

CASE STUDY: MOZAMBIQUE

Determinants of Anti-Trafficking Efforts



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This report is published as part of the 'Determinants of Anti-Trafficking Efforts' Project. The project assesses the links and sequencing of specific factors that have yielded improved political will and capacity in national governments to address trafficking in persons and which have led to sustained and comprehensive anti-trafficking efforts. Through a multi-pronged approach, this project will conduct a review/meta-analysis of the current research and contribute a new data-set through expert interviews, a first of its kind global survey and a series of 14 case studies.

More information including the project outputs are available at:

<https://www.biicl.org/projects/determinants-of-anti-trafficking-efforts>

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Gift of the United States Government



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Executive Summary

The current Constitution of the Republic of Mozambique protects enumerated human rights and prohibits certain types of exploitation. Article 40 on the Right to Life provides that every citizen has the right to life and physical and moral integrity and to not be subject to torture or cruel and inhuman treatment. Article 47 on the Rights of Children provides that children have the right to be protected and receive the care that is necessary for their welfare. Article 84 prohibits compulsory and forced labour.

The Anti-Trafficking Act in Mozambique establishes the legal regime applicable for the prevention and against human trafficking particularly women and children. It was approved by the act nr. 6 of 2008. This law was a result of continuous effort and pressure by local Civil Society Organizations (CSOs), with the support of their international counterparts and foreign governments, to make the government aware of human trafficking. The law aims to classify and punish human trafficking and all related activities whether internal or cross-borders and to protect victims, whistleblowers and witnesses.

Mozambique is a signatory since 2002 of the United Nations Additional Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children (resolution nr.87/2002 of 11 December). In terms of specific crimes, Act nr. 6/2008 foresees human trafficking, pornography and sexual abuse, adoption for illegal purposes, transportation and kidnapping, rental of facilities for human trafficking purposes, advertising and promotion of human trafficking, destruction of victims' travel documents and financial profiting. The anti-human trafficking act is now under revision, seeking to aggravate circumstances of the human traffickers, guarantee of compensation to the victims, guarantee of the repatriation of children victims of human trafficking and beyond, and also the creation of a fund for the victims.

The Mozambican government is however facing "countless adversities" that negatively impact on its anti-human trafficking efforts, including economic crisis, impact of COVID-19, climate change, and military attacks by the Renamo Junta in the centre and Islamic terrorism in the northern province of Cabo Delgado. As such, the Government is unable to allocate resources under the state annual budget to feed its anti-human trafficking efforts.

International donors cut direct support to the Mozambique's state budget in 2016 after discovery of '[hidden debts](#)' incurred by the Government between 2013 and 2014. The decision led to the retraction of foreign aid, currency depreciation, food price spikes, and a reduction in household consumption. According to the Ministry of Economy and Finance (MEF), the number of Mozambicans living in extreme poverty [increased from 2015 to 2019 by 55 to 60%](#), which corresponds to 16.7 to 18.2 million people.

Introduction and Context

Mozambique is located in South Eastern Africa, with a total 799,380 sq km, 4,783 km of land shares boundaries with six countries (Malawi, South Africa, Eswatini, Tanzania, Zambia, Zimbabwe), and a coastline of 2,470 km.

Mozambique has a population of 30 million inhabitants. The most populated areas in the south of the country are Maputo and Inhambane, in the centre are Beira and Chimoio and, finally, in the north are Nampula, Nacala and Pemba. Half of the population remain below the poverty line.

Mozambique remains one of the most disaster-prone countries in the world, with drought and pests affecting staple crops in much of the country while the central part has been affected by cyclones every year leading to agricultural losses, destruction of infrastructure, assets and livelihoods as well as internal displacement.

The situation is particularly dire in the northern province of Cabo Delgado which has seen Islamic terrorism wreak murderous havoc with people in many areas forced to flee from their homes and livelihoods.

According to the Human Development Index (2018), Mozambique is 180th out of 189 countries and territories. Large geographic inequities in poverty and human development persist, with almost all indicators worse in the rural areas and in the North and Centre of the country, compared with the urban areas and the South.

Over the past decade, Mozambique has become an attractive country for immigrants from African countries as well as for refugees from the Great Lakes Region. Especially artisanal mining in the three Northern provinces, Cabo Delgado, Nampula and Niassa, has increasingly attracted migrant workers.

Prevention, repression and fighting trafficking in Mozambique is covered by the Anti-Trafficking Act (Act nr. 6/2008), approved by AR (Assembleia da República), the Mozambican Parliament in 2008. The act classifies and punishes trafficking in human beings and all related activities, whether internal or cross-borders, and seeks to protect victims, whistleblowers and witnesses.

In specific terms, act nr. 6/2008 deals with pornography and sexual abuse, adoption for illegal purposes, transportation and kidnapping, rental of facilities for human trafficking purposes, advertising and promotion of human trafficking, destruction of victims' travel documents and financial profiting. The act expressly refers to and protects against sexual exploitation as a form of human trafficking.

The passing of the act was a result of advocacy coordinated by Mozambican Civil Society Organizations (CSOs) with the support of their international counterparts and foreign governments, to make the government aware of human trafficking.

Mozambique signed in 2002 the United Nations Additional Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children (resolution n°. 87/2002 of 11 December). According to an interviewee, the Protocol *“was ratified, domesticated but those laws are not enough to fight this type of crime which is trading of persons but it gives the possibility the fulfilment of the three elements namely prevention, repression and accommodation assistance of the victims.”*¹

The penal code in Mozambique was amended by act 17/20 of December 23, 2020, which revises articles 214 and 215 of the penal code approved by act 24 of 2019. The revised act criminalizes human trafficking.

Over recent years, a strong international normative framework has been shaped to ensure protection against human trafficking. Mozambique has ratified these conventions which formed basis in shaping anti-human trafficking efforts in the country. At its centre are the Convention on the Rights of the Child (CRC) and its Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) and the International Labour Organization (ILO) Convention nr. 182 on the prohibition and immediate action for the elimination of the worst forms of child labour (1999). Moreover, the Convention against Transnational Organised Crime (CTOC) (2000) and its Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children (2000) (the Palermo Protocol) played a decisive complementary role.

Positive developments

Amongst the positive developments that have been identified over this period – the consultant singled out the establishment of the National Reference Group (MNR), and the introduction of anti-human trafficking training for frontline workers and tackling border patrol officers **corruption**.

To prevent human trafficking in the context of natural disasters and violent extremism, the government focused on providing trainings and solidifying standard operating procedures for (SOPs) for reference groups. These included raising awareness in IDP camps.

In 2020 the operational procedures of the reference groups were updated for a better response and fight against human trafficking, being a guiding tool of the reference groups interventions.

¹ Carmina Durão, OIM.

Also can mentioned that the first lady of the Republic has added her voice to anti-human trafficking mainstreamed in the national campaign against child abuse, “Campanha contra o Abuso de Menores” developed in the framework of the program on women and children “Programa de Atendimento à Mulher e à Criança”².

In policy formulation Mozambique follows accepted international standards and parameters and in the past few years, high-profile campaigns against human trafficking, in particular trafficking in children, have been held in Mozambique.

Methodology

The reporting period of this study covers the period from 2010 to 2021. The Consultant has followed the methodology as set out by BIICL. The Consultant conducted desk-based research using academic articles, NGO reports, media reports, and online sources. The Consultant was not able to source *travaux préparatoires*, case law, or parliamentary debates on counter human trafficking efforts. For this study, 14 interviews were held with stakeholders from State and non-State actors. Two focus groups were conveyed separately, bringing together respectively 8 non-State actors and 11 State actors.

Limitations

The consultant had serious limitations to interview senior officer in relevant ministries dealing with anti-human trafficking as most of them needed a mandate from their superiors to speak. Written requests were submitted but still it took more that 30 days to have an answer. Some didn't even bother to reply even considering that they had the consultant's contacts details.

Difficulties were also encountered in accessing updated data on the country's anti-human trafficking efforts. COVID-19 restrictions were widely used to justify the delays.

