

## 1. Introduction

1.1. The Monitoring Forum for the UN Universal Periodic Review (UPR) Mechanism for Human Rights in Mozambique (FMMRPU) is a platform of more than 150 Civil Society Organizations (CSOs) and individual activists who advocate for the promotion and defense of universal human rights norms in Mozambique. This coalition is led by five CSOs.<sup>1</sup>

## 2. Methodology

2.1. This Shadow Report to the Third Cycle UPR of Mozambique is based on public consultations at national level involving more than 240 civil society organizations affiliated and not affiliated to the FMMRPU and desk-based research and legislative review. This culminated in the development of this report and the production of an Evaluation Report on the Implementation of the second cycle recommendations of the UN MRPDU in Mozambique 2016-2019 / 20<sup>2</sup>, which is an annex to this report in addition to other annexes.

2.2. The FMMRPU examines the Government of Mozambique's compliance with its international obligations arising from the recommendations accepted in the 2nd cycle of the MRPDU, in 2016, with a view to improving the human rights situation in Mozambique. Specifically, it analyzes the country's compliance with 20 thematic issues considered critical in the fields of civil and political rights; economic, social and cultural rights, and diffuse rights.

2.3. For the purpose for which it is intended, the present Shadow Report assesses the implementation of these issues, and provides a set of new specific recommendations for each of the 20 thematic area geared to action, to be considered by the III Working Group UN HRH MRPDU cycle and which should be added to the 180 recommendations of the second cycle, which have not been fully implemented.

## 3. Implementation of Second Cycle Recommendations

3.1. During the 2nd cycle review of MRPDU, Mozambique, the Government, received 210 recommendations, of which 180 were accepted and 30 were noted. The level of implementation of the recommendations of the 2<sup>nd</sup> Cycle of the MRPDU, was 36.8%, which is below 50%, and which reflects the great challenges that the Mozambican State had during the reported period. Of the accepted recommendations (86%), only 27 were **fully implemented**, representing 12.8%. 48.5% of the recommendations are in the **process of being implemented** and 22.8% **partially implemented**. The noted recommendations, which represent 14%, have **not been implemented**, and added to which are three accepted, totaling 33 and representing a total of 15.7% for the category "not yet implemented". For more information see annex 1.

## 4. The situation of Human Rights

### 4.1. Legal and institutional framework

Mozambique is a signatory to several regional and international instruments and agreements for the promotion and protection of Human Rights. The legal-legal framework is quite progressive as a result of a Constitution of the Republic that recognizes the International System of Human Rights and the importance of its incorporation into the domestic legal order. The institutional infrastructure that implements this framework, primarily resides in the Judiciary (Courts and the Public Ministry), the Ombudsman, the National Commission for Human Rights and other petition and inspection mechanisms at the Parliament level (Commission of Constitutional Affairs, Human Rights and Legality, and the Petitions Committee).

At the Executive level, it is the responsibility of the Ministry of Justice, and Constitutional and Religious Affairs to coordinate policies in this area. Civil society also plays an important role in the promotion and defense of Human Rights.

### 4.2. Ratification and domestication of international instruments

Domain aligned with SDG 17. Although Mozambique is a party to many regional and international instruments, it has not yet ratified some whose commitment it assumed since the first cycle in 2011, such as PIDESC, the International Convention for the Protection of All People against Forced Disappearances signed by Mozambique in 2008, the First Optional Protocol to the International Covenant on Civil and Political Rights and the Rome

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<sup>1</sup> MULEIDE - Women, Law and Development, Human Rights League, LAMBDA, FECIVE-Civic Education and Justa Paz Institute - Conflict Resolution Institute, within the scope of the Project "Improving the Implementation of the Universal Periodic Review Recommendations in Mozambique, through the Strengthening the Civil Society Monitoring Role" - financed by the Norwegian Embassy in Mozambique and implemented by UNDP - Mozambique Office, whose implementation started in February 2018.

