

Disrupting Harm

Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.

Legal Analysis of OCSEA related Provisions in Mozambique

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Global Partnership to End Violence against Children does not constitute endorsement.

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International, Regional and National Commitments and Legislation on Sexual Exploitation of Children

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council		
International Instruments	Date of ratification/accession	
Convention on the Rights of the Child - 1989	26 April 1994	
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000	6 March 2003	
Optional Protocol to the Convention on the Rights of the Child on a Communication Procedure - 2011	No action	
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	16 June 2003	
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organised Crime)	9 September 2006	
Regional Instruments	Date of ratification/accession	
African Union Charter on the Rights and Welfare of the Child - 1990	15 July 1998	
African Union Convention on Cyber Security and Personal Data Protection - 2014	29 June 2018 (no ratification)	
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (OPSC review)	No action	Due date: 6 April 2005

General Issues Related to Children’s Rights

A **child** (*criança*) is defined in Article 3 of Law No. 7/2008 on the Promotion and Protection of Children’s Rights as any person under the age of 18,¹ and this definition is **consistent across national legislation** relevant to OCSEA. Many legal instruments such as the Family Law, the Penal Code, the Revised Penal Procedure Code or the Labour Law use **alternative terminologies** such as “minors” (*menores*) to refer to children.

In Mozambique, the **age of sexual consent** for both boys and girls is 12 years.² Pursuant to Article 218 of the Penal Code, anyone who commits the crime of rape is punished with the penalty of two to eight years imprisonment.³ Furthermore, if the victim is below 12 years, it is considered an aggravating factor and the crime is then punished with between 20 to 24 years imprisonment under Article 219 of the Penal Code.⁴ In addition, Article 220 punishes whoever performs sexual acts (which do not imply copulation) on a child below the age of 16, with or without consent, with prison sentences from two to eight years.⁵ Besides, Article 221 punishes indecent assault with two to three days in prison.⁶ On a combined reading of these provisions, it might be inferred that the law does not fully protect children against sexual abuse. Acts involving consensual sexual intercourse with children aged 12-16 would neither qualify as rape under Article 218 nor fall under the ambit of Article 219 and hence, would only be covered by Article 221 which features significantly lower penalties. This severely underestimates the protection afforded to children aged 12-16 against sexual abuse.

Moreover, the Penal Code does not provide criteria to determine whether the consent for sexual activities between peers under the age of 18 is **voluntary, well-informed and mutual**, nor does it provide for a **close-in-age exception**.

Article 30 (1) (a) of Law No. 10/2004, also known as the “Family Law”, establishes 18 as the **legal age of marriage**, but children over 16 can marry with the authorisation of their parents or legal guardians according to Article 30 (2) of the same legal text.⁷ However, this exception was amended in October 2019, as the Law No. 19/2019 established 18 as the minimum age of marriage with no room for exception.⁸

¹ Government of Mozambique. (2008). Government of Mozambique (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 3.

² Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 219.

³ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 218.

⁴ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 219.

⁵ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 220.

⁶ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 221.

⁷ Government of Mozambique. (2004). [Family Law - Law No. 10/2004](#), Article 30.

⁸ Government of Mozambique. (2019). [Law No. 19/2019 on the Prevention and Combat of Premature Marriages](#), Articles 7 and 8.

Furthermore, Article 20 of the Law No.19/2019 criminalises forced marriages, stating that an adult who marries a child is liable to be punished with imprisonment ranging between eight to twelve years.⁹

Regarding the **legal working age**, Article 46 of Law No. 7/2008 prohibits all forms of exploitation of child labour.¹⁰ Labour law establishes the legal working age at 15, and only with permission from the children's legal representatives.¹¹ However, in exceptional circumstances, minors between 12 and 15 years of age are allowed to work based on the condition that the Council of Ministers issues a legal diploma establishing the nature and the conditions of the work that may be performed.¹² Hazardous forms of labour are prohibited for children and are referred to as "work that is unhealthy, dangerous or which requires great physical strength, as defined by the competent authorities".¹³

The minimum **age of criminal responsibility** is set at 16 years since 2014,¹⁴ raising it significantly from the previous Penal Code which had set it at 10 years.¹⁵

⁹ Government of Mozambique. (2019). [Law No. 19/2019 on the Prevention and Combat of Premature Marriages](#), Article 20.

