



MOZAMBIQUE: CALL FOR HUMAN RIGHTS SENSITIVITY

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
REVIEW, 38TH SESSION OF THE UPR WORKING GROUP, APRIL 2021

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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Mozambique in May 2021. In it, Amnesty International evaluates the implementation of recommendations made to Mozambique in its previous UPR, including in relation to ending arbitrary detentions, repression of freedom of expression, excessive use of force, torture, ill-treatment and extrajudicial executions of detainees.

It also assesses the national human rights framework with regard to respecting, protecting, promoting and fulfilling human rights.

With regard to the human rights situation on the ground, Amnesty International raises concern about abusive practices in pandemic response measures, killings and pillaging in Cabo Delgado conflict, repression of freedom of expression, impunity, violation of the rights of refugees and asylum seekers, and the adverse impact of corporate activities on human rights.

FOLLOW UP TO THE PREVIOUS REVIEW

In its previous review¹, Mozambique supported key recommendations to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR)² and the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR).³ Disappointingly, Mozambique has still not signed these treaties, let alone ratified and implemented them.

In the previous review, Mozambique also accepted recommendations to end arbitrary detentions, excessive use of force, torture, ill-treatment and extrajudicial executions of detainees;⁴ and end repression of freedom of expression.⁵ However, Mozambique has failed to implement these recommendations. Mozambique's worsening human rights record is clear evidence of this failure.

Recommendations made in the previous review did not address the fundamental factor that undergirds the increasing precarity of economic, social and cultural rights: the transfer of farmland to mining and gas companies without human rights due diligence to prevent, mitigate and remedy adverse impact of business operations on human rights in rural communities. In the absence of public and private services, rural communities rely on the land and the natural ecosystem for their livelihoods, including access to food, water, health and housing.

¹ A/HRC/32/6; A/HRC/32/6/Add.1. Mozambique supported 180 out of 210 recommendations, and rejected (or noted) 14.

² A/HRC/32/6, Australia (128.1); New Zealand (128.2); France and Georgia (128.30); Ghana (128.4); Germany, Kenya, Montenegro, Turkey, Timor-Leste, Poland and Tunisia (128.5); Spain (128.6); Indonesia (128.7); Namibia (128.8); Portugal (128.9); Slovakia (128.10).

³ A/HRC/32/6, Australia (128.1); New Zealand (128.2) and Ghana (129.3).

⁴ A/HRC/32/6, Sweden (128.38); Mexico (128.72); Costa Rica (128.74); France (128.76); Australia (128.77); Ghana (128.78); Canada (128.79).

⁵ A/HRC/32/6, Costa Rica (128.74); France (128.121); Iraq (128.122); Norway (129.31); Switzerland (129.32); Latvia (129.35).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Section III on fundamental rights, duties and freedoms, articles 35 to 95, of the Constitution of the Republic of Mozambique is inspired by the Universal Declaration of Human Rights (UDHR) and the African Charter on Human and People's Rights (African Charter). Nearly all the human rights enshrined in the ICCPR and in the ICESCR are listed in Section III. According to article 18 of the Mozambican Constitution, approved and ratified international treaties and agreements are part of the national legislation and, thus, such a provision must be protected, respected, promoted and fulfilled.⁶

In the past three years, the National Human Rights Commission has done commendable work in monitoring the human rights conditions, notably in the ongoing conflict in Cabo Delgado province.⁷ However, the Commission remains underfunded and lacks enough human resources to effectively and independently fulfil its mandate.

THE HUMAN RIGHTS SITUATION ON THE GROUND

PANDEMIC RESPONSE MEASURES

Lockdown measures introduced in response to COVID-19 adversely impacted the right to food of people living in low income neighbourhoods throughout the country. For most of Mozambique's population, dependence on the informal economy required them to negotiate a living on the streets and informal markets daily. During the COVID-19 related state of emergency, they had to choose between hunger by staying indoors and complying with lockdown measures or going out despite the risk of contracting Covid-19 or facing the police who mostly used excessive force to disperse people off the streets. While the state failed to provide any social protection for those living in poverty, authorities used punitive measures against people who had stepped out simply in search of food in low income neighbourhoods.⁸

⁶ Constitution of the Republic of Mozambique, article 18: (1) "Validly approved and ratified International treaties and agreements shall enter into force in the Mozambique legal order once they have been officially published and while they are internationally binding"; and (2) "norms of international law shall have the same force in the Mozambican legal order as have" the national legislation acts of the national parliament.