<sup>2</sup> Published in June 2020. Available at: [www.sscmrpu.org](http://www.sscmrpu.org)

Statute of the International Criminal Court<sup>3</sup>, which was noted in the second cycle. Still in this domain, another element that constitutes a great challenge lies in the effective domestication of the ratified instruments.

#### **4.3. Cooperation with international human rights treaty bodies and mechanisms**

This domain is in line with SDG 17. Mozambique has a history of positive cooperation with international human rights treaty bodies and mechanisms. Despite this, there are systematic delays in reporting to the relevant treaty bodies, namely the 14 Conventions to which Mozambique is a party to. Until 30 June 2019, the Government had presented only 33% of the reports due to the Committees<sup>4</sup>. Moreover the Government has demonstrated non-cooperation with special procedure mandates in cases of flagrant violations of Human Rights, as was the case with the mass graves crisis in 2018, as well as the lack of response to the pending requests of some mandate holders to visit the country, as exemplified by the Special Rapporteur on Summary Executions.

#### **4.4. Freedom of association**

Domain aligned with the SDG 16. The right of association is constitutional under the terms of article 52 and is regulated by Law 8/91 of June 1991. However, the exercise of this right, on the one hand, contrasts with the excessive bureaucracy and high procedural costs for the legalization of associations, which many citizens are unable to bear in a context of poverty. On the other hand, this right is not fully exercised because its use is discriminatory in relation to sexual orientation, as is the case of Associação LAMBDA (LGBTI), which was not legally recognized more than ten years ago.

#### **4.5. Intimidation and attacks against human rights defenders, civil society activists and journalists**

Domain aligned with SDG 16. The issue of intimidation and attacks against human rights defenders, in general, constitutes one of the most serious ways of limiting the exercise and enjoyment of fundamental human rights and individual freedoms and which undermine the foundations of rule of law and Democracy. In Mozambique, in the last five years, these practices tend to result in alarming outcomes expressed in murders, abductions, torture, disappearances and other forms of silence and intimidation of voices that make public opinion considered uncomfortable, which still need clarification and accountability (list of cases: see the second paragraph of point 6 of this report).

#### **4.6. Freedom of opinion and expression, access to information and freedom of the press**

Domain aligned with the SDG 16. Art.19 of the UDHR and art.19 of the PIDCP provide for the exercise of fundamental rights of citizens, namely, the right to political participation, which implies the right of access to official information. In Mozambique, freedom of expression and information constitutes a constitutional guarantee and is provided for under article 48 of the Constitution of the Republic of Mozambique (CRM). In addition, in 2014 Law 34/2014<sup>5</sup> was approved, which reinforces the legal framework of the right to information.

Access to information is also guaranteed by the Press Law<sup>6</sup>, which defines the entire framework of the exercise of journalistic activity, as well as its protection at work and expression. However, the Press Law has some limitations on the exercise of freedom of expression, for alleged national security reasons<sup>7</sup> and for cases of defamation of state figures, sanctions range from fines to 2 years in prison, or even suspension of the concerned entity in the event of a repeated offense (Article 48). In addition to these legal limitations, in practice media operators have been victims of repression of freedom of expression through kidnappings, murders, arbitrary detentions, legal proceedings, intimidation and other forms of human rights abuse, as pointed out by MISA - Mozambique, 2018<sup>8</sup>.

Despite advances in legislation, there is still a big deficit in its implementation. On the other hand, there is a total impunity shielding the perpetrators of acts of abuse and violation of Human Rights against journalists, the media and access to information. Furthermore, defamation remains criminalized and is used to prosecute and intimidate journalists.