¹⁰ Government of Mozambique. (2008). Government of Mozambique (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 46.

¹¹ Government of Mozambique. (2007). [Labour Law - Law No. 23/2007](#), Article 26 (1).

¹² Government of Mozambique. (2007). [Labour Law - Law No. 23/2007](#), Article 26 (2).

¹³ Government of Mozambique. (2007). [Labour Law - Law No. 23/2007](#), Article 23 (2).

¹⁴ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 46 (a).

¹⁵ Government of Portugal. (1886). [Portuguese Penal Code](#), Article 42 (1).

Online Child Sexual Abuse and Exploitation

Article 63 (1) of Law No. 7/2008 on the Promotion and Protection of the Rights of the Child explicitly states that the Government of Mozambique must adopt legal and administrative measures to protect children against all forms of sexual exploitation and abuse.¹⁶ Article 63 (2) further specifies that the corresponding legislation must feature sufficiently stringent penalties.¹⁷

Mozambique's criminal law underwent a major change in 2015 with the entry into force of Law No. 35/2014 on the Revision of the Penal Code. However, it fails to comprehensively criminalise all manifestations of OCSEA.

Article 226 (a) and (b) of the Penal Code punishes, with prison sentences from two to eight years, whoever **uses or lures a child into participating in a “pornographic performance”** or for “pornographic purposes”, including pictures, movies, recordings or any other support.¹⁸ **Written materials** and computer or digitally generated child sexual abuse material (**virtual child sexual abuse material**) are not explicitly mentioned in this provision, but they can be included in the wording “any other support”.

In addition, article 226 (c) punishes, with the same penalty, whoever **possesses, obtains, distributes, imports, exports, displays or transfers child sexual abuse material**, in any capacity or by any means.¹⁹ Even though these provisions are quite comprehensive, they lack a formal **definition of child sexual abuse material** in line with Article 2 (c) of the OPSC. However, the Glossary of Law No. 6/2008 on Human Trafficking features a definition of “pornography” that would be consistent with OPSC standards if specifically applied to children. “Pornography” is defined as “any representation, through publication, display, cinematography, indecent spectacle, information technology, or by any means, of a person engaged in actual or simulated explicit sexual activities or any representation of a person's sexual organs for primarily sexual purposes”.²⁰ This definition includes **conducts carried out in the online environment** or through information and communication technologies but does not cover material that depicts a **person appearing to be a minor** engaged in a sexually explicit conduct.

The Mozambican legislation does not criminalise **knowingly obtaining access** to child sexual abuse material, nor **attending pornographic performances** involving children. Moreover, there is no legislation that explicitly includes OCSEA-related offences such as attending the **live streaming of child pornographic performances, online grooming, sexting, sexual extortion** or **online sexual harassment**.

According to Article 11 of the Penal Code, the **attempt** to commit a crime is punishable.²¹ An attempt occurs when the following requirements are cumulatively met: (a) the intention of the agent; (b) the

¹⁶ Government of Mozambique. (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 63 (1).

¹⁷ Government of Mozambique (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 63 (1).

¹⁸ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 226 (a) and (b).

¹⁹ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 226 (c).

²⁰ Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking](#), Annex – Glossary.

²¹ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 11.

commencement and incomplete execution of acts which produce the finished crime; (c) the execution has been suspended for circumstances independent of the agent's will, except in cases provided for in Article 16; (d) the crime consummated is punished with greater penalty, except special cases where, if a penalty is applicable correctional offence, the law expressly declare punishable the attempt of this crime.²² According to Article 131 of the Penal Code, the attempt to commit a crime shall be punished with the same penalty that would apply to perpetrators of the frustrated crime if attenuating circumstances had intervened in it.²³

Although Article 32 of the Penal Code specifies a number of facts that do not exempt from criminal responsibility,²⁴ the **ignorance age of the victim** is not explicitly included. Due to the lack of an explicit provision, offenders can plead this ignorance in excuse of their conduct.

Finally, no legal provisions require **Internet service providers to report** suspected child sexual abuse material to the relevant law enforcement agencies and there is no legislation in place for **cyber cafes owners** to report and prevent cases of OCSEA. The National Cybersecurity Strategy of Mozambique (2017 – 2021) recognised the government's responsibility in protecting children and other vulnerable groups from cyber bullying, sexual solicitation and grooming, pornography and other harmful content online and included the specific objective of strengthening Mozambique's legal and regulatory frameworks to enhance cybersecurity and combat cybercrime.²⁵ Notwithstanding, no legislation has been implemented as of November 2019.

²² Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 14.

²³ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 131.

²⁴ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 32 (1) (c).

²⁵ Government of Mozambique (2017). [National Cybersecurity Strategy of Mozambique \(2017 – 2021\) - Draft Version 1](#), p. 16.

Extraterritoriality and Extradition

Article 56 (6) of the Mozambican Penal Code provides for **extraterritorial jurisdiction** for offences committed by Mozambican nationals abroad, provided that the alleged perpetrator has not yet been tried in the country where the offence was committed.²⁶ However, this provision also features a **double criminality** requirement that requires the alleged crime to be contemplated as a crime in the country where it was committed, in addition to the fact that the alleged perpetrator must be found in Mozambique. As a result, child sex offenders can escape prosecution if they do not return to Mozambique, or if the legislation of the country where the offence was committed does not adequately criminalise all the manifestations of OCSEA. Furthermore, no legal provisions provide for extraterritorial jurisdiction for offences committed by permanent residents or against Mozambican nationals outside the country.

Law No. 17/2011 on Extradition does not incorporate a specific reference to the possibility of **extraditing** individuals for offences covered by the OPSC. According to its Article 3 (2), an offence can only qualify as extraditable if the requirements of **double criminality** and minimum gravity (at least one year of imprisonment) are met.²⁷ As all the identified OCSEA-related offences are punished with imprisonment ranging from two to eight years (Article 226 of the Penal Code), the minimum gravity requirement is met and therefore, they could qualify as extraditable offences.

In addition, Article 4 (1) (a) of the Law on Extradition,²⁸ as well as Article 67 (4) of the Constitution,²⁹ state that Mozambican nationals cannot be extradited. Even though Article 4 (2) of the Law on Extradition specifies that this does not apply to individuals who obtained nationality after the offence for which the extradition is requested was committed, this provision seems inconsistent with Article 67 (4) of the Constitution and could therefore potentially be challenged before the Constitutional Council.

The Convention on Extradition between the Member States of the Community of Portuguese Speaking Countries (2005) also makes extradition conditional on the double criminality principle and minimum gravity requirements as set out in Article 2 (1).³⁰ Another restriction can be found in its Article 4 (a), that states that the parties can refuse to extradite their nationals.³¹ Finally, its Article 5 also features a specific obligation to try the individuals whose extradition has been denied.³²

²⁶ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 56 (6).

²⁷ Government of Mozambique (2011). [Law No. 17/2011 on Extradition](#), Article 3.

²⁸ Government of Mozambique (2011). [Law No. 17/2011 on Extradition](#), Article 4.

²⁹ Government of Mozambique (2004). [Constitution of the Republic of Mozambique](#), Article 67.

³⁰ Comunidade dos Países de Língua Portuguesa – CPLP (2005). [Convention on Extradition between Member States of the Community of Portuguese Speaking Countries](#), Article 2 (1).

³¹ Comunidade dos Países de Língua Portuguesa – CPLP (2005). [Convention on Extradition between Member States of the Community of Portuguese Speaking Countries](#), Article 4 (a).

³² Comunidade dos Países de Língua Portuguesa – CPLP (2005). [Convention on Extradition between Member States of the Community of Portuguese Speaking Countries](#), Article 5.

Other OCSEA-Related Provisions

In terms of **penalties**, as discussed previously, the national legislation provides prison sentences for the few child sexual abuse material-related offences criminalised. The term of prison sentences ranges between two to eight years.³³

Regarding the **seizure or confiscation of goods** relating to or proceeds derived from OCSEA offences, Article 106 of the Penal Code establishes a general clause that compels offenders to return the instruments of crime in favour of the State, not having the offended person or third person entitlement to refund; as well as things, rights or advantages acquired as a result of the crime.³⁴

The Penal Code does not prohibit all forms of **advertising or promoting** OCSEA-related offences.

Article 30 (1) of the Penal Code provides for the criminal responsibility of **legal persons** whenever criminal offences are committed by their managers or persons acting on their behalf,³⁵ without excluding the individual responsibility of the offenders.³⁶

The Government of Mozambique has not established a child **sex offenders' registry**.

