



ASSEMBLY OF THE REPUBLIC  
*National Group to the SADC-PF*

**NATIONAL REPORT ON THE PROGRESS ON THE ADAPTATION OF THE  
MODEL LAWS TO NATIONAL LEGISLATION AND THE IMPLEMENTATION OF  
RESOLUTIONS ADOPTED DURING THE 53RD PLENARY ASSEMBLY OF THE  
SADC PARLIAMENTARY FORUM**

**INTRODUCTION**

The purpose of this report is to apprise on the level of progress made in adapting model laws to national legislation, and the implementation of resolutions adopted during the 53rd Plenary Assembly of the SADC Parliamentary Forum, which took place from the 2<sup>nd</sup> to 8<sup>th</sup> of July 2023 in the Republic of Tanzania.

This presentation will focus on the following:

**i. Resolutions on Accelerating the Incorporation and Implementation of SADC Model Laws on Child Marriage and on Gender-Based Violence: Good Practices, Challenges and Perspectives**

**1. PROTECTION OF CHILDREN AGAINST PREMATURE MARRIAGES**

In July 2019, the Mozambican Parliament passed the Law to Prevent and Combat Premature Unions, raising hopes that the country is on its way to eradicating child marriages. Under Mozambican law, sexual activity with a minor, defined as anyone under the age of 18, is a crime and punishable by imprisonment and fines.

The country has taken steps to improve the legal environment and adopted strategies to wage a victorious war against child marriages. In its seventh chapter on crimes against sexual freedom, the new Penal Code, approved in 2014, drew attention to the protection of minors from sexual abuse and modern criminal practices, such as pornography. In 2015, the Council of Ministers approved the "National Strategy to Prevent and Combat Child Marriage" for the period from 2016-2019. The Family Law of 2019 upheld the nullity of any promise of marriage made by a minor and any marriage involving a minor.

Based on the SADC Model Law on the Eradication of Child Marriages and Protection of Children in Marriage, the Law on Preventing and Combating Child Marriages, is the country's

specific and robust legal document that promises to strike a decisive blow against premature marriages.

Child Protection is clearly addressed in the Constitution of the Republic of Mozambique which states:

1. "Every child has the right to the protection of the family, society and the State, with a view to their integral development".
2. Children, particularly orphans, the disabled and the abandoned, are protected by the family, society, and the State against all forms of discrimination, ill-treatment, and the abusive exercise of authority in the family and other institutions.
3. A child may not be discriminated against on account of his/her birth or subjected to ill-treatment.
4. It is against the law for children to work at compulsory school age or at any other age.

The Constitution of the Republic of Mozambique also states that "the State has the duty to ensure the protection of the rights of women and children, as stipulated in International Declarations and Conventions".

## **CONSTITUTIONAL AND LEGISLATIVE PROVISIONS ON THE MATTER**

The Family Law on the protection of the child states that, "any person under eighteen years of age is considered to be a child".

With regard to marriage, the law of the family states that "marriage is the voluntary and singular union **between a man and a woman**, for the purpose of forming a family, through full communion of life"; "The will to marry **is strictly personal** in relation to each of the spouses"; and "the will to contract **marriage implies acceptance of all the legal effects of marriage**, without prejudice to the legitimate stipulations of the spouses in a prenuptial agreement".

The same law sets the marriage age in Mozambique at 18 years of age. However, it defines that for "a woman or man over 18 years of age, on an exceptional basis, may contract marriage, when circumstances of recognized public and family interest occur and there is consent of the parents or legal representatives".

### **THE CONSTITUTIONAL AND LEGISLATIVE PROVISIONS (ARE THEY APPROPRIATE AND SUFFICIENT TO PROTECT THE CHILD AGAINST EARLY MARRIAGE?)**

With regard to this issue, we have to inform you that within the framework of the Principle of the Best Interests of the Child, according to which all decisions should be taken with a view to favouring the child, steps have been taken to repeal this provision by harmonizing the age of marriage with the provisions of the African Charter on the Rights and Welfare of the Child and the Convention on the Rights of the Child, ratified through Resolutions No. 20/98 of 26 of May, and No. 19/90 of 23 of October, by the Council of Ministers.

It is also a challenge to adopt legal measures to punish those involved in child marriages.

Having regard to the fact that early marriages are a harmful social practice, which has consequences for the development of children and society due to early pregnancy, which increases the rate of maternal death, school dropout, domestic violence, poverty among the female population, cases of obstetric fistula and HIV infection rates, the changing of attitudes at community level about the definition of child, in the context of the dissemination of Children's Rights, awareness-raising actions have been carried out through lectures, debates, theatre and media programmes.

For example, the Government has initiated a campaign to prevent and combat child marriages with the involvement of institutions, civil society organizations, religious institutions, the media, and other sectors of society within the framework of the Campaign launched by the African Union in 2004.

In short, the constitutional and legislative provisions of the Republic of Mozambique are adequate for the protection of the child against early marriage.

It should be noted that in Mozambique, we have the Ministry of Gender and Social Action which, among other duties, takes care of the issue of financing child protection services and organizations that work solely to protect and safeguard children.

