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Summary record of the 3021st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 23 October 2013, at 10 a.m.

Chairperson: Ms. Waterval (Vice-Chairperson)

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Mozambique (continued) (CCPR/C/MOZ/1, CCPR/C/MOZ/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Mozambique took places at the Committee table.*
2. **Ms. Levi** (Mozambique), replying to questions posed at the previous meeting, said that official rape statistics were not disaggregated by type, and the Government could therefore not provide data on conjugal rape specifically. A bill on the protection of older persons was due to be discussed by parliament in 2014. She did not know of any cases in which article 71 of the Criminal Code had been used to punish persons on account of their sexual orientation. Society had changed since that article had been adopted and it was no longer applied. Nor could any person be discriminated against on the grounds of their sexual orientation under article 35 of the Constitution since the underlying principle of that article was that all persons were equal under the law. No decision had been reached yet in the case of LAMBDA, the Mozambican association for the defence of sexual minorities, since many factors needed to be taken into account.
3. Convicted prisoners currently being held in police cells were there either because they had committed new offences that were under investigation or because their prison was being refurbished. By 2014, all convicts would be back in the prisons. Pretrial detention could be prolonged for not more than nine months and only on the orders of a judge. The law stated clearly that all citizens and authorities must respect the law, and the situation in which a police commander had made a wholly inappropriate declaration had been clarified and no more incidents of that kind had occurred. Community policing consisted of groups of citizens who patrolled residential areas to provide increased security. They were usually unarmed, but could make citizen's arrests if they caught offenders in flagrante. There were currently over 3,000 of such groups.
4. The Government worked on a daily basis with NGOs and international organizations and had even signed memorandums of understanding with several of them. She agreed, however, that the Government needed to work more closely with civil society and to notify victims of how it was addressing human rights violations.
5. **Mr. Macassar** (Mozambique) said that there were two institutions responsible for the promotion and protection of human rights institutions in Mozambique: the National Human Rights Commission and the Ombudsman's Office. They had a very broad mandate that covered awareness-raising and education, as well as the handling of complaints. The Commission was completely independent from other State institutions. Its members reflected the social and cultural diversity of Mozambique: three were chosen by parliament, four by civil society, one by the Bar Association and three by the Prime Minister. The latter represented the Ministries of Education, Justice and Health. The members then elected one of their number to act as president. In 2012, which had been its first year of operations, the Commission had been funded by the Ministry of Justice, but since then it was funded from the State budget. The Ministry of Justice still provided technical support because the Commission had yet to appoint a Secretary and set up an administrative secretariat. The Commission reported annually to parliament and to the President of the Republic.
6. **Mr. Kälin** said that good progress had been made in increasing women's political participation, but Mozambique ranked very low according to other indicators of equality. The Committee would appreciate more information on girls' access to secondary and further education and on measures to address the fact that women were reportedly often

paid less for equal work and had more difficulty obtaining credit. Since most women were engaged in farming, the Committee would also like to know if the land laws were being enforced and if women knew their rights and could access land on an equal basis.

7. He asked whether the special brigade to combat trafficking in persons had sufficient resources to cover the whole country, how civil society had been involved in the preparation of the State party's initial report and how the Government planned to disseminate and follow up on the Committee's concluding observations.

8. **Mr. Matadeen** said that women should be made aware of their rights under the recent 2004 Family Act. The Committee had received reports that women in the northern provinces and rural areas in particular tended to be limited to the male-dominated customary courts because they lacked the education, financial resources and mobility required to hire a lawyer and access the formal judicial system. As a result, traditional practices and attitudes that impeded equal enjoyment of rights were being perpetuated. Many women had reportedly been expelled from their homes and abandoned by relatives for being HIV-positive, and some widows had been charged with witchcraft because their husbands had died of AIDS and then deprived of their property. He wished to know what action was being taken to protect women in those situations.

9. The new laws providing for equality in marriage and the sharing of marital assets were seemingly having little impact on the lives of rural women, who were unaware of their rights. Some laws still needed to be brought into line with the principles of equality and non-discrimination. Under inheritance law, for example, widows still had lower priority than the parents of their deceased husbands. According to certain reports, the laws on rape, including marital rape, which was apparently a common problem, were not effectively enforced, and families preferred to settle out of court. Domestic violence was reportedly also widespread, and many women believed it was acceptable for husbands to beat their wives and were therefore reluctant to prosecute abusive husbands. Information on how many cases of rape and domestic violence had been reported and prosecuted would be appreciated.