⁷ Comissão Nacional dos Direitos Humanos, <http://www.cndh.org.mz/index.php/home>

⁸ Amnesty International, Southern Africa: Governments must move beyond politics in distribution of COVID-19 food aid, 6 May 2020, <https://www.amnesty.org/en/latest/news/2020/05/southern-africa-governments-must-move-beyond-politics-in-distribution-of-covid19-food-aid/>

During the state of emergency, there was a sharp increase in gender-based violence (GBV) cases in Mozambique. The closure of schools put girls at risk of child marriages. Limited passenger loads in public transportation exposed women to increased risk of violence on the streets and at bus stops late at night and early in the mornings.⁹

HUMAN RIGHTS VIOLATIONS DURING CONFLICT

Amnesty International is concerned about the human rights situation in the northern province of Cabo Delgado. Since October 2017, the northern districts of this province have experienced armed attacks by a group known locally as Al-Shabaab¹⁰. The attackers have beheaded civilians, burned houses, looted villages and kidnapped women and girls. The government has increased the military presence in the region. However, the authorities' response has been inadequate and Amnesty International is alarmed by reports of human rights violation committed by the security forces.¹¹

On 7 April 2020, government forces forcibly disappeared **Ibraimo Abú Mbaruco**, a community radio journalist and newscaster in Palma District, around 6pm as he returned home from work.¹² On the evening of 11 March 2020, the security forces reportedly arrested **Roberto Mussa Ambasse** and **Muemede Suleimane Jumbe**, two local activists and community leaders, from their home in Palma district and they were later found dead.¹³ Despite numerous calls for investigations by national, regional and international human rights organizations, including Amnesty International, the government has not conducted any investigations to bring those suspected of criminal responsibility to justice in fair trials.

The violent skirmishes in Cabo Delgado have created a humanitarian crisis. By October 2020, there were more than 300,000 internally displaced people (IDPs), and more than 700,000 needed humanitarian assistance.¹⁴ The government did not provide adequate shelter, food, water, education and health services to the IDPs. Some families who voluntarily provide shelter to IDPs in Cabo Delgado and Nampula provinces are now hosting up to 40 people. Although the government created the Northern Integrated Development Agency – Agência do Desenvolvimento Integrado do Norte (ADIN) – it is too early to comment on its impact on the humanitarian crisis.

By October 2020, at least 2,000 people had been killed in the Cabo Delgado conflict.¹⁵ Among the dead were people caught in the crossfire and others deliberately killed by the armed groups and government forces. Amnesty International verified videos and photographs that showed torture and dismemberment of bodies of alleged opposition fighters, transport and discarding of corpses into apparent mass graves. The soldiers committing these serious human rights violations wore the uniforms of the Mozambique Armed Defence Forces (FADM) and the Mozambique

⁹ Amnesty International's research,

¹⁰ This group has no known relationship with Al-Shabaab in Somalia

¹¹ Amnesty International, *Mozambique: Authorities must do all needed to lawfully protect people in Cabo Delgado*, 23 March 2020, <https://www.amnesty.org/en/latest/news/2020/03/mozambique-authorities-must-do-all-needed-to-lawfully-protect-people-in-cabo-delgado/>

¹² Amnesty International, *Journalist forcibly disappeared: Ibraimo Abú Mbaruco*, 15 April 2020, <https://www.amnesty.org/en/documents/afr41/2138/2020/en/>

¹³ Amnesty International, *Mozambique: End smear campaign against Bishop Lisboa*, 26 August 2020, <https://www.amnesty.org/en/documents/afr41/2914/2020/en/>

¹⁴ Amnesty International, *Mozambique: No justice for victims of three-year conflict in Cabo Delgado which has killed over 2,000*

7 October 2020, <https://www.amnesty.org/en/latest/news/2020/10/mozambique-no-justice-for-victims-of-three-year-conflict-in-cabo-delgado-which-has-killed-over-2000/>

¹⁵ Amnesty International, *Mozambique: No justice for victims of three-year conflict in Cabo Delgado which has killed over 2,000*

7 October 2020, https://www.amnesty.org/en/latest/news/2020/10/mozambique-no-justice-for-victims-of-three-year-conflict-in-cabo-delgado-which-has-killed-over-2000

Rapid Intervention Police (PIR).¹⁶

FREEDOM OF EXPRESSION

The period since the last review saw stepped-up intimidation, harassment, arbitrary arrests, and judicial persecution of journalists, human rights defenders, and government critics. On 23 August 2020, an unidentified group firebombed the offices of the independent weekly newspaper *Canal de Moçambique* in Maputo.¹⁷ The group broke into the offices, poured fuel on the floor, furniture and equipment, and threw a Molotov cocktail, reducing the office equipment and furniture to ashes.¹⁸ The attack occurred four days after *Canal* had alleged, on 19 August, an unethical procurement process involving senior officials at the Ministry of Mining Resources and Energy, and the governing party elites. Following this allegation, pro-government individuals launched a campaign on social media calling for *Canal's* elimination.

