hands of vigilante groups in Chimoio, Maputo, Matola, and Chokwe districts, including the death of three Mozambican Red Cross volunteers in Quinga accused of causing an outbreak of cholera (whose teams were using chlorine to purify water; cholera and chlorine are similar words in Portuguese) and the burning to death of a 13-year-old boy in Beira for stealing ducks.

b. Disappearance

There were no reports of politically motivated disappearances.

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

While the constitution and law prohibit such practices, police frequently used excessive force and harsh physical abuse when apprehending, interrogating, and detaining criminal suspects and prisoners. During the year human rights advocates

and the media reported occurrences of torture and other cruel treatment, including several cases involving sexual abuse of women, beatings, and prolonged detention.

In March an LDH visit to Maputo's maximum security prison (Machava) confirmed numerous incidents of guards physically abusing prisoners. The LDH found that guards handcuffed prisoners to trees and then flogged them. The prison authorities later confirmed nine prisoners had been abused in this manner. Two prison guards were suspended and criminally charged for the abuse. In May the minister of justice suspended both the management and the guard commander of the prison. As a result of LDH's report, the minister of justice ordered a full inquiry into the Machava Prison incident and personally made visits to several of the region's prisons to assess the conditions. After finding abuses, the ministry and the LDH created a joint declaration on prison reform and established a Prison Reform Group responsible for making changes to the prison system.

There were also reports of similar severe beatings at several other prisons; in May, one death resulted from these beatings at Mabalane Prison in Gaza Province. After an investigation by the Ministry of Justice, one prison guard was suspended but not criminally charged.

There were no further developments in the March 2009 suffocation deaths of 13 prisoners in an overcrowded cell in Mogincual.

Unlike the previous year, there were no reports that excessive use of force by police resulted in death and injuries to strikers.

Prison and Detention Center Conditions

Prison conditions remained harsh and potentially life threatening; overcrowding, inadequate nutrition, substandard sanitation, poor health facilities, and prisons in poor physical condition remained serious problems.

The Administration for Prison Services, under the Ministry of Justice, operated 184 prisons in 10 provinces. The Ministry of Interior and the police are responsible for jails at police stations. During the year there were 14,936 prisoners, approximately 66 percent of whom had been convicted and the rest awaiting trial. The National Prisons Service spends approximately 3,600 meticaís (\$105) per month to house, feed, clothe, educate, and provide medical care for each prisoner.

Overcrowding remained the most serious problem. During the year the LDH noted once again that many prisons held more than three times the number of prisoners for which they were built and that often prisoners slept in bathrooms, standing up, or in shifts.

For example, as of August Maputo Central Prison held 2,695 prisoners in a facility designed to hold 800, and the Nampula Provincial Jail held 401 prisoners in a facility for 100.

In August the director general of prisons was replaced due to his failure to alleviate the overcrowding problem in the prisons.

During the year the LDH made numerous visits to prisons and detention facilities. Based on those visits, the LDH continued to note the following conditions in the prisons: harsh detention, inadequate food, poor hygiene, overcrowding, adults and juveniles held together, prisoners kept beyond their sentences, and the LDH stated that many facilities were "physically inadequate."

Reports continued that most prisoners received only one meal a day. In many cases prison officials were not able to provide even basic food to the prison population. In the prisons visited, the LDH characterized the provision of food as

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"poor," consisting mainly of corn meal and beans. 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 prisoners. In several prisons inmates engaged in prostitution in exchange for food, according to the LDH. According to the UN Interregional Crime and Justice Research Institute (UNICRI), 10 percent of juvenile offenders were women, and some juveniles had been held with adult populations in pretrial detention for as long as nine months. Juveniles were also intermixed with adults in the general prison population.

The LDH found malaria, tuberculosis, and HIV/AIDS to be commonplace among prisoners in nearly all prisons. The LDH also found other illnesses caused by malnutrition, including paralysis and blindness. Both healthy and sick prisoners regularly were kept in the same cells. Provisions for sanitation, ventilation, temperature, lighting, basic and emergency medical care and access to potable water were inadequate.

In July an inmate gave birth inside the Ndlavela Jail, in the city of Matola in Maputo Province, because the prison had no vehicle for the transportation of personnel or inmates to health facilities.

According to the LDH and confirmed by a report issued by the UNICRI, pretrial detainees were held with convicted prisoners.

There continued to be many reported deaths in prison, the vast majority due to illness and disease, at rates much higher than the general population. During the first four months of the year, at least nine prisoners in Nampula's jail had died of tuberculosis.