10. Among the cultural practices that discriminated against women was the one that required a widow to have unprotected sex with a member of her deceased husband's family so as not to lose her inheritance rights. The practice was all the more appalling given that Mozambique had one of the highest HIV/AIDS infection rates in Africa, and the Committee wished to know how prevalent it was and what efforts were being made to eradicate it. The Committee also wished to know what action the Government was taking to end the dowry system, which was common among many ethnic groups and fostered the perception that husbands owned their wives and could therefore ill-treat them with impunity.

11. Although education up to the age of 12 was free and compulsory, 22 per cent of children aged between 5 and 14 in Mozambique were engaged in child labour, one of the highest proportions in the world. Most were working long hours in agriculture and domestic service, where they were exposed to dangers of all kinds. He asked how many employers had been prosecuted under the Child Protection Act of 2008 and what measures were being taken to do away with the worst forms of child labour. NGOs complained that current government programmes to combat child labour focused on raising awareness and the problem of street children, but failed to address the issue of dangerous work. Were those complaints founded?

12. According to the United Nations Children's Fund (UNICEF), child abuse was a growing concern. There had apparently been several cases of girls being abused by their fathers and of high-school girls being coerced into having sex with their teachers. The delegation was invited to confirm those reports. He also asked when the State party would

introduce legislation to protect children against sexual exploitation and trafficking. According to NGOs, the legal definitions of sexual violence against children needed clarifying because they were currently based on the age of the victim and whether the victim was a virgin rather than on the nature of the offence. Would the State party consider revisiting those definitions and also incorporating provisions on sexual violence against boys in the Criminal Code?

13. It could apparently take up to three years to obtain a court hearing for a case involving sexual violence against a child, depending on the judge, which discouraged families from reporting cases. Also, families frequently sought compensation from the perpetrator before reporting the abuse to the police, which hampered evidence collection in the crucial initial 72 hours after an incident. He would like to know how many cases had been reported within that time frame and whether it was true that when a person of influence had been involved, institutional actors had even participated in the negotiation of settlements regardless of the families' wishes.

14. Although the National Council on Child Rights had been set up in 2009, it was the Ministry of Women and Social Action that was responsible for coordinating action for child victims of sexual violence and exploitation, which it reportedly treated as a side issue of violence against women. That resulted in a diluted response to the problem. He invited the delegation to comment on that complaint.

15. **Ms. Majodina** said that, while the State party's written replies provided a clear picture of the representation of women in the central Government (CCPR/C/MOZ/Q/1/Add.2), she would like to know more about the situation at the local level, especially in rural areas where traditional chiefs wielded a great deal of authority. She was concerned that women in rural areas were not sufficiently aware of their rights, especially with regard to land ownership, and she asked whether there were any outreach programmes in that regard and any plans to amend the land laws and laws concerning traditional authorities to bring them into line with article 3 of the Covenant.

16. She wondered to what extent the National Council on Child Rights had been successful in accomplishing its mandate and asked the delegation to comment on reports that the Council did not meet regularly and that there were many obstacles impeding its smooth functioning. The delegation might also wish to clarify the status of the Council in relation to the relevant government ministries. She asked whether it was true that the Ministry for Women and Social Affairs received less than 1 per cent of the national budget, and whether any steps had been taken to strengthen it. She wished to know what results had been achieved under the National Action Plan for Children (2006–2011) and the Plan of Action for Orphan and Vulnerable Children (2005–2010).

17. **Mr. Vardzelashvili** said that the Special Rapporteur on the independence of judges and lawyers had expressed concern in her 2011 report about the fact that the Higher Judicial Magistrate's Council had become paralysed and was no longer functioning. He wished to know whether that was still the case, and whether the Council had ever reviewed cases of corruption or partiality among judges. He also asked whether the Higher Judicial Magistrate's Council and the Superior Council of the Judiciary referred to in the Constitution were one and the same. He requested further information about the process used to determine the budget allocation for judicial offices. He wished to know whether judges were allowed to retain their membership in political parties after their appointment. Noting that the number of judges and prosecutors in the country was insufficient, he asked whether the Government had any plans to increase that number or to open new judicial offices in areas where there currently were none.

18. He wished to know how much had to be paid in court fees in order to open legal proceedings, how those fees were calculated, whether they applied to administrative and

criminal proceedings and whether victims of human rights violations were required to pay them.

19. Although the Government had made significant efforts to establish legal aid centres throughout the country, concern had been expressed about the lack of professionalism among the staff of those centres, some of whom had reportedly requested fees from their clients in violation of the law. He asked what steps the Government had taken to address those issues. He wished to know whether linguistic minorities and persons with hearing impairments were provided with interpretation and relevant assistance in court, and whether a court decision had ever been annulled on the ground that interpretation had not been provided for the accused.