The Mozambican Penal Code states that **recidivism** occurs when the agent, having been convicted by judgment which has the force of *res judicata* for any crime, commits another crime of the same nature in the next eight years since the conviction, even if the penalty of the first offence has been prescribed, forgiven or pardoned.³⁷ Consequently, it imposes more severe sentences for recidivists, according to the rules established in Article 125 of the Penal Code.

Furthermore, Article 227 (3) of the Penal Code states that the persons in charge of the education of a child who commit offences linked to the promotion, instigation or facilitation of the sexual exploitation of that child in prostitution will lose their guardianship rights and be prohibited from teaching or heading an educational establishment for a period of eight years.³⁸ However, there are no specific legal provisions to prevent convicted child sex offenders from **exercising any profession** or activity that involve regular contact with children.

Lastly, there are no provisions on **data retention and preservation** laws and procedures that follow the best interests of the child, to allow for retention and preservation of digital evidence and cooperation with law enforcement which applies to ISPs or the technology industry as a whole.

³³ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 226.

³⁴ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 106.

³⁵ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 30 (1).

³⁶ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 30 (3).

³⁷ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 38.

³⁸ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 227 (3).

Access to Justice and Remedies

National complaint mechanisms and reporting

In Mozambique, there are no mandatory duties for **professionals working with children** to report suspected cases of OCSEA. Notwithstanding, pursuant to the provisions of the Law No. 25/2019 revising the Penal Procedure Code (hereinafter called the Revised Penal Procedure Code), reporting is mandatory for police entities and civil servants who become aware of crimes while performing their duties.³⁹ Furthermore, according to Article 287 of the Revised Penal Procedure Code, any person may report to the public prosecutor, the judge, the organs of the criminal investigation or the criminal police offences they are aware of.⁴⁰

In addition, the Mozambican legislation includes a provision which makes reporting mandatory for **private citizens** when they learn about the facts that can constitute a crime provided for in the Law on Human Trafficking.⁴¹

Mozambican law creates a **protection system** for those who report the crime in Law No. 15/2012, providing for the protection of the rights and legitimate interests of victims, whistleblowers, witnesses, deponents or experts and especially vulnerable subjects in the process which applies when their life, physical or mental integrity, freedom or property are endangered by the contribution they have made or are willing to make or by the production of evidence in court.⁴² This system is complemented by Law No. 7/2008 for human trafficking crimes.

The Revised Penal Procedure Code does not allow for **anonymous complaints**. According to its Article 289, a complaint can be verbal or written, but in both cases it must be signed by the person lodging the complaint.⁴³

In accordance with the provisions of the Revised Penal Procedure Code, it is the duty of the **public prosecutor** to assist the judge in ensuring that the law is applied in a criminal proceeding.⁴⁴ Furthermore, the public prosecutor has the duty of receiving complaints and carrying out procedural steps identified by the law.⁴⁵ Besides, the Revised Penal Procedure Code establishes criminal investigation services for assisting judicial authorities in carrying out their functions under the Code.⁴⁶ The criminal investigation services are responsible for gathering information about a crime, even on their own initiative and

³⁹ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 285.

⁴⁰ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 287.

⁴¹ Government of Mozambique (2008). [Law No. 6/2008 on Human Trafficking](#), Article 8.

⁴² Government of Mozambique (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 2.

⁴³ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 287.

⁴⁴ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 59(1).

⁴⁵ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 59(2)(a).

⁴⁶ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 61(1).

preventing, as far as possible, its consequences, discovering its agents and carrying out the necessary and urgent acts aimed at securing the evidence.⁴⁷ The criminal police bodies also have similar duties under the Code.⁴⁸ According to the Code, criminal police bodies who become aware of a crime, either on their own knowledge or upon a complaint, must forward it to the Public Prosecutor at the earliest.⁴⁹ Furthermore, the Code permits the criminal police bodies to carry out investigations even before receiving an order from the competent judicial authority in order to secure the evidence.⁵⁰

In addition, the Revised Penal Procedure Code permits criminal investigation officials or third parties acting under the authority of the National Criminal Investigation Service to conduct covert investigation operations for the repression and prevention of, *inter alia*, crimes against sexual freedom when the victim is a minor, which include child sexual abuse material-related crimes (under the Penal Code).⁵¹

Although there is no duty on the public prosecutors to conduct *ex-officio* investigation of crimes, based on the abovementioned provisions of the Revised Penal Procedure Code, it can be inferred that the criminal investigation services and the criminal police bodies have the powers to conduct *ex-officio* investigation of crimes, including OCSEA.