On 18 June 2020, the public prosecutor charged *Canal's* executive director, **Matias Guente**, and editorial director, **Fernando Veloso**, with “violation of state secrecy” and “conspiracy against the state”, after an 11 March 2020 *Canal* article about an alleged illegal secret contract between the Ministry of Defence, the Ministry of the Interior and natural gas companies in Cabo Delgado.¹⁹

On 23 August 2020, **Armando Nenane**, an investigative journalist, was arrested in Maputo by the police for allegedly failing to comply with COVID-19 regulations. Nenane had deposited funds in the bank account of the Minister of Defence, details of which had been published in the 11 March article in *Canal*. Following this, a social media campaign ensued calling for his prosecution for “violation of state secrecy”.²⁰

On 14 August 2020, President Filipe Nyusi publicly disapproved of those “who, including foreigners, camouflaged in the name of human rights, don’t respect the sacrifice of those who keep this young homeland standing, and guarantee their stay in Cabo Delgado and Mozambique in general.”²¹ This triggered a smear campaign against **D. Luiz Fernando Lisboa**, the Catholic Bishop of Pemba, with many users accusing Bishop Lisboa, a Brazilian national, of associating with terrorists and insurgents.²² On 16 August, Egidio Vaz, a well-known government supporter referred to the Bishop as “a criminal [who] should be expelled from Mozambique.”²³ Bishop Lisboa has been among the few voices speaking up about the deplorable human rights conditions in Cabo Delgado.

LACK OF ACCOUNTABILITY AND JUSTICE

Amnesty International has documented several cases of serious human rights violations and abuses by state and non-state actors for which the government has failed to carry out thorough,

¹⁶ Amnesty International, *Mozambique: Torture by security forces in gruesome videos must be investigated*, 9 September 2020, <https://www.amnesty.org/en/latest/news/2020/09/mozambique-torture-by-security-forces-in-gruesome-videos-must-be-investigated/>

¹⁷ Amnesty International, *Mozambique: Media freedom in ashes*, 31 August 2020, <https://www.amnesty.org/en/documents/afr41/2947/2020/en/>

¹⁸ Amnesty International, *Mozambique: Unprecedented arson attack on Canal media must be promptly investigated*, 31 August 2020, <https://www.amnesty.org/en/latest/news/2020/08/mozambique-unprecedented-arson-attack-on-canal-media/>

¹⁹ Amnesty International, *Mozambique: Media freedom in ashes*, 31 August 2020, <https://www.amnesty.org/en/documents/afr41/2947/2020/en/>

²⁰ Amnesty International, *Mozambique: Media freedom in ashes*, 31 August 2020, <https://www.amnesty.org/en/documents/afr41/2947/2020/en/>

²¹ Centro para Democracia e Desenvolvimento, CDD condena ataques verbais contra o Bispo de Pemba e manifesta a sua solidariedade, 18 August 2020, <https://cddmoz.org/cdd-condena-ataques-verbais-contra-o-bispo-de-pemba-e-manifesta-a-sua-solidariedade/>.

²² Amnesty International, *Mozambique: End smear campaign against Bishop Lisboa*, 26 August 2020, <https://www.amnesty.org/en/documents/afr41/2914/2020/en/>

²³ Amnesty International, *Mozambique: End smear campaign against Bishop Lisboa*, 26 August 2020, <https://www.amnesty.org/en/documents/afr41/2914/2020/en/>

prompt, impartial and effective investigations and to bring the suspected perpetrators to justice. On 7 October 2019, four members of the special operation group (GOE) of the rapid intervention police force (FIR) and one civilian publicly executed Anastácio Matavele, a human rights defender and an election observer in the city of Xai-Xai, Gaza province. While those who committed the crime were convicted and sentenced, those who ordered or consented to Matavele's killing remain free.²⁴

Another unresolved case is the killing of **Gilles Cistac** by four gunmen in downtown Maputo on 2 March 2015. Prior to his murder, Gilles Cistac had made statements supporting greater autonomy for the provinces in Mozambique.²⁵