International and domestic human rights groups had access to prisoners, although at the discretion of Ministries of Justice and Interior. The LDH reported no problems obtaining credentials to visit prisons. Moreover LDH president and founder Maria Alice Mabota announced in 2009 that the LDH had entered into a memorandum of understanding with the Ministry of Justice allowing it to visit prisons unannounced. The LDH confirmed these visitation rights continued during the year. The LDH agreed to provide to the ministry any reports it planned to issue but would be free to publish its own independent findings.

Prisoners generally were allowed access to visitors and permitted religious observances. On several occasions during the year, prisoners and detainees submitted complaints about their treatment to authorities; such complaints were also reported in the local press. The Ministry of Justice investigated a number of these complaints in Machava and Gaza prisons, resulting in changes in procedures and disciplining of personnel.

Following reports of beatings and killings of prisoners at Machava Prison in March, Ministry of Justice officials announced investigations of conditions, and publicly criticized prison officials and prison conditions. The officials acknowledged serious mistreatment of prisoners had occurred, and several senior officials in the prison service were either administratively disciplined or dismissed.

The Ministry of Justice and prison service acknowledged during the year that pretrial detention, bail, and recordkeeping procedures were inadequate and announced efforts to improve their systems and lessen the possibility of prisoners serving time in excess of their sentences or maximum legal detention periods.

d. Arbitrary Arrest or Detention

While the constitution and law prohibit arbitrary arrest and detention, both practices continued to occur.

Role of the Police and Security Apparatus

Forces under the Ministry of Interior, including the Criminal Investigative Police (PIC), the national police (PRM), and the Rapid Intervention Force (FIR), are responsible for internal security. An additional security body, the State Information and Security Service, reports directly to the president. The Casa Militar (Presidential Guard) provides security for the president. The armed forces are responsible for external security.

Police routinely removed their identification at checkpoints after dark and refused to identify themselves or their police precincts.

For example, the following incidents involving police occurred: (1) on January 15, two police officers in Nampula robbed an armored car; (2) on April 11, eight police officers in Zambezia were dismissed after being convicted of crimes; (3) on February 3, a total of 16 police officers in Sofala were dismissed due to criminal acts; and (4) on March 30, three recent police graduates in Manica were arrested for breaking and entering a local residence.

The most common reasons for disciplinary action, according to Maputo's police chief, were collaboration with criminals, extortion of goods and money, excessive alcohol consumption, and abandonment of post. In May 2009 police officials told AI that 356 police officers had been disciplined since 2005 for breaching disciplinary regulations. Of these, 108 were expelled from the police force, and 37 were convicted of criminal offenses. AI stated, however, police discipline was inadequate and prosecution rare.

Implementation of the 2003-12 strategic plan of action and modernization for the PRM 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 Procedures and Treatment While in Detention

Although the law provides that persons be arrested with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued to arrest and detain citizens arbitrarily. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to judicial review of the case. The individual may be detained another 90 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than eight years, the individual may be detained up to an additional 84 days without being charged formally. With court approval, such detainees may be held for two more periods of 84 days each without charge while the police complete their investigation. 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.

Excessively long pretrial detention continued to be a serious problem, due in part to an inadequate number of judges and prosecutors and poor communication among authorities. Approximately 34 percent of the inmates were in pretrial detention. In many cases authorities held inmates in the prison system for more than three years before their trials began. Media reported a case of one pretrial detainee in a Maputo prison who had been waiting for more than five years for his trial to begin.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, according to civil society groups, the executive branch and the ruling Front for the Liberation of Mozambique (Frelimo) heavily influenced an understaffed and inadequately trained judiciary, particularly in the lower tiers. 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.

Intermediate appeals court and district court judges may rule on criminal cases with penalties ranging between eight and 12 years' imprisonment. Alternative measures such as work brigades, conditional release for prisoners who have completed half of their sentences, and traveling tribunals continued to be employed.

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 excluded the general public. 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. Article 12 of the judicial organization law "prohibits the production and public transmission of images and sounds at trials." There is no trial by jury.

In regular courts accused persons 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. In some instances prisoners were required to pay their legal aid attorneys to persuade them to provide "free" legal assistance.

The Mozambican Legal Aid Institute, an organization under the Ministry of Justice, worked to ensure that accused persons were provided with court-appointed legal counsel if requested. However, due to a lack of trained lawyers, this was rarely possible. The LDH reported that most citizens remained unaware of this right, and many had no access to legal counsel. Some NGOs offered limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses, although all citizens have a right to self-defense. As such, they are allowed to present witnesses and evidence on their own behalf and have access to government-held evidence.