Statutory limitations for the prosecution of offences are regulated in Article 151 of the Penal Code and Article 154 of the Penal Procedure Code.⁵² Criminal proceedings are prescribed after fifteen years if a major penalty (*pena maior*), as defined in Article 61 of the Penal Code,⁵³ is applicable to the crime; after five years if correctional penalties or security measures apply; after three years in case of misdemeanors.⁵⁴ However, if a complaint of the victim or a third party is indispensable to initiate prosecution (such as for the crimes stipulated in Articles 219, 220 and 221) the statutory limitation is two years if the crime is punished with a “*pena maior*”, and one year if the penalty corresponding to the crime is correctional.⁵⁵ It would mean that rape has to be reported within two years. This a serious loophole that could hamper child victims’ chances of justice.

⁴⁷ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 61(2).

⁴⁸ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 64(1)-(2).

⁴⁹ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 291(1).

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⁵¹ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 226 read with Article 227(b).

⁵² Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 154.

⁵³ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 61.

⁵⁴ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 151 (3).

⁵⁵ Government of Mozambique (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 151 (4).

Child-sensitive justice

Law No. 15/2012 on Mechanisms for the Protection of Rights and Interests of Victims, Witnesses, Whistleblowers or Experts in Criminal Proceedings establishes special **protection** measures for child witnesses and victims of crimes during criminal proceedings, measures that apply only in criminal proceedings where the crime is punishable with more than two years of imprisonment.⁵⁶ These mechanisms apply to child victims of OCSEA crimes, as Article 226 of the Penal Code punishes those who contravene it with imprisonment from two to eight years.⁵⁷

According to Article 5, special protection measures can be applied whenever the physical or psychological integrity of the victim is at risk, and include the use of videoconferences and recorded statements, as well as the non-disclosure of their **identity**, notably through the use of image and voice distortion techniques.⁵⁸ Law No. 15/2012 also includes the duty of confidentiality of administrative and jurisdictional information for everyone who is required to intervene or collaborate in the proceedings,⁵⁹ in order to ensure the protection of **child victims' privacy**.

Furthermore, Article 9 of the same law states that all public and private entities and citizens in general have a duty to collaborate with law enforcement, judicial and administrative authorities in the implementation of protective measures,⁶⁰ but it does not ensure that **non-governmental organisations** can assist and support child victims, at their request, during the investigation and throughout judicial proceedings. Finally, Law No. 15/2012 does not include any provisions on the access to **free legal aid** and representation, nor on the duty to provide **information related to proceedings in a child-friendly manner**. However, these rights are explicitly contemplated in Law No. 6/2008 for child victims of human trafficking.⁶¹

Regarding extra-procedural measures, Article 16 of Law No. 15/2012 provides for the police protection of victims, families and dependants, as well as measures to guarantee their personal **safety and integrity**,⁶² including a special security programme.⁶³ Furthermore, in cases of especially vulnerable victims, the law

⁵⁶ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 3.

⁵⁷ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 226.

⁵⁸ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 13.

⁵⁹ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Articles 7 and 8.

⁶⁰ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 9.

⁶¹ Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking](#), Article 21 (1) (e) provides for free legal aid and representation and Article 22 provides for a right to information related to proceedings.

⁶² Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 16.

⁶³ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 17.

provides for accompanying and support measures, including psychological support,⁶⁴ in line with the general standards laid down in Article 67 of Law No. 7/2008, which provides for medical and psychosocial care services for child victims of abuse and exploitation.⁶⁵ According to Article 18(2), “special vulnerability may result from diminished or the beneficiary's advanced age, state of health or of having to testify or make statements against a person of the own family or closed social group in which it is inserted in a condition of subordination or dependence”.⁶⁶ So, this provision would apply to child victims of OCSEA if any of the circumstances mentioned in Article 18(2) exist.