The Consultant was not able to source *travaux préparatoires*, case law, or parliamentary debates on counter human trafficking efforts and as such this research will not reflect the global issues related to the determinants of anti-trafficking in Mozambique.

² COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries – Malawi, Mozambique, South Africa and Zambia.

Determinants of anti-trafficking efforts

In this section we will look at what are the overall determinants of anti-human trafficking act and policy in Mozambique³ and how they were identified. We will look at particularities of determinants according to the type of response, form of exploitation, victim profile, and perpetrator profile, type of human trafficking and stage of response. The literature review has revealed gaps in the identification of determinants of anti-human trafficking efforts in the context of Mozambique. The assessment therefore relies heavily on the TIP Reports, as well as on interviews and focus group discussions.

In general terms, the **international legal framework** is considered as very relevant by most of the interviewed as it gives Mozambique the guidelines for its domestication. **CSOs** have done a lot to counter the lethargy or apathy in some government institutions.⁴

According to a representative of a faith-based organization interviewed⁵ for this study, people's denunciation including **investigative journalism** reports gave substance to the broad anti-human trafficking movement in Mozambique.⁶

Participants in FDGs and individual interviewees emphasized that by its nature, human trafficking is difficult to measure because the human traffickers' methods and means are complex, covert and frequently changing.

Particulars of determinants by type of response

Prosecution

A large gap exists between the observance of human trafficking in the field and the conviction rate of human traffickers as such in some cases prosecutors may have insufficient evidence to pursue convictions. In some cases, law enforcement officials have said that they have insufficient resources or an insufficient mandate to pursue human trafficking cases.⁷

According to the Deputy PGR, the mandate to have an anti-human trafficking act was determined by the fact that Mozambique has ratified the United Nations Convention against

³ The Human Trafficking Protocol defines human trafficking as an act of recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability, giving or receiving payments or benefits for the purpose of exploitation through achieving the consent of a person having control over another person.

⁴ Carlos Mondlane, Chairperson of the Association of Mozambican Judges.

⁵ Marinês Biasibetti, CEMIRDE.

⁶ Father Francisco Chimoio, Archbishop of Maputo.

⁷ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries – Malawi, Mozambique, South Africa and Zambia.

Transnational Organized Crime and its two additional Protocols. In order to comply with the Convention, Mozambique was called upon to adopt a domestic legislative framework that was in line with accepted international standards and parameters.

Since the Anti-Human Trafficking Act (act nr. 6/2008) was enacted, Mozambique has been on the US TIP watch list three times, in 2010, 2016 and 2017. Although the Report describes the penalties prescribed as “sufficiently stringent”, there is a gap in its implementation. One common concern that the Reports flagged was that the Mozambican government needed to increase efforts to prosecute and convict human traffickers, in adherence with the 2008 Anti-Human Trafficking Act. More specifically, the 2010 TIP Report identified that efforts to prosecute offenders were decelerated.

Even though in the previous year the government allocated budget to support act enforcement, there was no funding allocated in 2010. Budgeting issues, combined with the absence of regulations for implementing the domestic anti-human trafficking act, created a climate of minimal police intervention in terms of arrests and investigations carried out in that year. Among the cases reported, accusations were made about police corruption⁸ and involvement in human trafficking networks, with at least one officer being identified as part of a known-human trafficker’s payroll and many accused of accepting bribes by human traffickers. Nonetheless, in that year, no officials were investigated for their complicity in human trafficking crimes.

In response to the 2010 TIP Report, Mozambique made some efforts to counter human trafficking the following year, in terms of prosecutions. It is seen that as per the recommendations of the previous report, there are more investigations and arrests were made, as well as judicial trainings provided. Compared to the previous report, cases of government officials facilitating human trafficking were reported and further investigated. This change can constitute evidence of the TIP report having a positive influence on prosecution efforts in Mozambique.

Nonetheless, several years later, the TIP report placed Mozambique in the watch list once again for two consecutive years, in 2016 and 2017, as there were concerns that the government decreased its anti- human trafficking law enforcement efforts.

Even though the government continued to compile data on law-enforcement, no data were provided on the specifics of cases. Further, although the investigations on suspected human trafficking increased three times compared to the previous year, prosecutions and convictions decreased. Moreover, the 2017 report also highlights a complete absence of

⁸ Mozambique adopted the Anti-Corruption Act (Lei No. 6/2004, June 17), which applies to directors, functionaries and employees of the national government, local authorities, public enterprises and private enterprises that perform state functions or are implementing public contracts (Art 2).

investigations, prosecutions and convictions on government officials complicit in human trafficking offenses.

*It's very important to note that in the last 3-4 years TIP of the US State Department Report talks about the work that we are doing in Mozambique what is a way to measure how important our work is. In most cases what is written there is about the work our inter institutional teams are doing.*⁹

Moreover, the 2019 TIP report suggests that the initial adoption of the Palermo Protocol must be followed through with 'dedication, focus, and resources'.¹⁰ In the context of prosecution policies, for example, the UNODC Global Report on Human Trafficking (2019) indicates that it takes time and dedicated resources for a national criminal justice system to acquire sufficient expertise to detect investigate and successfully prosecute and such allocation of resources requires political backing.¹¹

To date, there are still concerns about corruption among government employees and law enforcement officials, as there are no reports of any investigations, prosecutions, or convictions. Similarly, to the previous years, police and immigration officials have been allegedly accepting bribes. This demonstrates that, in spite of pressure exercised through the TIP Report, there has been little influence on government efforts to tackle corruption in anti-human trafficking enforcement.

In some cases prosecutors may have insufficient evidence to pursue convictions. On their side law enforcement officials have said that they have insufficient resources or an insufficient mandate to pursue human trafficking cases.¹²

Interviewed for this research, the Spokesperson of the Ombudsman's Office said that the fact that the country has already incorporated the instruments of the international legal framework is of extreme importance to fight this crime.

*Decisions taken by the courts, both in Mozambique and in other countries, are a positive way of influencing this case of combating human trafficking, as it showed that it is possible to bring human traffickers to justice.*¹³

The Spokesperson of the Ombudsman's Office, said that this means that Mozambique recognized its weaknesses, but on the other hand, can reinforce measures to fight human trafficking.

⁹ Amabélia Chuquela, Deputy Attorney General.

¹⁰ United States Department of State, '2019 Trafficking in Persons Report' (2019) <<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>> accessed 8 April 2020.

¹¹ United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons 2016* (United Nations 2016) 12.

¹² Carlos Mondlane, Chairperson of the Association of Mozambican Judges.

¹³ Spokesperson of the Ombudsman's Office.

According to the Chairperson of the Association of the Mozambican Judges (AMJ) a large gap exists between the observance of human trafficking in the field and the conviction rate of human traffickers and as such, in some cases prosecutors may have insufficient evidence to pursue convictions. There are cases of law enforcement officials quoted as saying that they have insufficient resources or an insufficient mandate to pursue human trafficking cases.

To tackle this, in 2020 the Mozambican government conducted a number of trainings, in collaboration with UNODC. These included trainings on the legal framework of human trafficking to judges and investigators from the National Service for Criminal Investigation (SERNIC).

Protection

Protection also includes determined criminal law responses in terms of policing, investigation, prosecution and accountability of human traffickers and human trafficking networks and the 2010 TIP Report identified **lack of funding** and resources, as well as **lack of political will**, as integral factors of the minimal progress on victim protection.

Victim assistance funding was very restrictive, while no code of procedure was provided for victim identification, both of which pushed towards an over-reliance on CSOs assistance for shelter, food, and rehabilitation. The absence of a formal victim identification code continues today, eleven years after this report.

In concrete terms concerning protection, in recent years the police established the Office for Victims of Domestic Violence, which provides support to children and women who have been abused and exploited. The unit may refer children to a hospital for care, return them to their families, or when necessary refer them to the Ministry of Gender, Children and Social Action (MGCAS) which may place them in orphanages. The unit has officers in nearly 60 police stations around Mozambique.¹⁴ As reported by NGOs these unit officers have been very helpful, although they assert that the unit needs considerably more support. Moreover, neither the government nor the unit has safe houses for victims of human trafficking. The unit separates the victims from the offenders and makes child victims available to lawyers, which may interview and defend them. However, it rarely or never happens that a child gives testimony against a human trafficker or a sexual offender, and thus it appears that the legal system has not developed any process, rules or procedures to facilitate and protect the children in providing testimony.¹⁵

¹⁴ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

¹⁵ Fernanda Cardoso, Rede da Criança (Children Network).