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

Political Prisoners and Detainees

Unlike the previous year, there were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

While the law provides for an independent and impartial judiciary in civil matters, in practice the judiciary was subject to political interference. Although in theory citizens have access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations, in practice this did not occur.

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

The constitution and law prohibit 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 and e-mails, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas, including in Gaza and Zambezia provinces.

By law police are required to be in possession of a warrant to enter homes and businesses, but this practice was not always followed.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and statutes provide for freedom of speech and of the press and the government generally respected these rights in practice. Individuals can generally criticize the government publicly or privately without reprisal; however, some persons expressed fear that the government monitored their private telephone and e-mail communications. Some journalists reported receiving anonymous threats. In response to the violent protests which occurred on September 1 and 2, the government disabled the local cell phone-texting system, the protesters' primary method of communication, and subsequently required that all purchasers and owners of prepaid cell phones register with cell service providers.

On February 10, the Media Institute for Southern Africa (MISA) reported that despite the press freedom guarantees in the constitution and the 1991 Press Law, other legislation inhibits the media. For example, a clause in the law on crimes against state security treats libel against the president, prime minister, and other senior political and judicial figures as a security offense.

On February 10 and other occasions, the press reported that journalists attempting to interview opposition leader Afonso Dhlakama were threatened, harassed, and intimidated by members of the national police (PRM) stationed outside his residence.

On March 15, *Escorpiao* reported the Gondola district police commander in Manica Province threatened the local MISA president and other journalists for printing unflattering reports about him.

On May 20, Salomao Moyana, editor of *Magazine Independente (MI)*, reported receiving death threats. Also in May a MISA-Mozambique report cited frequent anonymous threats to journalists.

During the civil unrest of September 1-2, some officials accused local independent television station STV of giving the demonstrators excessive coverage. For several hours, SOICO Televisao (STV) and the government station Televisao de Mocambique (TVM) halted coverage of the demonstrations, reportedly at the behest of government officials.

By some estimates newspapers reached approximately one million of the country's 22.4 million citizens. The print media was published exclusively in the Portuguese language and was thus not accessible to a majority of the population. The government maintained majority ownership of *Noticias*, the main newspaper and one of three dailies with nationwide distribution. *Noticias*, *Diario de Mocambique*, and the weekly *Domingo* largely mirrored the views of the ruling party. *O Pais* and *Savana*, among others, reported news items critical of government policies.

Some journalists reported self-censorship amongst media practitioners and were hesitant to report on sensitive topics. Some media officials believed a connection existed between critical reporting and cancellation of government and ruling party advertising contracts. The largest advertising revenue streams for local media come from government ministries and state-controlled businesses.

International media were allowed to operate freely.

Numerous private community and regional radio stations operated throughout the country. Radio Mocambique, which received 60 percent of its operating budget from the government, was the most influential media service with the largest

audience. Although it broadcast debates on important issues, Radio Mocambique tended to invite participants who were less critical of the government.

The government supplied more than half of the operating budget of TVM, the television station that contends with STV for the largest viewership. TVM's news coverage demonstrated a bias favoring the incumbent government and ruling party Frelimo.

Internet Freedom

Internet access was modest, and online communications did not play a significant role. Although there were no government restrictions on access to the Internet, opposition party members reported that government intelligence agents monitored e-mail. There were no confirmed instances of the government attempting to collect personally identifiable information of a person. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail and through political blogs, as well as small-scale use of social media. While public access to the Internet continued to expand, particularly in the larger cities, lack of infrastructure in rural areas and installation costs limited overall use. Cell phones were widely available and frequently used, including for text messaging. According to International Telecommunication Union statistics for 2008, approximately 1.5 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly. Although the government generally respected this right in practice, in August police stopped a demonstration called by war veterans demanding better living conditions and jailed its leader, whom they subsequently released.

In September demonstrators in several cities protested price increases on basic foodstuffs, water, and energy. Some erected barricades, burned tires, set cars on fire, threw stones at passing motorists, looted stores, and vandalized government offices, including power purchase outlets. Police used tear gas, rubber bullets, and live ammunition, and shot and killed between 13 and 18 persons in Maputo and Matola; several hundred others were also injured. Several dead and wounded were also reported in the central provinces of Manica and Sofala. AI called upon the government to cease the use of live ammunition, and several local human rights groups criticized the government for improper use of deadly force, as well as poor tactics, untrained personnel, and lack of preparation. The Center for Public Integrity (CIP) called the police "unprepared, ill-trained and corrupt." There were no further developments by year's end. However, on October 12, President Guebuza announced the transfer of Interior Minister Pacheco to the post of minister of agriculture.