## **I. Regarding the Government's measures for the protection of children**

**We must inform you of the following:**

- Strengthening positive preventive and disciplinary measures to curb violence in schools, especially with regard to bullying, through lectures in schools;
- Creation of transportation conditions for children with disabilities;
- Recast of child protection legislation; formulating policies and laws that eliminate the different obstacles that young women face when looking for work;
- Support of the school reintegration policy for girls and young people seeking to improve educational opportunities and young people who become pregnant while in school;
- Ensuring the strengthening of Comprehensive Sexual Education programmes and Sexual Reproductive Health (SRH) services in schools;
- Ensure that all female children in school have access to free sanitary pads;
- Fostering the entrepreneurship of girls and young people through dedicated institutions and civil society organisations; and
- Coordination and dialogue with different actors, such as civil society organisations (CSOs),

## **II. MODEL LAW ON GENDER-BASED VIOLENCE**

Domestic violence against women, is a public health problem that affects all Mozambican cities. The Law against Domestic Violence in Mozambique was approved in 2009 by the Assembly of the Republic of Mozambique.

In Mozambique, domestic violence is a crime, and it is punishable by Law No. 29/2009. The Law gives the Government an opportunity to ensure the protection of women from violence at home and communities, it imposes sanctions to offenders, and gives the State the obligation to assist the victims.

Domestic violence has an impact on physical and mental health, as well as repercussions on the victim's future life. It is understood as that which occurs at home, in the domestic environment, in a relationship of familiarity, affection or cohabitation. On the other hand, domestic violence can also be perceived as any act of violation of fundamental human rights, committed between

members living in a family environment and can take place between people with blood ties (parents and children).

The most frequent crimes of physical violence in this country are voluntary bodily assaults, such as slapping, kicking, biting, punching, as well as aggravated assaults, such as beatings with bleeding and threats to physical integrity. The main form of sexual violence in the country is rape, with any partner. Psychological violence is the most frequent, since it is considered that, for the occurrence of any type of physical violence, there was at first, a psychological one. Violence perpetrated by men against women occurs mainly in the age group of 25 to 34 years old but, it is generally present in all ages and social strata. Women are, therefore, the main victims of violence in the country.

The reasons for domestic violence are various, and the main perpetrators of violence against women are their intimate partners. This explains why, in most cases, victims of violent crimes do not register their complaints with the courts and do not accept the initiation of legal proceedings against the aggressors, who are the cause of such serious social problem, which has also become a major public health problem.

Domestic violence is a public crime, which means that the criminal procedure is not dependent on the filing of a complaint, formal or informal, by the victim, and it is only necessary to have a complaint or knowledge of the crime, for the Public Prosecutor's Office to promote the process.

Whoever, whether repeatedly or not, inflicts physical or psychological ill-treatment, including corporal punishment, deprivation of liberty and sexual offences: shall be punished by imprisonment of between one to five years, if a more serious penalty is not available under another legal provision.

The law against domestic violence in Mozambique has many achievements, but challenges remain. In addition to giving visibility to a previously hidden problem, the law brought greater awareness to women's rights and made it possible to change the perspective of culturally defined roles and responsibilities for men and women in the domestic sphere. The law drew attention to those aspects previously seen as domestic matters.

"It brought the discussion and also led to a greater awareness, both of men and women - in the sense that it is not legitimate on the part of the aggressor to use violence to solve domestic issues - but also that domestic responsibilities are of men and women, not just women," it explains.

### **III. RESOLUTIONS ON THE SITUATION OF HUNGER AND FOOD INSECURITY IN THE SADC REGION, CHALLENGES GENERATING FOOD INSECURITY, KEY INTERNATIONAL GOALS AND THE AFRICAN AGENDA, INVESTMENTS AND PERFORMANCE OF THE MALABO COMMITMENTS, ENVIRONMENT THAT CAN ATTRACT YOUNG PEOPLE TO INVEST IN AGRICULTURE**

Food insecurity happens when people do not have regular and permanent access to food in sufficient quantity and quality for their survival.

This means that the person in a state of food insecurity goes through uncertainties about when and how much they will eat at their next meal, putting their nutrition, health, and well-being at risk.

Every year, Mozambique registers people in acute food insecurity due to climate shocks (floods and droughts) that affect agricultural production, which is generally the main source of food and income in rural areas.

#### ***What can be done to minimize the impact of climate shocks?***

Make agriculture increasingly resilient to climate shocks through long-term measures: construction of dams, irrigation, protective dikes, development of drought and flood tolerant varieties, among other measures.

Food security and nutrition challenges in Mozambique are multifaceted and, if not addressed appropriately and in a timely manner, pose a major risk to the country's development.

Reducing chronic malnutrition is a key development objective for the government of Mozambique that requires a multi-sectoral



approach, and long-term investments to reverse its unacceptable high levels, which negatively affect human capital development in the country.

The main causes of malnutrition are low incomes and food insecurity, as demonstrated by the large proportion of families with undernourished children suffering from it.

It is estimated that more than half of households in Mozambique, are affected by food insecurity, and about one-third, by chronic food insecurity. About 30% of households are considered poor or are at their limit in terms of diet diversification and meal frequency, a critical measure of nutritional security.

Food and nutrition insecurity remains one of the long-standing challenges in Africa that hinders sustainable development. Some of the main drivers of food insecurity and malnutrition on the continent include conflict, extreme weather events, climate variability, and economic slowdown.

Long-term exposure to the effects of food and nutrition insecurity, impedes the socio-economic and human capital development of African children, because malnutrition remains chronic and a challenge, as Africa has some of the highest cases of malnutrition globally.

To address the current and protracted food and nutrition challenges, the African Union recognizes the imperative need for an appropriate continental architecture, to effectively respond to, and coordinate humanitarian crises on the continent. The architecture should be built on an enabling global environment to ensure its effective implementation, which includes mutually beneficial partnerships to improve ownership, coherence, and appropriate alignment of international support with local, national, and regional priorities.

**Thank you very much for your attention.**