According to the 2021 TIP Report, the number of human trafficking victims was likely significantly higher than the number represented by criminal cases. Although the MGCAS¹⁶ provided short-term shelter, medical and psychological care, family reunification, and legal assistance to human trafficking victims, no long-term shelter was provided.

On the other hand, in 2020 the operational procedures of the reference groups were updated for a better response and fight against human trafficking, being a guiding tool of the reference groups interventions.

Although a draft national MNR continued to be informally distributed to officials to identify and refer victims, the government did not finalize and fully implement it for the fourth consecutive year.¹⁷

Interviewees observed that the lack of a formal MNR hampered community-level officials' efforts to identify victims, and many potential human trafficking cases went unidentified during the reporting period.

The government did not report progress on finalizing implementing regulations for human trafficking victims and witness protection, hindering the government's provision of protection services for human trafficking. As explained in the partnerships section, the government has been relying heavily on **partnerships** with CSOs to carry out victim identification.

Facts behind the setting up of an anti human trafficking office under the PGR had to do with the need of inter-institutional coordination of anti-human trafficking efforts and collecting of data so that cases can be exposed and taken to courts.

With the **increase in reports of attacks against persons with albinism**, MNR promptly incorporated the issue of kidnapping and trafficking of body parts of persons with albinism in their operations.¹⁸

Reference groups were formed a few years ago at National, Provincial and District level with the mandate to strengthen the strategy of prevention, suppression and assistance, including the reintegration of victims and respond rapidly against the crime of TiP and all forms of violence' primarily against children. Membership includes government entities, traditional authorities and members of civil society. Their method of work includes rapid information-sharing across their networks, alert systems and coordinated action.

Furthermore, reference groups make frequent use of media, particularly community radio, as a means of spreading useful information to the country's mostly rural population. *The*

¹⁶ Inês Bobotela, MGCAS.

¹⁷ Carla Mendonça, UNICEF.

¹⁸ Given the multifaceted nature of human trafficking and its solutions, responsibilities extend to the work of multiple government ministries and NGOs.

media publicize the subject and convey messages on how people can protect themselves from human trafficking.¹⁹

Media (investigative journalism) was often referred to during individual interviews and FGs as playing a crucial role in anti-human trafficking efforts and influencing decisions taken by the courts in Mozambique. Representatives of international organizations working on children's rights interviewed for this study added that the media's involvement in the fight against human trafficking has been an asset to the entire apparatus of intervention and response to human trafficking cases.²⁰

According to the Chairperson of the Association of Mozambican Judges (AMJ) PGR created an anti-human trafficking office and appointed a deputy attorney general to head it²¹ to protect and support trafficked persons.

*This decision made by an institution of the justice administration, transfigured itself as an element of great positivity, because from then on, there is now a face and a dedicated institution to combat human trafficking, and the reason why people denounce and know that cases will be forwarded and the PGR provides mechanisms for easier access.*²²

Partnership

Another determinant of anti-human trafficking efforts is related to the role of **civil society organizations**, which have been growing in recent years and allows the government and other state institutions to develop actions with greater impact but these actions are criticized because according to our sources are too heavily donor driven.

The Mozambican government has cultivated a relationship of **over-reliance on CSOs** and this is regarded as a negative aspect by some interviewees because the Mozambican Government has the primary responsibility in combating the practice of human trafficking and as such it must take the lead.

As mentioned before, the government relies on other organizations for victim identifications, assistance, and long-term shelter.

I think it is essential that this effort is further expanded, with greater involvement of different actors, some of whom are not in a position to give a full response. For example, in welcoming victims it is necessary to understand and see who provides this shelter and it is also necessary that the existing mechanisms of reference for the

¹⁹ Carla Mendonça, UNICEF.

²⁰ Paula Ermelinda Monjane, SANTAC.

²¹ Its inter institutional representing the main governmental bodies and coordinated by the Deputy Attorney General.

²² Carlos Mondlane, Chairperson of the Association of Mozambican Judges.

*health area are properly organized because the victim of human trafficking needs specialized and specific support due to the different aspects and traumas suffered when exposed to this situation.*²³

The involvement of various governmental ministries in the formulation and implementation of policies against trafficking in children and women requires effective coordination arrangements, both to achieve an integrated national policy approach and effective mobilization of resources, and to facilitate effective international cooperation.

The spokesperson of the network of faith-based organizations working with refugees highlighted two elements which are overall determinants of anti-human trafficking efforts:

- First, the anti-human trafficking **awareness campaigns** and the dissemination in the society of existing recruitment methods with the involvement of CSOs;
- Second, the creation of the **specialized body** under the coordination of the PGR and SERNIC which allows broad sharing of national information and data to provide protection. The decision was taken after a significant rise of human trafficking in Mozambique and pressure exercised by South Africa for better monitoring on the borders.

The creation of **specialized anti-human trafficking bodies** is considered a very important aspect, as through them it is possible to have **inter-sectoral collaboration** and rapid response to cases of human trafficking.

A very important partnership pushing for government efforts is through a memorandum of understanding for cross-border cooperation on human trafficking cases with South Africa, Eswatini, and Zambia.²⁴ The fact that PGR participated in many meetings in Southern Africa Development Community (SADC) region on human trafficking put pressure on Mozambique to start talking openly about the issue and implemented many activities to raise awareness on the issue amongst Mozambican citizens.²⁵

Partners who seat as observers in MNR fund annual trainings provided to provincial reference groups and border patrol officers in Maputo and Gaza Provinces.²⁶ These trainings were focused on the border with South Africa. Notably, in 2016 Mozambican and South African authorities cooperated on one human trafficking case involving child victims.

²³ Fernanda Cardoso, Rede da Criança (Children Network).

²⁴ Amabélia Chuquela, Deputy Attorney General.

²⁵ Carla Mendonça, UNICEF.

²⁶ Carla Mendonça, UNICEF.

To close this chapter it is necessary to mention that potential engagement of the media should not be underestimated, though official anti-human trafficking campaigns tend to overlook their partnership possibilities.²⁷

In fact media engagement should be encouraged not to address human trafficking on a merely sporadic basis, related to the latest horrific news headlines. Rather, media attention may have a greater and lasting impact on public opinion if it is reflective and sustained.²⁸

Prevention

In Mozambique anti-human trafficking is mainstreamed in the national campaign against child abuse, “Campanha contra o Abuso de Menores” developed in the framework of the program on women and children “Programa de Atendimento à Mulher e à Criança”²⁹.

In very recent years high-profile public campaigns against human trafficking, in particular trafficking in children, were promoted in Mozambique headed by the former President Joaquim Chissano, the late Archbishop Desmond Tutu and UNICEF goodwill ambassador Graça Machel.³⁰

It was during that time The Association for Defence of Child Rights (ADDC) was formed as the umbrella organisation for the National Campaign against Sexual Abuse and Child Trafficking, which includes a substantial number of NGOs.³¹ The Anti-Child Trafficking Forum was formed as part of this effort.

More recently the First Lady of the Republic of Mozambique has also joined her voice against child abuse and early marriages what served as a refresher of the campaigns against human trafficking.

The Spokesperson of the Ombudsman’s Office interviewed for the research argued that it is the responsibility of PGR to coordinate actions to prevent and combat human trafficking, and we feel that it is its concern to bring the matter to the public by organizing campaigns through the MNR.

²⁷ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

²⁸ UNICEF Innocenti Research Centre, 2002, 15.

²⁹ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

³⁰ TRAFFICKING IN HUMAN BEINGS, ESPECIALLY WOMEN AND CHILDREN, IN AFRICA, UNICEF Innocenti Research Centre, September 2003.