Freedom of Association

The constitution and law generally provide for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

For a description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

While the law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, the government sometimes infringed upon these rights in practice.

Traffic checkpoints are under the jurisdiction of traffic police. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities often abused and demanded bribes from citizens at them. Police sometimes stopped foreigners and ordered them to present original passports or resident papers, refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers.

The government respected the law forbidding forced exile.

Protection of Refugees

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting several thousand recognized refugees and asylum seekers.

The government continued to work closely with the UNHCR to implement a local integration program for refugees, primarily from Somalia, Ethiopia and the Great Lakes region, at the Maratane camp in Nampula Province.

The government provided modest assistance to Zimbabwean citizens crossing the border into the country. However, it considered Zimbabweans as economic migrants and supported a role for the UNHCR in providing assistance and protection to this group.

The government allows refugee movement within the country. Refugees must formally request authorization to move outside the geographic region in which they have been registered, but they are free to settle elsewhere in the country.

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

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

Elections and Political Participation

In November 2009 the National Elections Commission (CNE) announced that Armando Guebuza of the ruling Frelimo party had been elected president in the October multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities during voter registration, the campaign, and in the vote count. Frelimo used significant state funds and resources for campaign purposes, in violation of electoral law.

The main opposition parties, Renamo and Democratic Movement of Mozambique (MDM), complained of election fraud and noted Frelimo agitators and provocateurs routinely disrupted campaign stops, drowning out speakers and candidates by revving motors, playing instruments, shouting, and occasionally throwing stones. They alleged local authorities failed to respond to such provocative acts and that Frelimo candidates suffered no such impediments during their campaigns. Opposition parties also accused Frelimo of using state funds and resources for campaign purposes, in violation of electoral law, as was corroborated by independent reporting.

The Electoral Institute for Southern Africa (EISA) questioned the transparency, integrity, impartiality, and independence of the CNE. EISA noted that improvements were required to "level the playing field, afford equal opportunity to all, and improve the transparency of the electoral process." The CNE disqualified several political parties and candidates from participating in legislative elections. The MDM, for example, was stricken from nine of 13 legislative districts. The CNE's action, which included backdating documents and other questionable acts, provoked protests from the diplomatic community, objections by civil society, and extensive commentary in the media. Also the Constitutional Council (CC) disqualified six of nine presidential candidates for application irregularities. In contravention of law and its own past practice, the CC did not provide the rejected candidates with notice or an opportunity to respond.

In response to these various actions by the CC and the CNE, the CIP called for an independent audit of electoral processes and highlighted several significant flaws in the electoral process. Under an agreed-upon set of governance initiatives reached in March, the government granted MDM formal status in the National Assembly, which entitled its eight members of parliament to certain financial and logistical support, and the government committed to enacting a new electoral law. The government announced a two-year legislative process to achieve this electoral reform.

Frelimo and the executive branch continue to dominate the political process and their influence continued to grow. In the October 2009 elections, Frelimo secured approximately 75 percent of the presidential vote and more than 75 percent of the seats in parliament. Frelimo mayors were elected in 42 of 43 municipalities, and it was the largest party in municipal assemblies, controlling 79.8 percent of all seats. Frelimo gained a sufficient majority in the National Assembly to amend the constitution without the support of other parties.

During the year opposition political parties were permitted to operate but were sometimes subject to some restrictions including unlawful arrest, and other interference by the ruling party and the government. In September, following violent protests in Maputo, police arrested several Renamo members in Nampula, accusing them of making further preparations for violent protests. Renamo sources said the members had been organizing local party meetings unconnected to the protests. All those detained were subsequently released.

Women, such as the former prime minister and members of many ethnic groups, held key positions in both the legislative and executive branches. There was no evidence that women or specific ethnic groups were excluded from participation in the political process. Eight of the 29 ministers were women. Women held 91 of 250 seats in the National Assembly. The National Assembly also had an office dedicated to raising awareness of women's issues, including family law, domestic violence, and antitrafficking in persons measures. There were no women on the Supreme Court.

Section 4 Official Corruption and Government Transparency

While the law provides criminal penalties for official corruption, the government often did not implement the law effectively, and officials engaged in corrupt practices with impunity. Corruption in the executive and legislative branches was generally perceived to be widespread. The World Bank's Worldwide Governance Indicators reflected that corruption was a serious problem. Petty corruption by low-level government officials to supplement low salaries and high-level corruption by a small group of politically and economically connected elites continued to be the norm. In some cases high-level bribery was related to narcotics trafficking.