RIGHTS OF REFUGEES AND ASYLUM SEEKERS

Amnesty International has received worrying reports of arbitrary arrests and attempts to deport refugees by the security forces. On the evening of 17 January 2019, the Police of the Republic of Mozambique (PRM) and immigration officers arrested 15 refugees and asylum seekers (14 men and one woman) from the Democratic Republic of Congo (DRC) and one male refugee from Ethiopia in Maratane Camp in Nampula province. According to their testimonies, they were beaten, hand-cuffed and arrested without a warrant. On 19 January 2019, the PRM transferred them to the Third Police Station in Pemba, Cabo Delgado.²⁶

On 23 January 2019, the Government of Mozambique deported seven men from the group, who were from the DRC. They were not notified of a deportation order, nor were they permitted to challenge the legality of their deportation. When they arrived in Kinshasa, DRC, the immigration officials denied them entry as they did not have any travel documents and were sent back to Mozambique.²⁷ The seven men were returned to Pemba. The 16 people are currently detained at the Third Police Station in Pemba.²⁸ They have been held for more than one year and eight months in appalling conditions, and they still have not been notified of the reason for their detention or of any criminal charges against them. They have also not been brought before a court.²⁹

BUSINESS AND HUMAN RIGHTS

Over the past decade, mining has increasingly become the focus of the government to speed up economic growth, job creation, and poverty reduction. Amnesty's research indicates that, while prioritising mining, the Mozambican government has failed to take corresponding steps to protect the human rights of communities affected by mining, as required under international human rights law and standards. Amnesty has documented cases in which mining companies have failed to identify and address the human rights impacts of their operations and, as result, have caused or contributed to serious human rights abuses and increased tensions between companies and local communities – both when acquiring land for their operations and when conducting mining operations. The use of land for mining also risks exacerbating already existing food insecurity in

²⁴ IFHR, *Open letter to the Government of Mozambique: Killing of activist Dr. Anastácio Matavel and restrictions on civic space mar upcoming elections*, 15 October 2019, <https://www.fidh.org/en/issues/human-rights-defenders/open-letter-to-the-government-of-mozambique-killing-of-activist-dr>

²⁵ Amnesty International, *Mozambique: Authorities must promptly investigate the killing of a lawyer*, 5 March 2015, <https://www.amnesty.org/en/documents/afr41/1137/2015/en/>

²⁶ Amnesty International, *Mozambique: Refugees and asylum seekers held arbitrarily*, 13 June 2019, <https://www.amnesty.org/en/documents/afr41/0465/2019/en/>

²⁷ Amnesty International, *Mozambique: Refugees and asylum seekers held arbitrarily*, 13 June 2019, <https://www.amnesty.org/en/documents/afr41/0465/2019/en/>

²⁸ Amnesty International, *Mozambique: Further Information: Refugees and asylum seekers must be released*, 25 June 2020, <https://www.amnesty.org/en/documents/afr41/2603/2020/en/>

²⁹ Human Rights Council, *Working Group on Arbitrary Detention, Opinion adopted by the Working Group on Arbitrary Detention at its eight-seventh session, 27 April 2020 – 1 May 2020*, 22 May 2020, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_9_Advance_Edited_Version.pdf

Mozambique, which has affected over 60% of people in rural areas who depend on the land for the livelihoods, food and water.

In 2013, coal mining company Vale Mozambique began to fence off land used by residents to graze their livestock and collect firewood, including in the Nhanchere area in the Moatize district of Tete province. On 13 June 2017, Hussien António Laitone was shot dead by police in Nhanchere during the community's peaceful protest land acquisition for mining; he did not participate in the protest.³⁰ To date, the government has not conducted the required investigation.

Amnesty International found that Haiyu Mozambique Mining Company Ltd had breached the rights to adequate housing and decent living standards in the coastal village of Nagonha, Nampula province, because of the impact of irresponsible heavy sands mining by the company on the community's wetland, local ecosystem and ecological services.³¹ Evidence gathered by Amnesty strongly suggests that the way in which Haiyu deposited sand across the landscape placed the coastal village at heightened risk of flooding and very likely contributed significantly to a freak flood in February 2015, which destroyed one-fifth of the village. Villagers also lost property that they depended on for their livelihoods, including fishing tools. Neither the government of Mozambique nor Haiyu have provided adequate reparation including compensation to the victims. Amnesty International's investigation also revealed that the company failed to comply with national laws regarding the protection of Nagonha community's rights, namely regarding the mandatory obligation to conduct community consultations, environmental impact assessments and community resettlement. Haiyu also lacks the mandatory Right to Land Use and Development (DUAT) a requirement to operate in the area. Haiyu has repeatedly denied that its mine operations had any bearing on the flooding in Nagonha.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF MOZAMBIQUE TO:

NATIONAL HUMAN RIGHTS FRAMEWORK

³⁰ Amnesty International, *The State of the World's Human Rights*, London: Amnesty International, 2018, <https://www.amnesty.org/en/documents/POL10/6700/2018/En/>.