³¹ Organisations addressing trafficking in children have included Terre des Hommes (a German NGO that has funded many of the activities), the League for Child Rights (LDC), Save the Children Norway, DFID, UNICEF, Save the Children Alliance, the Children’s Network (Rede de Criança), the Council of Christian Churches, the Women’s Forum (Fórum Mulher) and many others.

I believe that we still do not have all the necessary instruments that could facilitate it in some way, such as a national plan for the prevention, repression and combat of human trafficking.³²

In what refers to prevention there are good practices worth mentioning in this research like the anti-human trafficking awareness campaigns carried out in Mozambique by different actors.³³

In the 2021 TIP Report, the Mozambican government was found to have maintained overall efforts to prevent human trafficking. It also recorded a slight increase in human trafficking awareness-raising addressed to the vulnerable populations.

Due to the COVID-19 pandemic restrictions, only 2,700 public awareness campaigns were conducted, compared to the 5,000 in the previous year. Nonetheless, other efforts included distribution of text messages, raising awareness on human trafficking. School programmes were delivered for preventing online recruitment of children.

Training and tackling border patrol officers **corruption** has been at the epicentre of efforts. For instance, to prevent human trafficking in the context of natural disasters and violent extremism, the government focused on providing trainings and solidifying standard operating procedures for (SOPs) for reference groups. These included raising awareness in IDP camps.

A scholar interviewed for this research said that **academia** is also fundamental, and people must, from the beginning of their training, have a contact with the issue of human trafficking.

This will decrease the investment made in the ongoing technical training of public officers who are in the first line of response to human trafficking because people will already be prepared from their initial training and it will not be necessary to undergo continuous training on the job, but rather invest in refresher classes or seminars on some developments.³⁴

According to our source more spaces must be created to build society's awareness on effects of human trafficking and its consequences. There is also a need for more targeted actions, but also periodic work in the districts with community leaders to raise their awareness on human trafficking as a crime.

Related to the latter and to close this chapter we must state that during individual interviews and FDG participants argued that there is little dissemination of issues related to human trafficking in Mozambique mostly in the rural areas.³⁵

³² Spokesperson of the Ombudsman's Office.

³³ Marinês Biasibetti, CEMIRDE.

³⁴ Calton Cadeado, Lecturer University Joaquim Chissano.

³⁵ This must include the framework of anti-trafficking policies and legislation.

Particulars of determinant by form of exploitation

Trafficking for the purpose of sexual exploitation

The Anti-Human Trafficking Act (act nr. 6/2008) expressly refers to and protects against sexual exploitation as a form of human trafficking. Article 227 (1) of the Penal Code punishes the exercise of prostitution by a third person with prison sentences from one to two years and a fine. This did not include specific legal provisions or aggravating circumstances with respect to the sexual exploitation of children. However, Mozambique's criminal act was revised to include sexual exploitation of children, upon the new Penal Code's entry into force, act nr. 35/2014.

In Mozambique, anti-human trafficking efforts are stronger when they involve **sexual exploitation** – that in most cases affects vulnerable children. Cases of this nature are often investigated and reported in the **media** bringing therefore public attention and condemnation what inevitably forces the government to position itself and take measures. Due to numerous reports of sexual exploitation in children, most CSOs working on anti-human trafficking were established with **resources provided by partners/donors**.

Deep investigative journalism **media** reports about girls trafficked to Republic of South Africa, Angola, Italy, and Portugal are said to have put pressure on the Mozambican government to adopt anti-human trafficking legislation – mainly for sexual exploitation.

Reports have been made that children are being coerced into “sex tourism” services, as exposed by the local **media**. With a significant rise in tourist visitors in 2019, children were increasingly vulnerable to exploitation.³⁶

However, like mentioned in the partnership chapter of this research governmental anti-human trafficking efforts in Mozambique are too heavily donor driven with each player pushing for a particular agenda.

As an example, UNICEF focus its activities on matters concerning sexual exploitation, labour exploitation as most of the cases reported in Mozambique involve minors. UNICEF supported deep investigative journalism by Mozambican media and now it is supporting investigations of any link possible between the Islamic insurgency in Cabo Delgado and human trafficking.

³⁶ Rede da Criança, ECPAT International, “Sexual Exploitation of Children in Mozambique”, UPR submission (2020) <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=8492&file=EnglishTranslation>.

Since before the COVID-19 pandemic, the Mozambican Penal Code punishes people who use or lure children for pornographic purposes. However, no relevant data has been collected to assess the magnitude of the problem.³⁷

Further, the same penalty applies to people who possess such materials. Moreover, there is no legislation that explicitly prohibits the live streaming of child pornographic performances, online grooming, sexting, sexual extortion, or online sexual harassment. Even though online child sexual exploitation has been exacerbated since the start of the pandemic, there have not been efforts by government to create a more robust system of protection.

Trafficking for the purpose of labour exploitation (e.g. forced labour and domestic work)

In addition to sexual exploitation, labour exploitation is also common in Mozambique. Due to its geographical situation, the country used to be an origin mainly to South African mines and agricultural farms but also served as transit and later also became a country of destination due to the economic boom after discovery of large natural resources.

The 2021 TIP Report expressly recommends to the government to build the capacity of the labour inspectorate to identify potential human trafficking victims, to investigate human trafficking cases, and refer victims to care, as well as to hold labour recruiters liable for fraudulent recruitment.

Like what was mentioned above **investigative journalism** also played a crucial role in exposing the ill-treatment of young Mozambicans in South African agricultural farms after being trafficked for labour and sexual exploitation. It was after these findings that Mozambican civil society became more active in fighting, and calling for the Government to fight human trafficking. However, according to academics their advocacy work has now slowed down because it is not in the **agenda of the donors/partners**.

Among the **International legal standards** that Mozambique is part of we can mention the key ratifications on labour conventions include ILO conventions on Forced Labour and on Worst Forms of Child Labour and the Palermo Protocol. As a consequence of the ratification of ILO conventions Mozambique has adopted a National Action Plan to Combat the Worst Forms of Child Labour as part of implementing their international obligations. This aims to map 70% of the child labour by province, as well as withdraw children and enrol them to the Basic Social Subsidy programme. The National Action Plan for Children II also tries to reduce child labour.

³⁷ Rede da Criança, ECPAT International, "Sexual Exploitation of Children in Mozambique", UPR submission (2020) <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=8492&file=EnglishTranslation>.

Trafficking for the purpose of forced criminality (e.g. drug cultivation or trafficking, theft)

According to the TIP Report, Mozambique has been inconsistent with international law, as there was no formal adoption of legislation regulating the use of force, fraud, or coercion as an essential element of the crime. No determinants have however been identified.

Trafficking for other exploitative purposes (e.g. organ removal, forced begging, child, early and forced marriage, involvement in terrorist activities, enforced conscription)

According to UNICEF, between 2012-2018, 53% of Mozambican women aged 20 to 24 were first married or in union before 18, including 17% before 15. As a result of national advocacy campaigns initiated by partners/donors and CSO's in 2019, the Mozambican legislator established 18 as the minimum age of marriage (act No 19/2019). Mozambique has the 9th highest child marriage rate in the world. This can be traced to different factors, such as illiteracy, gender stereotyping, poverty and patriarchy, according to UNICEF. The act referred above made the violation of the former an offence punishable by 8-12 years' imprisonment. The gender parameters to child marriage are explored in the next section.

Concerning involvement in terrorist activities Mozambique **requested support from UNODC** to incorporate international dimension (terrorism) in the drafting process of the national plan of action a decision considered by the representative MGCAS of as a signal of political will in its anti-human trafficking efforts³⁸.

For the spokesperson of MJCRA, the fact is that there are people who might be recruited and used as combatants in the Islamic insurgency in Cabo Delgado province.

Particulars of determinants according to trafficked persons' profile

Sex, Gender Identity and Sexual Orientation

Considering what influences the adoption/implementation of anti-human trafficking laws, policies and practices, in this section we try to understand if these factors change when the victim is male/female/non-binary/transgender.