On April 23, *Noticias* reported that in the district of Muanze in Sofala Province, a local administrator lamented the losses attributable to nonexistent teachers and civil servants.

On May 4, Ministry of Education spokesperson Manuel Rego, acknowledged that ministry functionaries engaged in sexual harassment of students and demanded from students illegal payments to matriculate, to pass, and to receive better grades, among other matters.

On May 10, the daily *Escorpião* reported that Customs Director Orlando Jose, widely regarded as active in combating corruption, was murdered by unknown assailants suspected of links to organized crime and corrupt officials. There were no further developments by year's end.

On November 30, the Maputo Provincial Court, sitting in nearby Matola, sentenced 16 civil servants to prison terms between three and 21 years for corrupt schemes that resulted in the theft of about 2.8 million meticaís (\$82,000).

On December 7, two senior executives of the national data processing center were convicted of embezzling approximately 3.3 million meticaís (\$97,000) and sentenced to jail terms of 12 years.

On December 9, former interior minister Almerino Manhenje and two associates were tried for stealing approximately 1.2 million meticaís (\$35,000). The verdict was pending at year's end.

There were no further developments in any of the following cases of corruption from 2009: the chairperson and others associated with the Mozambican Airports Company charged with diversion of state funds; four officials from Tete's Provincial Directorate of Planning and Finance charged with embezzlement; five employees of the Manica Provincial Department of Finance charged with illegally obtaining state funds; and the 2007 and 2008 corruption investigations of the deputy director of Maputo Central Prison and six health services administrators in Cabo Delgado Province.

Corruption and extortion by police were widespread, and impunity remained a serious problem. Police regularly detained persons for arbitrary reasons and demanded identification documents solely to extort payments. Many crime victims reportedly declined to seek police assistance because of expected demands for bribes and a lack of confidence that the police would help. Corruption largely resulted from a lack of checks and balances, minimal accountability, and a culture of impunity. Local NGOs, such as the CIP, and media groups continued to be the main civic forces fighting corruption, reporting on and investigating numerous corruption cases.

The law requires that all members of the government declare and report their assets with the Constitutional Council, but it does not require that such information be made available to the general public. Consequently, the general public does not know whether the required declarations and reports have been submitted.

The Central Office for the Combat of Corruption functions as an autonomous unit under the Attorney General's Office with its own state budget. It investigates theft of state funds in the central government and in provincial administrations.

There are no laws providing for public access to government information, and in practice the government failed to respond to citizens' requests for or restricted citizens' access to government information.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials often were cooperative and responsive to the views of domestic and international human rights groups. The registration and activities of foreign NGOs are subject to governmental regulation. Some foreign NGOs and religious groups reported that such registration regularly required several months.

In August 2009 the Ministry of Justice agreed to work with the UN to draft and issue in 2011 its own human rights report. There were no progress reports issued during the year.

Despite a 2005 constitutional amendment creating an independent ombudsman position to investigate allegations of abuses, including human rights violations, no person had been named to the position by year's end.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The law prohibits rape, including spousal rape, but it was not effectively enforced. Penalties range from two to eight years' imprisonment if the victim is 12 years of age or older and eight to 12 years' imprisonment if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it was regarded as a common problem. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system. There were no reports of rape cases prosecuted during the year.

In July 2009 parliament passed a domestic violence law that prohibits violence against women and nonconsensual sex, including between married individuals. The law also provides penalties of up to 12 years' imprisonment for engaging in sexual activity while knowingly infected with a contagious disease. No cases were brought to trial during the year.

Domestic violence against women, particularly spousal rape and beatings, remained widespread, and despite the new domestic violence law, NGOs reported that many women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from taking legal action against abusive spouses. On April 20, the Ministry of Women and Social Action (MIMAS) acknowledged that a national plan approved in 2008 to combat violence against women had been announced but not yet implemented in five provinces--Niassa, Tete, Sofala, Inhambane, and Gaza, and in Maputo City--and was altogether unknown in the rest of the country. MIMAS Minister Yolanda Cintura suggested that the plan would be implemented in "a few years." A survey indicated that 21 percent of female respondents reported an act of physical or sexual violence perpetrated by a man during the past year.

On June 25, *O Pais* reported that violence against women and children was increasing. During the first quarter of the year, more than 1,700 cases were reported.