³¹ Amnesty International, *Mozambique: Our lives mean nothing: The human costs of Chinese mining in Nagonha*, Mozambique, 28 March 2018, <https://www.amnesty.org/en/documents/afr41/7851/2018/en/>

- Provide adequate funding and other necessary support to National Human Rights Commission so that it can effectively and independently carry out its mandate to monitor the human rights conditions in the country.

PANDEMIC RESPONSE MEASURES

- Ensure that the social security infrastructure is sufficiently resourced to guarantee the right to an adequate standard of living for all and including protection from hunger.
- Ensure that prevention of, and protection from, gender-based and domestic violence is an integral part of national responses to pandemics and other emergencies, including by collection of disaggregated data in order to identify and prioritise supporting women and girls at greatest risk of different types of gender-based violence.

PROTECTION OF HUMAN RIGHTS DURING CONFLICT AND CRISIS

- Provide humanitarian assistance, including food, housing, education and health services to the growing number of internally displaced people.
- Conduct swift, impartial and transparent investigations into allegations of gross human rights violations by the government security forces and bring all those suspected of criminal responsibility to justice in fair trials before ordinary civilian courts.

FREEDOM OF EXPRESSION

- Undertake prompt, thorough, impartial, independent and transparent investigations into all cases of attacks, harassment, intimidation, and forced disappearance of journalists, academics, researchers, religious clerics and human rights defenders and bring all those suspected of responsibility to justice in fair trials.
- End the current climate of intimidation, harassment, and arbitrary arrests and detentions, forced disappearances of journalists, human rights defenders, activists and all those simply exercising their human rights and expressing their views on issues of public concern.
- Fully and effectively respect and protect human rights including the rights to freedom of expression, access to information, and media freedom.

ACCOUNTABILITY AND JUSTICE

- Carry out prompt, impartial, thorough and effective investigations into all allegations of extrajudicial executions or unlawful killings by the security forces and ensure that the suspected perpetrators are brought to justice in fair trials before ordinary civilian courts.
- Ensure access to justice and effective remedies, including fair and adequate compensation in cases of extrajudicial executions or unlawful killings by the police, for the relatives of the victims.

RIGHTS OF REFUGEES AND ASYLUM SEEKERS

- Protect all migrants, asylum seekers and refugees from violence without discrimination based on their migration status and bring those suspected to be responsible for such violence to justice in fair trials.

- Stop the practice of arbitrary arrests and forcible return of refugees and without due process and respect the principle of non-refoulement.
- Withdraw reservations to the 1951 Convention Relating to the Status of Refugees.

BUSINESS AND HUMAN RIGHTS

- Put in place and enforce laws and regulations to ensure that land concessions for mining are granted in a way that respects the human rights of affected communities.
- Conduct a nation-wide audit in all communities affected by mining to assess to what extent mining companies are complying with their responsibilities under national law and international standards on business and human rights and make the results of the inquiry public.
- Strengthen the monitoring and law enforcement mechanisms that protect the environment and rights of communities affected by mining because, at present, monitors and inspectors lack resources to monitor and inspect business operations to assess their impact on the environment and human rights.
- Develop business and human rights legislation requiring companies operating in Mozambique to undertake human rights due diligence in their operations and report on the steps taken.
- Ensure that the residents of Nagonha have access to effective remedies and reparation. Reparation must include, among other things, adequate compensation for the damage caused by the loss of their livelihoods and housing, and restitution of the ecological services of the wetland including drinking water, grazing land, medicinal plants, lagoons for fishing and recreational swimming.

INTERNATIONAL HUMAN RIGHTS LAW

- Promptly ratify, without making any reservations, the International Convention for the Protection of All Persons from Enforced Disappearance, signed on 24 December 2008; and implement it into national law. Mozambique should also recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties.
- Adhere to the International Covenant on Economic, Social and Cultural Rights without making any reservation, and implement it into domestic law.
- Promptly accede to the Optional Protocol to the International Covenant on Civil and Political Rights.
- Promptly ratify the Rome Statute of the International Criminal Court, signed on 28 December 2000, and implement it into national law.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

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