According to the Spokesperson of the Ombudsman's Office, if we go through the different international instruments and if we look at our legal framework, we will notice that the

³⁸ Firmino Mujovo, MJCRA.

treatment given, for example, in terms of protection and repression of victims, is different. Therefore, the law gives greater protection to children and women or other people with situations of vulnerability, for example, a physical disability that requires state support because it also involves allocation of resources. However, they did not elaborate on the reasons why. The focus on specific types of trafficked persons seems rather to be a consequence of the focus on specific types of exploitation.

An academic participating in the FG discussions said that, *If we look at sexual exploitation, girls were and still the main victims of the human trafficking. It is believed that is more lucrative when it involves adolescent girls as it is believed that they can do more sexual relations than an adult. For labor also it involves shortage of money in the family. So in these two cases poverty is at the centre.*

Adult v Child

According to the 2021 TIP Report, “human traffickers exploit Mozambican girls in bars, roadside clubs, overnight stopping points, and restaurants. Increasingly, human traffickers recruit women and girls via the internet with promises of employment using fake business profiles on social media, then subsequently exploit them in sex trafficking or forced labor”. In terms of forced labour, victims are mostly men and boys, in South African farms and mines. In other instances, Mozambican boys can migrate to neighbouring countries for work and subsequently become victims of forced labor.

Of the cases that have been referred for assistance by MGCAS, the majority are cases of sexual and labor exploitation of children. However, there are cases where victims were subjected to rape and/or premature union.³⁹

There has not been significant research available on age as a determinant for protection, however, our source at MGCAS suggested that children have been prioritized in terms of protection, both by the government, as well as the civil society organisations mainly because there **more funds available from donors like UNICEF.**

Citizenship (Citizen v Non-Citizen) and migration status

Regarding immigration, the primary problem appears to be a lack of specificity and precision in laws, rules and regulations. Perhaps partly because of this lack of clarity, there are more opportunities for and examples of corruption mainly on the entry borders.⁴⁰

The Mozambique Immigration Act does not have a category of ‘prohibited immigrants’. However, it has some requirements regarding entry into the country, conditions for entry

³⁹ Inês Bobotela, MGCAS.

⁴⁰ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

and detailed conditions for expulsion.⁴¹ Entry is only allowed through official entry points (Art. 5) and a valid passport or other travel documents must be presented (Art. 6).⁴²

According to the representative of a faith-based organization⁴³ “we cannot trace a more vulnerable ethnic group or race, but we feel negligence towards tracking immigrants. We have reported cases allegedly involving immigrant victims in Mozambique requiring investigation by the Prosecutor, but we feel there is a lack of flexibility.”⁴⁴

Another interviewee added that their “experience shows that most irregular immigrants questioned by the migratory authorities, few cases are detected as victims of human trafficking.”⁴⁵

Particulars of determinants according to perpetrator profile

Sex, Gender Identity and Sexual Orientation, Race and ethnic origin, Citizenship (Citizen v Non-Citizen) and migration status, Legal entitles (e.g. companies) v natural persons, Organised criminal group v individual trafficker, Traffickers v consumers.

Literature does not explicitly identify any determinants for Sex, Gender Identity and Sexual Orientation. There is no data which can allow the consultant to ascertain if the government acts differently when the perpetrator is male, female or non-binary and on what basis the decision was taken.

According to the TIP Report, traffickers are typically part of informal networks of Mozambican or South African nationals. Other larger Chinese and Nigerian human trafficking syndicates are also active in Mozambique. Human traffickers occupy a central place between supply and demand. They try to increase the supply of human trafficked victims through recruitment, often using false information, fraudulent identification and abuse of demand by providing easy access to a steady supply of human trafficked victims.

⁴¹ Refugees, as recognised under the 1951 Geneva Convention, are given special consideration (Arts. 53-54).

⁴² COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

⁴³ Marinês Biasibetti, CEMIRDE.

⁴⁴ Marinês Biasibetti, CEMIRDE.

⁴⁵ Carmina Durão, IOM.

Human traffickers may be organized in criminal groups or be linked together in a chain of middlemen. In few cases, international criminal gangs snatch or recruit the children themselves.⁴⁶

However, it was not possible to find evidence to base if the government efforts differ in targeting organised criminal groups or individual human traffickers or a specific modality prioritised.

In the context of child pornography, we see that consumers have generally less liability than human traffickers. For example, the Mozambican Penal Code punishes people who use or lure children for pornographic purposes. The same penalty applies to people who possess such materials. However, the Penal code does not criminalise obtaining access to child sexual abuse material, nor attending pornographic performances involving children, while no explicit legislation is in force banning the live streaming of child pornography, online grooming, sexting, sexual extortion, or online sexual harassment.⁴⁷

Particulars of determinants by type of trafficking

To reach this we are looking at topics as Internal versus international human trafficking, 'Incoming' versus 'outgoing' versus 'transit' (e.g., country of origin, transit, and destination).

According to a representative of a faith-based organisation:

*We have many cases of human mobility from the countryside to the city for domestic work purposes, girls in this case, work on the streets involving children, but these are brutally exploited in welcoming homes and we are left with the discussion if it is mere labor exploitation and not human trafficking, being in that sense that the legislator leaves some void when considering that human trafficking happens simply when we have patent the 3 linked elements of the concept itself, namely recruitment, transport and exploitation as a purpose.*⁴⁸

According to the TIP Report, human traffickers in Mozambique exploit both domestic and foreign victims, while it is also the case that Mozambicans are exploited abroad. As result of isolated events, such as the two Cyclones that hit the country in 2019, there are large numbers of internally displaced persons (IDPs) under increased vulnerability.

In late March 2019, Cyclone Idai made landfall on the central coast of Mozambique followed by heavy winds and torrential rains which brought devastation across much of

⁴⁶ UNICEF Innocenti Research Centre, *Domestic Violence against Women and Girls*, Innocenti Digest 6, Florence, 2000, 5.

⁴⁷ Rede da Criança, ECPAT International, "Sexual Exploitation of Children in Mozambique", UPR submission (2020) <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=8492&file=EnglishTranslation>.

⁴⁸ Marinês Biasibetti, CEMIRDE.

central Mozambique, as well as parts of eastern Zimbabwe and southern Malawi. Around 3 million people were affected, including several hundred thousand internally displaced. Nearly 2 million acres of crops were destroyed. Just over a month later, in April, Cyclone Kenneth hit northern Mozambique with sustained winds of up to 140 miles per hour, affecting another 300,000 people.⁴⁹ The consequences of the 2 events when combined increased the vulnerability of the affected people.

Well before that, a **single isolated event**, the 2010 World Cup, held in neighbouring Republic of South Africa, led to Mozambicans migrating to that country for work in preparation for the event. However, as a result, there were many cases of sex work and labour exploitation. As a response, the UNODC initiated a **regional project to strengthen the legal framework**, in which Mozambique was a participant.

More recently terrorist attacks since October 2017 have caused thousands of deaths and displaced up to the time of writing this report more than 850,000 people⁵⁰ in the Northern Province of Cabo Delgado, some of them vulnerable to recruitment in forced labour and sex trafficking. These **isolated incidents** influenced government responses in funding, trainings, and awareness rising.

Particulars of determinants by stage of response

Acknowledgment and prioritisation of trafficking as a policy issue

Most of the interviewed for this study referred that prevention and repression have often been emphasized as priority areas for policy action. Prevention may be more effective when focusing on the overall empowerment of vulnerable communities and groups of the population at greater risk and assistance to the victims.

Some interviewees considered that the government is slow to act and in most cases it does so as a result of **pressure from civil society organization** or **decisions taken by the courts** in Mozambique or in other countries and one example referred was the trial (Caso Diana)⁵¹ in the neighbouring South Africa of people involved in trafficking of girls for prostitution.⁵²

There is an assumption that a national securitization or threat to the country's sovereignty approach of human trafficking in Mozambique might be the most effective way to put

⁴⁹ Devastation and Displacement: Unprecedented Cyclones in Mozambique and Zimbabwe a Sign of What's to come? Refugees International, August 2019.