In order to implement and oversee these protection measures, Law No. 15/2012 also created a Central Cabinet for the Protection of Victims.⁶⁷

The Revised Penal Procedure Code also contains provisions to ensure the protection of the rights of child victims during criminal proceedings. Its Article 98(2)(c) prohibits the media from disclosing, by whatever means, the identity of a child victim of sexual crimes before and after the hearing, if the crime is committed through the use of media;⁶⁸ while Article 97(4) states that procedural acts related to sexual crimes against children below 18 must not be made public.⁶⁹

According to Article 394 of the Revised Penal Procedure Code, witnesses below 16 can only be interrogated by the chair of the tribunal or by the elected judges, and thus the Attorney and the representatives of the parties must submit their questions directly to the chair.⁷⁰ In addition, Article 397(1)(b) states that the accused must be removed from the courtroom whenever witnesses or declarants below 16 are delivering a statement, provided that there are reasons to believe that their presence could be prejudicial to the witness or declarant.⁷¹

Pursuant to the provisions of the Revised Penal Procedure Code, all witnesses have the right to protection against threat, pressure or **intimidation**, particularly in cases of violent or organised crime.⁷²

It seems correct to affirm that the Mozambican legislation contains provisions necessary to protect child victims during the criminal proceedings. However, national legislation fails to provide adequate protection to children aged between 16 and 18 years.

⁶⁴ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Articles 18 and 19.

⁶⁵ Government of Mozambique (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 67.

⁶⁶ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Articles 18(2).

⁶⁷ Government of Mozambique. (2012). [Law No. 15/2012 on mechanisms for the protection of rights and interests of victims, witnesses, whistleblowers or experts in criminal proceedings](#), Article 22.

⁶⁸ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 98(2)(c).

⁶⁹ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 97(4).

⁷⁰ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 394.

⁷¹ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 397(1)(b).

⁷² Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 164(2).

The abovementioned provisions apply equally to both **boys and girls**.

It is not clear whether these provisions apply to **non-national victims** of OCSEA offences.

Access to recovery and reintegration

Article 67 of Law No. 7/2008 lays down the general standards of child protection policies and it includes the provision of **medical and psychosocial care services** for child victims of abuse and exploitation, as well as social and legal protection by specialised organisations in the protection of children's rights.⁷³ Those institutions dedicated to the protection of children must comply with a number of principles related to the reintegration of child victims such as the preservation of family bonds and relationships, ensuring availability of educational, leisure and cultural activities, ensuring the child's preparation for an independent and self-sustaining life, promoting community involvement and ensuring the child's participation in local community life.⁷⁴

Nevertheless, there are no specific provisions or **specific programmes** on the rehabilitation and reintegration of child victims of OCSEA crimes which guarantee their right to recovery, unless they are victims of human trafficking, in which cases Law No. 7/2008 provides for a system to supervise and monitor the implementation of rehabilitation and reintegration measures.⁷⁵

Access to compensation

The Mozambican Revised Penal Procedure Code establishes that, in general, seeking **compensation** from criminal acts must be made in **criminal proceedings**.⁷⁶ However, an **independent civil case** can be lodged before a civil court in the cases listed in its Article 81.⁷⁷ As stated in Article 54 of the Penal Code, the exemption of criminal responsibility does not involve the exemption of civil responsibility when it is established,⁷⁸ and its imputation and graduation must be done according to civil law provisions.⁷⁹

Mozambican legislation incorporates the possibility to seek compensation from convicted perpetrators in Article 106 of the Penal Code by establishing the obligation for the convicted perpetrators to return to the victims of the crime the things deprived from them, or if the return is not possible, paying them a legally verified payment in lieu. It also sets out the obligation to compensate victims for the damages caused, upon request of the victim or their heirs.⁸⁰ However, Mozambican legislation does not incorporate the possibility to seek compensation through **country-managed funds**.

⁷³ Government of Mozambique. (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 67.

⁷⁴ Government of Mozambique. (2008). [Law No. 7/2008 on the Protection and Promotion of Children's Rights](#), Article 70.

⁷⁵ Government of Mozambique. (2008). [Law No. 6/2008 on Human Trafficking](#), Article 21.

⁷⁶ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 80.

⁷⁷ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#), Article 81.

⁷⁸ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 54.

⁷⁹ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 154.

⁸⁰ Government of Mozambique. (2014). [Penal Code Revision Law - Law No. 35/2014](#), Article 106 (b) and (c).

According to Article 94(3) of the Revised Penal Procedure Code, the amount of compensation is determined according to the judge's discretion, taking into account the gravity of the crime, the material and non-material damage caused by it, and the economic situation and social condition of the victim and the offender.⁸¹

⁸¹ Government of Mozambique (2019). [Law revising Penal Procedure Code- Law No. 25/2019](#). Article 94(3).