The government and NGOs often worked together to combat domestic violence. The PRM operated special women's and children's units in police squadrons that received high numbers of cases of domestic violence, sexual assault, and violence against children; the units provided assistance to victims and their families. All of the 30 police squadrons in Maputo had women's and children's centers. In addition, all police squadrons in the country are in the process of installing a "green line" (a free telephone line) to receive complaints of violence against women and children. The lines were not fully operational by year's end.

Sexual harassment is illegal; however, it was pervasive in business, government, and schools. Although no formal data existed, the media reported numerous instances of harassment during the year. The relevant sexual harassment law is based on the 1920s Portuguese penal code; sexual harassment charges are usually regarded as acts of "indecentcy" with a maximum penalty of two years' imprisonment.

The government generally recognized the right of couples and individuals to decide the number and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of MIMAS. There were no restrictions on the right to contraceptives, but the continued high rate of HIV/AIDS suggested that they were not sufficiently used. The UN Population Fund (UNFPA) estimated that approximately 17 percent of married women between the ages of 15 and 49 used some form of contraception. Because there were few

doctors and nurses in the country, most women gave birth at home and received little or no prenatal and postnatal care, unless the mother or child suffered health complications.

A May 5 Ministry of Health study concluded that more than 11 women died daily due to pregnancy-related complications, and that three-fourths of such deaths were preventable. The UNFPA estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 550 in 2008. The Population Reference Bureau estimated that approximately 44 percent of births were attended by skilled personnel.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV/AIDS.

"Purification," whereby a widow is obligated to have unprotected sex with a member of her deceased husband's family, continued to be practiced, particularly in rural areas. A Save the Children report on inheritance practices noted that 60 percent of women cited discrimination in the inheritance process and highlighted cases in which women lost inheritance rights for not being "purified" following the death of their husbands.

With the exception of some ethnic and religious groups, the groom's family provided a dowry to the bride's family, usually in the form of money, livestock, or other goods. Among Muslims, the bride's family usually paid for the wedding and provided gifts. Some believed that these exchanges contributed to violence against women and other inequalities, due to the perception that the women subsequently were "owned" by their husbands.

The Family Law, which took effect in 2005, sets the minimum age of marriage for both genders at 18 for those with parental consent, and 21 for those without it. The law also eliminates husbands' de facto status as heads of family, and legalizes civil, religious, and common-law unions. While the law does not recognize new cases of polygamy, it grants women already in polygamous marriages full marital and inheritance rights. The law more precisely defines women's legal rights with regard to property, child custody, and other issues. However, nearly five years after taking effect, a survey conducted by the NGO MULEIDE found that approximately 63 percent of women remained uninformed about the law.

Customary law was practiced in many areas. 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 inherit an interest in land.

Women continued to experience economic discrimination, and they were three times less likely than men to be represented in the public and formal private employment sectors. They often received lower pay than men for the same work and were less likely to have access to credit.

Children

Citizenship can be obtained by birth either in the country or of a citizen parent. Particularly in rural areas, births often were not registered immediately. Children who wish to start school at age six must be registered. Failure to register can also prevent one from obtaining health care and public documents, such as identity cards or passports.

Education is compulsory through age 12, but enforcement was inconsistent. Public education tuition is free, but most families paid enrollment fees for each child and purchased books, uniforms, and other school supplies. Children who have a certificate that testifies that their parents' incomes are below a certain level are exempt from fees, but for most families, fees and associated costs remained a significant financial burden. Despite joint government-NGO initiatives in some localities and districts to improve girls' school attendance, Save the Children's May 5 Report on Mothers noted that school attendance for girls continues to be significantly lower than for boys, especially at the secondary and higher levels.

The UN Children's Fund noted that child abuse was a growing concern. Most child abuse cases involved sexual abuse, physical abuse, or negligence. Several cases of fathers sexually abusing their daughters were reported. Sexual abuse in

schools was a growing problem. There were numerous press reports during the year focusing on the large numbers of high school-age girls becoming pregnant as a result of being coerced into having sex by their teachers.

Local custom, primarily in the northern provinces and in Muslim and South Asian communities, allowed underage marriage. Without specifying prison terms or fine amounts, the law prohibits pornography, child prostitution, and sexual abuse of children under 16; however, exploitation of children below the age of 15 and child prostitution remained a problem. No instances of prosecution were reported. Child prostitution appeared to be most prevalent in Maputo, Nampula, Beira, at border towns, and at overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, Chimoio, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution also was reported in Sofala and Zambezia provinces. Some NGOs provided health care, counseling, and training in other vocations to children engaged in prostitution.