⁵⁰ Armindo Ngunga, Chairperson of ADIN in Mozambique News Agency (AIM) 29/12/2021 - 1081221E.

⁵¹ Involved the sexual enslavement of three Mozambican children, aged between 14 and 16, at a brothel in South Africa's capital, Pretoria.

⁵² Paula Ermelinda Monjane, SANTAC.

pressure on the government to give it certain priority and that is in alignment with the criminal justice framework, as set out within the **Palermo Protocol**. The question was why this approach?

*It is important because any issue you discuss as national security or threat to national sovereignty deserves high attention and priority of the State.*⁵³

In other words, taking human trafficking as a **threat to national security** or to the **country's sovereignty** as an argument then the State can easily find ways to allocate resources to deal with human trafficking in Mozambique.

Adoption of legislation and policy and setting up of institutions or mechanisms

The laws in Mozambique criminalizes or otherwise prohibit offences commonly found in human trafficking such as abduction, defilement, child labour, forced labour and forging documents, among others.⁵⁴

Mozambique does not have an anti-human trafficking policy but an anti-human trafficking act was approved by means of act nr. 6 of 2008. It establishes the legal regime applicable for the prevention and combating human trafficking in particular women and children. The act was passed by AR as result of continuous effort and **pressure by local CSOs** with support of their **international counterparts** and **foreign governments**. The act aims to classify and punish human trafficking and all related activities whether internal or cross borders and to protect victims, whistle-blowers and witnesses.

During state FG it was also mentioned that Mozambique is reviewing its anti-human trafficking act and also working on its regularisation as well as on the national plan of action which is on the governments' table.⁵⁵

*There is need to update the law because at the time when it was passed talking about human trafficking was a new concept in Mozambique and as it was being implemented some vacuum was found. It is a process. There is work already done and the first draft is now with the MJCRA.*⁵⁶

According to the representative of IOM,⁵⁷ the revision of the anti-human trafficking act involves 31 articles. In summary they refer to the extension of the aggravating circumstances of the traffickers, guarantee of compensation for the victims, guarantee of the repatriation

⁵³ Calton Cadeado, Lecturer University Joaquim Chissano.

⁵⁴ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

⁵⁵ The FGD for State Actors took place on 8 September 2021 in Maputo City.

⁵⁶ Firmino José Mujovo, MJCRA.

⁵⁷ Carmina Durão, IOM.

of children victims of human trafficking and beyond and also the setting up a fund for the victims. Once revised, the act will become more comprehensive taking into account international instruments, basically the Palermo Protocol. The Mozambican act was very restrictive and was not very comprehensive in terms of what the aggravating circumstances of the traffickers are.

On the other hand, it was learned during state FG that MJCRA is doing an internal effort for Mozambique to ratify the Hague Convention and others that it has not yet done.

*Mozambique is currently carrying out an exercise, first to assess internally how conditions can be set to ratify this Convention, bearing in mind that it is not just a matter of deciding, but it is necessary to listen to various sensibilities in the country.*⁵⁸

The representative of the MJCRA promised that by the end of this year⁵⁹ the National Action Plan will be approved, which will guide the work of the MNR and other actors involved in the process of the fight against human trafficking.

According to the Deputy PGR, it is important that anti-human trafficking legislation brings together all components starting from prevention, repression, assistance and support (reintegration) of human trafficking victims in order to allow this fight to be carried out in different ways and to be more effective.

*We have been making efforts for the Mozambican government to approve the national plan to prevent and combat human trafficking, which we believe will be a valuable instrument because the proposal includes very important policy aspects, making each sector responsible, especially the key sectors of the state and that can give greater dynamism to what has been the anti-human trafficking struggle in Mozambique.*⁶⁰

For the Chairperson of AMJ the great gain in Mozambique today is having national legislation which is also inspired by **international law**, giving us both substantive and procedural tools for fighting crime, but more focused on the issue of combating human trafficking.

*If we look at it, especially with the new code of criminal procedure, a very significant part has been introduced that has to do with the possibility of having communications traced between alleged or potential criminals. This is a very significant gain because often the great obstacle encountered has to do precisely with obtaining evidence.*⁶¹

According to him these are all very significant mechanisms to combat human trafficking.

⁵⁸ Firmino Mujovo, MJCRA.

⁵⁹ The FGD for State Actors took place on 8 September 2021 in Maputo City.

⁶⁰ Amábélia Chuquela, Deputy Attorney General.

⁶¹ Carlos Mondlane, Chairperson of Association of Mozambican Judges.

*What happens is that the legislation is still new. We are talking about an amended 2019 legislation that came into force in 2020 whose impact has not yet been felt in this perspective of the state to fight human trafficking, but we believe that in the near future we will be able, at least internally, to obtain better results and also linked with this idea of international cooperation referred before.*⁶²

The Chairperson of AMJ suggested that when we talk about political will, it translates or must necessarily translate into the ease of approving certain legislation because it sets the general framework for legal and judicial actors to act.

*We are talking about the aspect of reprimand, which is where SERNIC, PGR and the Courts act. And in this follow-up, I would say that the political will in conceiving a very rich and abundant legislation has proved to be very fruitful, but we cannot limit ourselves to looking at the merely legislative aspect, it is necessary to look at the material conditions that are affected by the various institutional actors.*⁶³

For the Spokesperson of the Ombudsman's Office the legislation for the protection, prevention, repression, and combat of human trafficking in Mozambique stems from several factors because the phenomenon occurs worldwide and in recent years this growth has started to accelerate. There was also a **great movement at the level of the international community**, especially from the 90s onwards, towards adopting measures aimed at the prevention, repression and protection of victims of human trafficking. According to our source the Palermo Protocol is part of this example of a broad international movement that seeks to adopt measures that prevent, but also repress and, on the other hand, create conditions for the protection of the victims themselves.⁶⁴

The Network of faith institutions working with refugees considered that one of the influences that the legislation brought was the restructuring of the criminal investigation system in the area of combating human trafficking.⁶⁵

Allocation of resources and capacity building

Human trafficking is not a priority in terms of allocation of resources in Mozambique in part because the country lacks **dedication**, focus and resources coupled with the **economic difficulties** the country is facing.

⁶² Carlos Mondlane, Chairperson Lawyer Association of Mozambican Judges.

⁶³ Carlos Mondlane, Chairperson Lawyer Association of Mozambican Judges.

⁶⁴ Spokesperson of the Ombudsman's Office.

⁶⁵ Marinês Biasibetti, CEMIRDE.

As a result of the lack of dedication, focus and resources, a spokesperson of a faith-based organization believe that the protection for victims is deficient and is not yet guaranteed by the state due to its **financial unavailability**.⁶⁶

Besides the Islamic insurgency in the northern province of Cabo Delgado, and political instability in the centre of the country, Mozambique faces economic challenges due to its vulnerability to national disasters and threats of climate change. As such much of the countries' resources are channelled to those sectors.

Most efforts are implemented by CSOs which are now also facing lack of resources as some are no longer concentrated in fighting human trafficking in their agendas.⁶⁷

According to some interviewees, ideally resources should be allocated by the government through the PQG (Government's Five-Year Programme) approved by AR but in the absence of legal instruments like the national plan of action the government has no means to include a dedicated budget line for its anti-human trafficking efforts.

In terms of allocation of resources and capacity building all interviewees agreed that there are important institutional limitations in Mozambique, as some of the bodies dealing with anti-human trafficking issues are not specialized, coupled by little preparation of magistrates in PGR as well as in the Courts to deal with or investigate cases of human trafficking.

*We need a specialization because right now the judges are all of a common character or characteristic. Human trafficking is a crime that can hide behind other crimes. It is also a topic little investigated in Mozambique by academia and those linked to issues related to human rights.*⁶⁸

It must be taken into consideration that without sufficient economic resources, a State has limited power to improve, enforce, monitor, and evaluate its anti-human trafficking law and policy.⁶⁹

To close this chapter there is a negative aspect referred by the interviewed which is the fact that the legal framework in Mozambique is not accompanied by the necessary financial support and the necessary institutional apparatus.