20. He requested further information on the community tribunals, including on how their judges were appointed and what their relationship was with the ordinary courts. The delegation might wish to comment on reports that the punishments handed down by the community tribunals sometimes violated human rights principles.

21. He wished to know whether the Government planned to take any additional measures to further increase the number of birth registrations, for example by extending the period of free registration beyond 120 days after birth. Noting that corporal punishment was reportedly widespread in the State party, he asked whether such punishment was expressly prohibited by law and whether any follow-up had been given to the many cases of corporal punishment registered by the support centres for women and child victims of violence. He also asked whether the awareness campaign on violence against children addressed the issue of corporal punishment.

22. **Mr. Salvioli** said that, while the adoption of the Family Act had improved the legal framework to protect human rights and achieve gender equality, there were concerns regarding its implementation. He asked whether the number of cases of polygamy and early marriage had decreased since the Act had come into effect. He also wished to know how article 30 of the Act, which established an exception to the legal marriage age in the event of circumstances of recognized public interest, was interpreted in the State party.

23. **Mr. Vardzelashvili** asked the delegation to comment on reports that an editor of an online newspaper had been charged with defamation and sentenced to 16 months' imprisonment and a fine of US\$ 5,000 for criticizing a high-level government official. Updated information on the status of the legislation being drafted to improve access to information would be welcome. He asked the delegation to respond to allegations that protesters, including members of the Mozambique War Veterans Forum and medical students from the Eduardo Mondlane University, had been denied the right to assemble peacefully and that excessive force had been used to disperse them. He requested further information on the Superior Council of Social Communication Media, including on cases where it had imposed disciplinary measures on journalists. The delegation should comment on reports that the Associação LAMBDA (an association to promote and protect the rights of sexual minorities) had not been allowed to register as an NGO.

The meeting was suspended at 11.30 a.m. and resumed at 11.55 a.m.

24. **Ms. Levi** (Mozambique) pointed out that many of the questions asked referred to isolated situations rather than widespread problems. Not all traditional practices were bad, but those that prevented women from obtaining equal rights with men must be combated. Although the Government used all the tools at its disposal to wage that fight, it would take time to bring about the necessary change in people's attitudes. While in the past many girls had dropped out of school, the problem had become more common among boys, who left school to look for work in neighbouring countries. Girls represented almost 48 per cent of children enrolled in school. Pregnant girls increasingly stayed in school during their pregnancy.

25. The Family Act had been amended to ensure that married women no longer needed their husband's permission to obtain a bank loan. The main obstacle preventing them from obtaining credit was a lack of collateral. The land laws of Mozambique were some of the best in the world, and the Government held training sessions on those laws for civil servants who dealt with land issues at the grassroots level, so as to ensure that women had access to land. With regard to the issue of trafficking, her delegation would provide further information in writing.

26. **Mr. Macassar** (Mozambique) said that, while normally all government and civil society stakeholders were involved in the preparation of reports to the international human rights bodies, the usual broad and participatory procedure had not been followed for the initial report concerned because the State party had been forced to meet a very tight submission deadline so as to avoid being examined in the absence of a report. Nevertheless, the Government had discussed the draft report with civil society before submitting it to the Committee. The Government had a very positive relationship with civil society and had signed memorandums of understanding with civil society organizations on the prison system and other issues. The Government was currently working to disseminate information about the recommendations made during the universal periodic review and would follow a similar procedure for the Committee's concluding observations.

27. **Ms. Levi** (Mozambique) said that certain traditional practices that discriminated against women and contributed to violence against them persisted. The Government was responding by establishing legislation, institutions and training to combat harmful traditional practices, including the 2009 Act to combat violence and meetings at which women and children who had suffered violence could report their experiences. Civil society made a significant contribution in that area and activities to combat harmful traditional practices were also carried out in hospitals and police stations.

28. Many Mozambicans remained unaware of the law and of their rights, despite efforts made by the Government, and crimes often went unreported. Even if a woman was aware of the law, she might decide not to report abuse committed by her husband, for fear that he would be placed in detention and the family left without its breadwinner. The answer was to increase women's economic power and thereby their independence.

29. There were still cases where women continued to be expelled from their homes because they were HIV-positive. In recent years information and treatment had become more available and the situation was improving. Those living in urban settings were more privileged than those living in rural areas, particularly women, and it was recognized that more action was needed to disseminate information among women in rural areas.