Zimbabwean children, many of whom entered the country alone, continued to face labor exploitation and discrimination. They lacked protection due to inadequate documentation and had limited access to schools and other social welfare institutions. Coercion, both physical and economic, of Zimbabwean girls into the sex industry was common, particularly in Manica Province.

Child beggars, who appeared to be living on the streets, were visible in major urban areas, but no nationwide figures were available.

Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, implemented programs to provide health assistance and vocational education for HIV/AIDS orphans, but as parents continued to die, the number of orphans increased.

The Maputo City Office of Women and Social Action continued its program to rescue abandoned orphans and assist single mothers who headed families of three or more persons. It also offered special classes in local schools to children of broken homes. NGOs sponsored food, shelter, and education programs in all major cities.

While the government continued to stress the importance of children's rights and welfare, significant problems remained. In 2008 the National Assembly passed a law on child protection. The law contains sections dealing with protection against physical and sexual abuse; removal from parents who are unable to defend, assist, and educate them; and the establishment of minors' courts to deal with matters of adoption, maintenance, and regulating parental power. By year's end no cases had been taken to court.

The Network against the Abuse of Minors (Rede Came) continued its efforts to put into practice the child protection law's provisions. It maintained a hotline call center and responded to hundreds of calls but lacked the resources to deliver meaningful assistance on a large scale.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There was a very small Jewish population, and there were no reports of anti-Semitic acts.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The constitution and law stipulate that citizens with disabilities shall fully enjoy the same rights as all other citizens. However, the government provided few resources to implement this provision, and persons with disabilities frequently could be seen begging at traffic intersections, often accompanied by able-bodied persons. Discrimination was common against persons with disabilities in employment, education, access to health care, and the provision of other state services. The law does not mandate access to buildings for persons with disabilities, but the Ministry of Public Works and Habitation worked to ensure that public buildings in Maputo city provided access for persons with disabilities. Electoral law provides for the needs of voters with disabilities in the polling booths.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited access to buildings and transportation, and a lack of wheelchairs. Facilities with special access were rare. There were few job opportunities for persons with disabilities in the formal sector.

The country's only psychiatric hospital was overwhelmed with patients and lacked the means to guarantee basic nutrition, medicine, or shelter. Doctors at the hospital also reported that many families abandoned members with disabilities.

Veterans with disabilities continued to complain about not receiving pensions.

The Ministry of Women and Social Action is responsible for protecting the rights of persons with disabilities. The four-year National Action Plan in the Area of Disabilities announced in 2006 had not received any financing for implementation by year's end.

The city of Maputo offered free bus passes to persons with disabilities.

National/Racial/Ethnic Minorities

There were reports of tension between Chinese guest workers, often employed in construction, and citizens in the cities of Maputo and Beira. There were reports also of mistreatment by Chinese companies of local employees. For example, on May 5, *Noticias* reported that Minister of Labor Helena Taipo had cancelled the work permit of one Ding Zhengming for abusing domestic employees at CCM Construction Ltd. in Maputo.

There were reports of discrimination by police against Zimbabwean and Somali immigrants during the year.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There were occasional reports of such discrimination, and the LDH reported cases of discrimination against gay men and lesbians in the courts. The Workers Law includes an article that prevents discrimination in the workplace based on a number of factors, including sexual orientation.

The government does not track and report discrimination or crimes against individuals based on sexual orientation or gender identity, nor were such abuses reported in the media.

Other Societal Violence or Discrimination

The law prohibits discrimination against workers on the basis of HIV/AIDS status, and the Ministry of Labor generally intervened in cases of perceived discrimination by employers. The Ministry of Labor reported receiving more than 100 cases annually of workers being dismissed by their employers for having HIV/AIDS. Often workers were obligated by the employer to take HIV/AIDS tests. In response to these violations, the ministry registered the complaints and confronted companies responsible for dismissals.

Kukuyana, a national network of women with HIV/AIDS, reported that many women were expelled from their homes and/or abandoned by their husbands and relatives because they were HIV positive. It also reported that some women who were widowed by HIV/AIDS were accused of being witches who purposely killed their husbands to acquire belongings, and in retribution they were deprived of all possessions.

Because some traditional healers assert that their body parts contained special curative or sexual strength, persons with albinism were the subject of violent attacks that resulted in mutilation or death. LDH researchers reported that attacks had increased and that children were frequent victims of these mutilations.

