



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/MOZ/CO/12
17 August 2007

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-first session
30 July to 17 August 2007

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding Observations of the Committee on the
Elimination of Racial Discrimination**

MOZAMBIQUE

1. The Committee considered the second to twelfth periodic reports of Mozambique, submitted in one document (CERD/C/MOZ/12), at its 1825th and 1826th meetings (CERD/C/SR.1825 and 1826), held on 3 and 6 August 2007. At its 1843rd meeting (CERD/C/SR.1843), held on 16 August 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party as well as the additional oral information provided by the high level delegation. However, the Committee regrets that the report does not contain sufficient information on the measures taken to give effect to the provisions of the Convention and encourages the State party to follow its Guidelines for the CERD-specific Document, as adopted at its 71st session, regarding the form and content of State reports.

3. The Committee expresses its appreciation for the opportunity to resume its dialogue with Mozambique and appreciates the constructive and frank dialogue with the high ranking delegation from the State party.

4. Noting that the report was presented after a long delay, the Committee invites the State party to respect the deadline set for the submission of its next periodic report to the Committee.

**B. Factors and difficulties
impeding the implementation of the Convention**

5. The Committee acknowledges that a long period of conflicts and unrest has hindered the full implementation of the Convention by the State party.

C. Positive aspects

6. The Committee acknowledges the efforts of the State party to build a society where all groups live in harmony irrespective of their national and ethnic origin, religion and language.

7. The Committee expresses its satisfaction for the adoption of the Constitution of 2004, enshrining, *inter alia*, the principle of equality of all citizens, irrespective of their colour, race, sex, ethnic origin, birth place and religion.

8. The Committee acknowledges with appreciation the ratification of international human rights instruments such as the International Covenant on Civil and Political Rights in 1993, the Convention on the Rights of the Child in 1994, the Convention on the Elimination of All Forms of Discrimination against Women in 1997 and the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment in 1999.

9. The Committee also acknowledges with appreciation the language policy of the State party, which includes the use of local languages, together with the official language, in the curricula of primary schools as well as the promotion of national languages and cultures, as prescribed in the Constitution.

10. The Committee expresses its satisfaction for the fact that Mozambique resettled over 1.7 million of its returning refugees and several millions of internally displaced persons.

D. Specific concerns and recommendations

11. While acknowledging the integration policy of the State party, the Committee notes that the lack of statistical information on the composition of its population prevents a precise assessment of the extent to which all persons on its territory enjoy human rights without discrimination on grounds of race, colour, descent, national or ethnic origin (article 1).

Noting that a new census of the population is currently taking place, the Committee recommends that the State party endeavour to provide a general evaluation of the ethnic and linguistic composition of its population and, in this connection, draws the attention of the State party to paragraphs 10 and 11 of its Guidelines for the CERD-specific Document, as adopted at its 71st

session, as well as to its General Recommendation 24 (1999) on article 1 of the Convention. Furthermore, the Committee recommends that the State party also provide data on refugees and asylum-seekers, including those living in urban areas.

12. While noting that article 35 of the Constitution of Mozambique ensures that all citizens are equal before the law, the Committee is concerned about the lack of legislation on racial discrimination (articles 1 and 2).

The Committee recommends that the State party adopt specific legislation on racial discrimination implementing the provisions of the Convention, including a legal definition of racial discrimination, in line with article 1 of the Convention.

13. While welcoming the provision of article 118 of the Constitution on traditional authorities and considering the importance of customary law, including with regard to land ownership, the Committee notes the lack of information on their status *vis-à-vis* national law and judicial institutions (article 2 (c)).

The Committee recommends that the State party provide detailed information on its customary law and on the role of community leaders (“régulos”) in extra-judicial conflict resolution, including any measures adopted to ensure that the actions of traditional authorities, and customary laws, are in conformity with the provisions of the Convention.

14. While acknowledging that the Criminal Code is currently under revision and that the Association Act of 1991 prohibits incitement to racial discrimination, the Committee is concerned over the lack of specific penal provisions implementing article 4 of the Convention in domestic legislation (article 4).

In light of its General Recommendation 15 (1993), the Committee recommends that the State party adopt legislation to ensure the full and adequate implementation of article 4 of the Convention in its legal system.

15. While noting the existence of the Institute for Legal Assistance and Aid, the Committee remains concerned about the obstacles regarding access to justice faced by ethnic groups disadvantaged on account of their location, language or poverty (articles 5 (a) and 6).

In the light of its General Recommendation 31 (2006) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take the necessary measures to expand the provision of legal assistance and aid to the whole population on its territory and to improve the capacity and efficiency of the judicial system in order to ensure access to justice for all members of ethnic groups disadvantaged on account of their location, language or poverty.

16. While noting that the State party has ratified the Convention against Transnational Organized Crime in 2006 and that a bill on human trafficking is being prepared, the Committee notes the absence of any specific policy to prevent and combat human trafficking, bearing in mind that victims are often women and children belonging to the most disadvantaged groups, including non-citizens (article 5 (b) and (e)).

The Committee recommends that the State party adopt legislation and other effective measures in order to adequately prevent, combat and punish human trafficking, especially with regard to members of disadvantaged ethnic groups, including non-citizens.