30. The inheritance law did not discriminate so much against women as against the surviving spouse, since the order of inheritance placed children, parents and relatives before the surviving spouse. That legislation was being revised, however. The Criminal Code differentiated between three different situations in which the rape of women or girls occurred: when the victim was a virgin; when the victim was under 18 years of age; and when the victim was over 18 years. All three situations were considered rape. Her delegation did not view the increase in the number of cases of rape coming before the courts as indicating an increase in the number of rapes committed, particularly against children, but rather as an indication that recourse to the authorities in cases of rape had increased. There were still cases in which the family of the victim would reach a settlement with the perpetrator, despite government efforts to discourage the practice. Delays in the processing of rape cases were no different from the delays that affected the legal system in general. The Criminal Code also provided for the punishment of the rape of men or boys, although it was not considered rape if the perpetrator was female, and the punishments provided for were less severe when the victim was male. The Criminal Code was being revised to ensure equal treatment of men and women in that regard.

31. The seven million programme was a Government programme that allocated funds of 7 million meticaïls for local projects that were selected by district councils. The money was typically spent assisting small businesses and women made up a significant proportion of both district council members and beneficiaries of the programme. Further action on women's involvement in decision-making depended on an improvement in women's literacy rates. Traditional laws were not static; they developed in a dynamic manner and were subject to outside influence.

32. There were three High Councils of Magistrates, one each for prosecutors, judges and administrative judges. The High Council of Magistrates for judges was led by the Chief Justice and had so far functioned without interruption. The Justices at the three High Courts had been nominated in 2011 and although the courts were in operation, they faced many challenges, particularly a lack of resources. The High Council of Magistrates took a severe view of any case of corruption within the judiciary. If a case of corruption was proven before the Council, the judge involved was dismissed. The judiciary's budget transited through the Ministry of Justice but was not managed by it. Several meetings were held with a court to determine the budget that the Ministry of Justice passed on to the Ministry of Finance, which then sent it on for parliamentary approval as part of the State budget. The Ministry of Justice did not interfere in judgements, which were the sole responsibility of the judiciary.

33. In order to become a judge, a person was required to hold a law degree and complete a year's training. The names of those who successfully completed the training were forwarded to the High Councils of Magistrates for consideration. Candidates were also required to meet the minimum age requirement of 25 years, to hold a clean criminal record and not to have been expelled from the country. The political affiliation of potential judges was not considered at any point and on appointment all a judge's political activities had to be suspended by law, although judges were allowed to retain a party membership. There were approximately 600 judges, which was hardly adequate for a population of 22 million. Each year 50 new judges were trained, a number that could not be raised for reasons of cost.

34. The rules relating to judicial taxes or fees were not arbitrary and were set out in the judicial tax code book, which was too complicated for laypersons to understand. The courts, however, were able to advise individuals of how much they could expect to pay according to the code. Persons who could not pay the taxes could obtain relief on presentation to the court of a justification.

35. A strategy to recruit more staff who held law degrees was intended to improve the service provided by legal aid centres. The service was usually free since it was designed for persons who could not afford the services of a lawyer, but in some cases, if the client was wealthy for example, a fee might be charged. Detainees were supposed to receive information on their human rights but many did not. Posters had been introduced in some police stations to inform detainees of their rights.

36. The State did not hold a monopoly with respect to justice, in accordance with article 4 of the Constitution, and there were many other actors involved, including the judicial courts, the community courts, NGOs, and churches and mosques. If a complainant was not satisfied with the outcome of a case that had been dealt with by the community courts, he or she was entitled to take the matter to the judicial courts, where it would be treated as a new case. The period within which births could be registered was inadequate and an amendment had been submitted to parliament to extend it.

37. Although it was difficult to claim that a forced marriage had taken place, since proof was required, early marriages continued to take place, particularly in rural areas, and could be considered forced marriage because minors were unable to consent to marriage. Most

girls who married before the age of 18 had entered into traditional or Muslim marriages, as permitted under traditional or religious law. Polygamy was also allowed under certain traditional or religious laws. There were no cases of early civil marriages.

38. Defamation was considered an offence under the Criminal Code. Journalists were free to write what they wished, so long as it was the truth. If they wrote something untruthful, the person affected could take the case to court, where both parties were on an equal footing as citizens. Regarding the case of the editor of an online newspaper who had been convicted of defamation, an appeal was under way and the Ministry of Justice could make no comment on ongoing proceedings. The bill on access to information was currently being considered by parliament.

The meeting rose at 1 p.m.