*We have an act that was exemplary approved with very good aspects, but in terms of regulation we have not yet managed to make it effective. We have an act to protect witnesses, victims and whistleblowers that was never implemented due to financial aspects but also logistical and institutional issues.*⁷⁰

⁶⁶ Marinês Biasibetti, CEMIRDE.

⁶⁷ Calton Cadeado, Lecturer University Joaquim Chissano.

⁶⁸ Carlos Mondlane, Chairperson Lawyer Association of Mozambican Judges.

⁶⁹ Wittmer and Bouché (n 88) 247.

⁷⁰ Carla Mendonça, UNICEF.

Implementation and enforcement of law, policy and practice

For the Deputy PGR there are two determinants to be taken into consideration when we talk about implementation. The first would be the **international legal frameworks** and the other would be the **decisions taken by the courts** in Mozambique.

On the other hand, we understand that the decisions taken by the courts in Mozambique are also important because they make us improve anti-trafficking efforts when there are identified cases of human trafficking.⁷¹

For the spokesperson of the MGCAS, the ratification of international instruments and their domestication in the national legislation, as well as the drafting and approval of specific instruments to prevent and combat human trafficking and revision of those that were already in force, are a good example of enforcement of the rule of law in Mozambique.

However, most of the interviewees agreed that without **sufficient economic resources**, the state has limited power to improve, enforce, monitor and evaluate its anti-human trafficking law and policy.

The Chairperson of AMJ believes that there is a need to **train** the judiciary itself to face human trafficking adding that if you look at these last few years, *we have passed a lot of legislation to boost the fight against crime and particularly this crime linked to human trafficking. Today we still don't have a sample of what is the impact of this legislation versus the new procedural mechanisms that were specifically adopted on December 31, 2019, in other words, the act only came into force in 2020.*

The MP interviewed for this research said that in terms of legislation, there is no omission or gap regarding combating human trafficking.

Probably the problem comes at the time of implementation, where there are great difficulties, mainly in matters of investigation, prosecution and other issues related to human trafficking.⁷²

Human traffickers cannot be held accountable without the presentation of adequate evidence by the public prosecutor who, in turn, is likely to depend on the human and **financial means** devoted to the investigations.⁷³

For the Chairperson of the National Human Rights Commission (CNDH) what worked well was convincing the legislator to issue norms, ratify conventions that combat and prevent human trafficking.

⁷¹ Amabélia Chuquela, Deputy Attorney General.

⁷² António Boene, MP AR (Mozambican Parliament).

⁷³ Carlos Mondlane, Chairperson Lawyer Association of Mozambican Judges.

*The problem is not having human, technical, material and financial resources to pursue and investigate cases of human trafficking.*⁷⁴

The Spokesperson of Ombudsman's Office is of the opinion that there are no very in-depth **studies** related to human trafficking in Mozambique. But from the point of view of the legal framework since the adoption of the anti-human trafficking act, Mozambique managed to take significant steps in the fight against human trafficking which are in line with the main international instruments.

*Perhaps we can discuss the level of its implementation, but I believe that, looking at the general conditions of the country, we cannot say that it is effective considering that the country has several challenges. We have challenges from the military political instability that often do not allow the government to have the necessary concentration on some of the social problems that we have, but on the other hand, although it is still insufficient, we have the act which represents an advance.*⁷⁵

Establishment of partnerships (including with civil society organisations and the private sector)

For policy development there is a need for continuous quality information on the magnitude, nature and economics of human trafficking. To this end, effective cooperation and coordination is required at every level and across all sectors, at the national, regional and international levels. This requires partnerships between governments, inter-governmental organizations, non-governmental organizations and other relevant actors of civil society.⁷⁶

Like referred above international NGOs in partnership with their national counterparts are actively involved in fighting human trafficking in Mozambique by supporting governments' efforts. Their focus is on prevention activities addressing potentially vulnerable children and women and promoting awareness rising campaigns in communities at greatest risk.

The fight against human trafficking, especially women and children, falls within the mandate of a number of UN agencies, funds and programmes and other international organizations and amongst others we can mention, for example the IOM, ILO, UNICEF and UNODC.

There are two aspects which influence establishment of partnership in Mozambique: *to follow international legal framework on anti-human trafficking efforts and the decisions taken by the Courts as they force us to improve our working methods on anti-human trafficking.*⁷⁷

⁷⁴ Luis Bitone, CNDH.

⁷⁵ Spokesperson of the Ombudsman's Office.

⁷⁶ COMBATING TRAFFICKING IN PERSONS A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries - Malawi, Mozambique, South Africa and Zambia.

⁷⁷ Amabélia Chuquela, Deputy Attorney General.

Mozambique has border coordination groups with South Africa, Zimbabwe and the Kingdom of Eswatini.

*We have been making efforts to also have border coordination groups with Malawi and Tanzania. These groups allow us to develop activities of preventive nature, combat, support; assistance and reintegration of victims of human trafficking that are identified at the level of the SADC member states.*⁷⁸

They also allow PGR to share information on human trafficking cases involving Mozambican and foreign victims and also coordinate efforts to allow their repatriation to their country of origin and their reintegration.

As a proof of these coordination efforts, CEMIRDE conducted three investigative studies related to human trafficking, organs and parts of the human body.

*These studies are tools that serve as a guide for all who are on the front lines in combating this evil.*⁷⁹

CEMIRDE also held training for Police officers, held seminars with the participation of bishops from Southern Africa, seminars with all provincial commanders of the PRM and bishops of Mozambique, an international conference, numerous workshops and training with community, religious leaders and related organizations and also with the participation of the Association of Traditional Healers of Mozambique (AMETRAMO).⁸⁰

For IOM, anti-human trafficking efforts must be carried out in coordination between different governmental and non-governmental actors. To this end, an assistance mechanism for victims of human trafficking has been developed that outlines the different stages of assistance provision including the responsible bodies and the respective actions to be taken at each stage.⁸¹ This instrument is intended to promote coordination between actors to ensure that the needs of victims of human trafficking are met and was also prepared in accordance with the national legal framework and good international practices and should be followed by all actors to promote assistance to victims of human trafficking.

Furthermore, the mechanism was incorporated into the working guide of MNR for child protection, combating human trafficking and irregular immigration.

Monitoring and evaluation of anti-trafficking efforts and reporting

External monitoring plays a crucial role as the country has signed, from a criminal point of view, agreements for legal and judicial cooperation with some countries in the SADC region.

⁷⁸ Amabélia Chuquela, Deputy Attorney General.

⁷⁹ Marinês Biasibetti, CEMIRDE.

⁸⁰ Marinês Biasibetti, CEMIRDE.

⁸¹ Carmina Durão, IOM.

It is currently easier to look for elements linked to the crime of human trafficking, for example, in South Africa, Angola or any other country where Mozambique feels that there is an impact. Mozambique is above all a corridor country and the recipient country, for example, here in the region, is South Africa.⁸²

According to the Deputy PGR, there is a WhatsApp platform linking all SADC countries allowing focal points in each country exchange on time of information whenever it's necessary. There is also the SADC *Tip Net* allowing denunciation on time of suspected cases within member states without the need of formal cooperation.

In the individual interviews it was referred that Mozambique takes into consideration and tries to implement **TIP Report** recommendations to improve its ranking and preserve its international reputation.

On the other hand, difficulties in gathering evidence combined with lack of resources and materials hinder and limit the monitoring of each specific case in relation to human trafficking. During the discussions of the State FG, it was disclosed that Mozambique is considering setting up a multi-sectorial anti-human trafficking office, tasked with collecting, systematize and disseminate data on human trafficking which will probably be coordinated by the PGR, which, together with the MGCAS, is coordinating the study on the subject.

Sustainability

It was referred during FGs and interviews that without a national plan of action the Mozambican government cannot allocate resources to fight human trafficking. It was recognised that the country has other pressing priorities like the Islamic insurgency in Cabo Delgado province⁸³ rendering difficulty to allocate resources to fight human trafficking, but a national plan would help the country to seek help from partners. During the interviews and FDG we learned that implementation of anti-human trafficking efforts is costly, it is not a high priority for the Mozambican government.