17. While noting the State party's efforts to enhance the legal framework and administrative procedures regarding asylum-seekers and refugees, the Committee remains concerned about the equal enjoyment of economic, social and cultural rights by non-citizens as well as by the apparent difficulties encountered by long term residents wishing to acquire citizenship through naturalization (article 5 (d) and (e)).

In the light of its General Recommendation 30 (2004) on discrimination against non-citizens, the Committee encourages the State party to continue its efforts towards improving the refugee status determination procedure, so as to ensure that non-citizens enjoy economic, social and cultural rights without discrimination and to facilitate the naturalization procedure for long term residents.

18. While acknowledging the efforts of the State party regarding health care and the improvement of living conditions, the Committee remains concerned at the very high rate of HIV/AIDS amongst persons belonging to the most vulnerable groups, including non-citizens and persons without any identification documents, as well as their access to health care (article 5 (e)).

The Committee recommends that the State party strengthen its programmes aiming at providing universal access to health care, with particular attention to members of vulnerable groups, including non-citizens and persons without any identification documents, and encourages the State party to take further measures to prevent and combat HIV/AIDS, malaria and cholera.

19. While taking note of the "Plan of Action for the Reduction of Absolute Poverty" (PARPA 1 and 2), the Committee remains concerned about the extreme poverty of part of the population of the State party and its impact on the equal enjoyment of economic, social and cultural rights by the most disadvantaged ethnic groups (article 5 (e)).

The Committee recommends that the State party include in its next periodic report information on the socio-economic situation of the most disadvantaged ethnic groups, that it strengthen measures

to reduce poverty and stimulate economic growth, and provide concrete detailed information on the outcome of those measures.

20. While acknowledging the Law 7/2006 on the “Provedor de Justiça” (Ombudsman), and that the election of the “Provedor” is scheduled for the coming session of the Parliament, the Committee is concerned about the resources, independence, competencies and effectiveness of this institution as well as at the lack of information regarding the future National Commission on Human Rights (article 6).

The Committee recommends that the State party provide detailed information on the resources, independence, competencies and results of the activities of the “Provedor de Justiça”. Furthermore, the Committee recommends the State party to establish the future National Commission on Human Rights in line with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134) and provide it with adequate resources. It also recommends that the State party avoid creating conflict in the mandates of both institutions.

21. While taking note of the anti-discrimination provisions of the Tourism Law of 2004 and the Labour Law of 2007, the Committee is concerned with cases of hate speech, as well as with racist and xenophobic acts and attitudes in the State party, in particular in the field of employment, and with the absence of measures to prevent and combat such phenomena (articles 5 (e) and 7).

The Committee recommends that the State party strengthen its existing measures to prevent and combat xenophobia and racial prejudice, and provide information on the measures adopted with regard to promoting tolerance, in particular in the field of employment and access to services, through awareness-raising campaigns, including in the media.

22. The Committee notes the lack of information on complaints of racial discrimination and the absence of court cases regarding racial discrimination in the State party (articles 6 and 7).

The Committee recalls that the absence of cases may be due to the victims’ lack of information about their rights and therefore recommends that the State party ensure that appropriate provisions are included in national legislation regarding effective protection and remedies against violations of the Convention. Furthermore, the Committee recommends that the general public be duly informed of the legal remedies available for victims of racial discrimination. The Committee also recommends that the State party provide information on complaints of racial discrimination in its next periodic report.

23. The Committee is concerned about the lack of information on measures to disseminate information about the Convention, including about training for members

of the judiciary, law enforcement officials, teachers, social workers and other public officials on the provisions of the Convention and their application (article 7).

The Committee recommends that the State party provide information on the human rights programmes in school curricula as well as on the specific training courses for members of the judiciary, teachers, social workers and other public officials on the provisions of the Convention.

24. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider doing so.

25. The Committee also notes that the State party has not withdrawn its reservation to article 22 of the Convention and recommends that it consider doing so.

26. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111, concerning the funding of its meetings by the United Nations regular budget. In this connection, the Committee refers to General Assembly resolution 59/176 of 20 December 2004, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

27. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention, in particular in respect of articles 2 to 7 of the Convention. It further recommends that it include in its next periodic report information on measures taken to implement the Durban Declaration and Programme of Action at the national level.

28. The Committee wishes to encourage the State party to ratify the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

29. The Committee also wishes to encourage the State party to ratify the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on the Rights of Persons with Disabilities.

30. The Committee further wishes to encourage the State party to ratify the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness. Furthermore, it also recommends the State party to withdraw its reservations to the 1951 Convention relating to the Status of Refugees.

31. The Committee requests that the periodic report of the State party and the present concluding observations be widely disseminated in the State party, in the appropriate languages.
32. The Committee recommends that the State party consult with organizations of civil society combating racial discrimination, as well as with the future National Commission on Human Rights, as and when it comes into being, in connection with the preparation of the next periodic report.
33. The Committee also recommends that the State party submit a core document in accordance with the Harmonized Guidelines on Reporting, contained in document HRI/GEN/2/Rev.4.
34. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 13, 20 and 21, pursuant to paragraph 1 of rule 65 of the rules of procedure.
35. The Committee recommends that the State party submit its thirteenth periodic report jointly with its fourteenth periodic reports in a single report on the 18 May 2010, taking into account the guidelines for the CERD-specific document, as adopted at its 71st session, and that it address all points raised in the present concluding observations.