Section 7 Worker Rights

a. The Right of Association

The constitution and law provide that all workers are free to form and join a trade union of their choice without previous authorization or excessive requirements, except for firefighters, members of the judicial authorities, and prison guards; workers exercised these rights in practice. Because the Mozambican Workers Association rarely, if ever, takes action to defend workers' rights, some unions alleged the Association was under the influence of Frelimo and the government. By law both private and public workers are permitted to form unions and to strike. Concerted work actions, such as strikes, were infrequent but did occur.

On June 6, workers went on strike for 24 days against their Chinese employer at the site of new national stadium in the Maputo suburb of Zimpeto. They did not receive the demanded pay increase of 20 percent, but the employer did agree to make available bread and tea for work days exceeding eight hours, and to pay wages for the days not worked during the strike. Chinese counterparts of the local workers did not participate in the strike.

b. The Right to Organize and Bargain Collectively

Although the law provides for the right of workers to organize and engage in collective bargaining, such contracts covered less than 2 percent of the work force. Unions were responsible for negotiating wage increases.

The law prohibits antiunion discrimination; however, there were reports that many companies continued to engage in antiunion discrimination by replacing persons at the end of contracts, dismissing workers for striking, and not abiding by collective bargaining agreements.

There are no special laws or exemption from regular labor laws in the export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children. Nonetheless, domestic servitude occurred. There were also numerous reports of children forced to work as domestic workers and in the agricultural sector.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits child labor; however, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between ages 15 and 18 to work, but the employer is required to provide for their education and professional training and to ensure that conditions of work are not damaging to their physical and moral development. Children between the ages of 12 and 15 are permitted to work under special conditions authorized jointly by the Ministries of Labor, Health, and Education. For children under the age of 18, the maximum

workweek is 38 hours, the maximum workday is seven hours, and they are not permitted to work in occupations that are unhealthy or dangerous or require 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, it was considered to be a common problem, especially in rural areas. Often out of economic necessity, especially in rural areas, parents often forced their children to work, particularly in commercial agriculture, as domestic employees, or in prostitution. Children, including those under age 15, commonly worked on family farms in seasonal harvests or on commercial plantations, where they picked cotton or tea leaves and were paid on a piecework basis for work completed rather than an hourly minimum wage.

On June 14, *Noticias* reported that the International Labor Organization, as part of its 98th annual conference in Geneva, pointed to the country as "one of the countries that has the highest rate of child labor" in the world.

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 one to 40 months of salary at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal sector. The labor inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside the capital where a majority of the abuses occurred. Although the government provided training for police on child prostitution and abuse, there was no specialized child labor training for the labor inspectorate. The government disseminated information and provided education about the dangers of child labor to the general public.

Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip

e. Acceptable Conditions of Work

Trade unions estimated that a minimum livable monthly wage to provide for a family of five was approximately 6,460 meticaís (\$189). There are 11 different minimum wages averaging approximately 2,300 meticaís (\$68) across nine employment sectors: agriculture; mining; fisheries; manufacturing; electricity, gas and water; construction; financial; nonfinancial; and state employees. The national minimum wage does not provide an adequate standard of living for a worker and family.

Although the industrial sector frequently paid above minimum wage, there were few industrial jobs 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 holding 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 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 two hours per day and 100 hours per year. The law provides for one hour of rest per day. Foreign workers are protected under the law.

On April 27, Minister of Labor Helena Taipo cancelled the work permit of a Zimbabwean citizen, Stewart Goss, for abusing local workers in Manica and Tete provinces, and for limiting trade union activity and freedom of speech.

On May 28, the Mozambican News Agency reported that workers at the Maputo International Airport accused their employer, Anhui Foreign Economic Construction, of beatings, firing without cause, and failing to enroll them in the social security system.

On June 28, the Ministry of Labor announced fines against 44 companies for requiring their employees to work on the Mozambican Independence Day holiday.

On July 8, *Noticias* reported 150 workers on the National Highway 1 near Xai Xai in Gaza Province had gone on strike to protest a lack of formal employment contracts, failure to pay overtime, failure to provide medical care or medications, firing without cause, and physical abuse.

Frequent worker complaints included failure by employers to deposit social security contributions that had been deducted from wages, inability to obtain social security benefits, unlawful firings, and intimidation of union members.

In the small formal sector, health and environmental laws were in place 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 laws in many companies and services.

Foreign experts, including much-needed medical professionals, continued to have difficulty obtaining work visas.

In theory workers have the right to remove themselves from situations that endangered their health and safety without jeopardy to their employment; in practice, however, threats of dismissal and peer pressure restricted this right. There were no special provisions for foreign and migrant workers.

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