⁸² Latifo Eduardo Guett, Lawyer.

⁸³ There are now attacks in the neighboring province of Niassa and thousands of people are displaced.

Key Improvements

The first key improvement has been the establishment of the MNR during the reporting period. MNR proved to be an efficient inter institutional platform bringing together key government institutions and civil society organizations to discuss and monitor human trafficking in the country. They used to meet regularly once or twice a year, but Covid 19 has disrupted this and there is a need now to adopt new working methods including the use of online platforms.

Although technically not binding, Mozambique has to follow recommendations of international bodies like the US State Department's Trafficking in Persons (TIP) Report which ranks countries according to their compliance with US standards. **Threat of sanctions can act as motivator to follow the recommendations.** Countries ranked at the lowest Tier, Tier 3, are at risk of having economic sanctions imposed. According to its mandate, it has created a mechanism to incentivize and punish (non-) compliance through funding opportunities and threats of economic and foreign assistance sanctions.

The good aspect that can be mentioned is that **political will** is more visible now with institutions like the PGR speaking now more openly about anti human trafficking efforts in Mozambique which are considered to be in line with international standards.

However, there is a need to discuss interventions in a systematic way and not in some circumstantial government's speeches.⁸⁴ There is a need to have a national action plan which will allow dedicated state budget line to support anti human trafficking efforts and therefore stop depending on the donor's agenda which in most cases conditions governments' interventions.

We learned during FGs and individual interviews that Mozambique is reviewing its anti-human trafficking law in order to incorporate new elements including the Islamic insurgency in Cabo Delgado province where there are signs that people might be trafficked to be used in the war.

The second key improvement identified has to do with the training of agents of administration institutions in matters related to human trafficking, trading of organs and parts of the human body in order to acquire knowledge on how to manage this type of crime.

This was a result of **pressure from civil society organization** on the government to find ways to stop or eradicate commerce and human trafficking for various purposes. Most of these activities including **investigative journalism** are funded by UNICEF and IOM.⁸⁵

⁸⁴ Calton Cadeado, Lecturer University Joaquim Chissano.

⁸⁵ Paula Ermelinda Monjane, SANTAC.

However, issues related to the sustainability of the anti-human trafficking efforts were raised. The lack of capacity and knowledge of prosecutors or judges themselves was often referred during the interviews and FGs as well as the ineffective handling of investigations or direct corruption and collusion of state agents particularly PRM and Migration Officers at the borders with neighbouring countries especially South Africa.

According to participants in not State FG, what happens is that at the State level, training takes place in a very incipient way. Judges or prosecutors who are in the provinces do not always have the opportunity to benefit from the most current trends in terms of methodology for combating this type of evil.

From the point of view of weaknesses, the judges believe that there has to be greater investment in material, financial and human resources so that the fight against human trafficking is effective *because it is normal, it is common for the PGR and other institutions to complain about the lack of means for real education linked to human trafficking.*

COVID-19

PGR said that COVID-19 limited somehow what would be the actions that normally does, mainly issues of preventive nature and at the level of reference groups, as it had to reformulate situations in which, for example, we should gather several people in a physical space and it had to reformulate thinking in a virtual form but it should be noted that not all activities can be done virtually and there are many that imply that they are done in the presence of these people and it often had to adapt to comply with health protocols that limit the number of physical participants.

On the other hand, this pandemic has somehow raised what are our activities and our responsibility to be able to identify human trafficking situations in times of pandemic that have become more complicated given the movement restrictions that people are subject to and we know that the human traffickers also reformulate their way of acting, which made police identification of victims much more complicated.⁸⁶

According to the Deputy PGR In the period from January to December 2020, two court cases of human trafficking were initiated by the PGR. One was for labor exploitation and the other for sexual exploitation. In the same period (2019) eight court cases were registered, which represents a reduction of six cases in 2020, corresponding to 75%.

The Network of children's rights believe that the measures taken to level the contagion curve, including mandatory quarantine, confinements, travel restrictions, limitations on economic activities and public life and the increased police presence at borders and streets have contributed significantly to reduce the crime of human trafficking. *However, these measures can lead to greater clandestinely when we talk about human trafficking because traffickers are also adjusting intervention models mainly through the use of modern communication technologies.*

For the network working on anti-human trafficking said that COVID-19 has an impact at least on prevention activities *"because we are breaking our methods of control and vigilance"*.

For the spokesperson of the IOM, the COVID-19 pandemic has exacerbated vulnerabilities that increase the risks of human trafficking and sexual exploitation in the use of dangerous travel routes while limiting the responsiveness of governments, especially for irregular immigrants on the Southern route. *Students are active on digital platforms and Mozambican women and girls end up being at greater risk.*

⁸⁶ Amabélia Chuquela, Deputy PGR.

Our source suggested that there is also an urgent need to strengthen the government's capacity to prevent, protect and prosecute cases of human trafficking, while adapting awareness and targeted advocacy to new human trafficking patterns and trends in Mozambique in order to prevent further increased vulnerabilities, exploitation and even potential loss of life related to irregular immigration.

Questioned if COVID-19 has impacted differently on a specific type of response, the spokesperson of IOM mentioned the closing of schools as children and teenagers end up being more exposed to greater chances of being recruited by criminal groups for exploitation purposes.

We can also mention the closure of tertiary institutions as well as the blocking measures including the closure of restaurants and movement restrictions also meant a loss of income for students who worked in these institutions to supplement their income, thus making them vulnerable to promises of smugglers. The advent of online learning has also exposed students to being at greater risk.⁸⁷

Asked if COVID-19 was a factor contributing to the emergence of the re-prioritization of certain anti-trafficking efforts over others the spokesperson of IOM said that restrictions limited the ability of state authorities and non-governmental organizations to “detect, prevent and respond” to human trafficking, as well as to provide essential goods and services to victims of human trafficking and vulnerable immigrants.

In addition, and according to the Deputy PGR's 2020 report, the lack of freedom of movement caused by the blockade and travel restrictions also means that victims are less likely to escape and find help when they are held in unsafe situations.

Representatives of Attorneys general office said during the state actors FGD that COVID-19 has impacted on dissemination activities of legislation because it limited work with communities.

For the spokesperson of MINT, it may have contributed to the decrease due to the restrictions that were imposed to control the pandemic.

The representative of MJCRA said that COVID-19 has reduced the number of cases, but it may also be happening in a more sophisticated way and that catches the attention of all of us.

⁸⁷ Carmina Durão, IOM.

Conclusion

This research was to provide Determinants of Anti-Trafficking Efforts for Mozambique through In-depth, cross temporal desk research including analysis of policy documents and legislation and the *travaux preparatoires* of such policies and legislation, Identification of relevant stakeholders for interviews, conduct a minimum of 15 interviews with relevant experts and stakeholders, convene and run a focus group discussion of approximately 12 participants, follow the research methodology and tools developed by the project team including interview keys, focus group topics and report structure.

There has been increasing political awareness regarding human trafficking as illustrated by the adoption of international standards and important commitments undertaken in international conferences.

This political will is also translated in the approval of anti-trafficking legislation setting the general framework for legal and judicial actors to act which is in line with the international standards influenced by the Palermo Protocol is highlighted; namely its role in shaping states' understanding of human trafficking and providing the international standard for anti-trafficking.

However, this progressive legislative framework is not accompanied by the necessary financial support and the necessary institutional apparatus. An example: the act protects witnesses, victims and whistleblowers and was never implemented because there are no resources.

Non-State actors Civil in the discussion group insistently referred to the fragility of institutions, which is summed up in the lack of financial, human and material resources and in some cases law enforcement officials have said that they have insufficient resources or an insufficient mandate to pursue human trafficking cases.

As key areas of improvement Mozambique has to follow recommendations of international bodies like the US State Department's Trafficking in Persons (TIP) Report which ranks countries according to their compliance with US standards. Threat of sanctions can act as motivator to follow the recommendations. Countries ranked at the lowest Tier, Tier 3, are at risk of having economic sanctions imposed.

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