<sup>3</sup> Promised in the first cycle. Source: Source: A / HRC / 32/6 - Parag. 130 & A / HRC / 32/6 / Add.1 - Parag. 29

<sup>4</sup> Report to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Source: CMW / C / MOZ / 1, 16 October 2018); Third and fourth combined periodic reports to the Committee on the Rights of the Child; Third and fourth combined periodic reports to the Committee against the Elimination of All Forms of Discrimination against Women (Source: CEDAW / C / MOZ / 3-5)

<sup>5</sup> Right to Information Law

<sup>6</sup> Law 19/91, of 10 August

<sup>7</sup> For further information see the Thematic Report of Mozambique in the scope of the implementation of the International Covenant on Civil and Political Rights, JOINT, March 2018)

<sup>8</sup> MISA (2019). Report on the State of Freedom of the Press and Expression in Mozambique 2018. Maputo: MISA-Mozambique. Available at <http://www.misa.org.mz/index.php/publicacoes/relatorios/relatorio-2008/90-relatorio-sobre-o-estado-da-liberdade-de-imprensa-2018/file>

#### 4.7. Freedom of peaceful assembly and association

Domain aligned with SDG 16. The UDHR enshrines this right in art.20 and PIDCP in arts. 21 and 22. Internally, it is a constitutional right provided for in art. 51 which is regulated by laws 9/91 of 18 July 91 and 7/2001, of July 2001.

Mozambique adopted recommendation 128.122 which deals with this matter<sup>9</sup>. However, despite the law being clear in safeguarding this right, there have been systematic violations expressed by the use of excessive force against peaceful demonstrations by the police, under the pretext of guaranteeing Public Order and Security, as was the case of the demonstration organized by the Parliament association in 2019<sup>10</sup>, among other forms of administrative obstruction with a view to curbing this right.

#### 4.8. Peace process and elections

Domain aligned with SDG 16. Peace in Mozambique is conditioned by the electoral process, given the country's historical and political trajectory since independence. The peace that is being lived is not yet effective, because there are still pockets of instability derived from poorly resolved political processes, such as the Renamo Military Junta, which continues to carry out attacks in the provinces of Manica and Sofala.

The electoral process contributes to the materialization of the right to participate in public life enshrined in the UDHR and in the PIDCP. The first assumption of ensuring citizen participation in the conduct of public affairs is transparency in democratic governance processes, especially the right to be elected and to elect in free, fair, credible and transparent elections. But this right has been undermined, despite elections being regular. Outside the electoral process, citizens are included in decision-making processes at the local level, through the Local Consultative Councils<sup>11</sup>, with a great impact on the issue of land and local development, although there are still major challenges of their effective participation in these forums. The problem of the transparency of electoral processes has been one of the negative points for consolidation of democracy in Mozambique. This process has been undermined by systematic allegations of electoral fraud<sup>12</sup>, which further undermines peace and national reconciliation in Mozambique.

#### 4.9. Torture, summary executions and private imprisonment

Domain aligned with the SDG 16. The practice of torture is prohibited, either constitutionally, under the terms of number 3 of article 65<sup>13</sup>, as well as in the Criminal Law in harmony with CAT. Furthermore, Mozambique is also a state – party to OP-CAT.

During the second cycle, the Government accepted the two specific recommendations included in area 12.5 (Prohibition of torture and cruel, inhuman or degrading treatment) and others included in related areas regarding conditions of detention. Regarding the recommendations adopted by the Government<sup>14</sup>, no implementation measures were undertaken<sup>15</sup>, reinforcing the perception that the culture of impunity prevails in Mozambique.

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<sup>9</sup> Rec. To continue the government's efforts to protect the rights of freedom of expression and peaceful demonstrations and to respect political rights in this regard (Iraq); Source: A / HRC / 32/6 - Parag. 128.

<sup>10</sup> On February 1, 2019, a police contingent made up of 15 agents, in uniform and in civilian clothes, surrounded the premises of this organization in the city of Maputo, with the aim of preventing a cultural manifestation within the scope of the illegal debt scandal.

<sup>11</sup> Local Advisory Councils emerge as a corollary to the decentralization process underway in Mozambique since 1997 that inspired the Government's deconcentration policy expressed through the Law of Local State bodies (LOLE) and its respective regulation. Decree-law 11/2005, which regulates Law 8/2003, in paragraph 1 of Article 100, determines that "the local organs of the State must ensure the participation of citizens, local communities, associations and other forms of organization that have for the defense of their interests, in the formation of decisions that concern them". LOLE institutionalizes the consultation and participation of local communities in the local planning process through consultative councils at the level of districts, administrative posts, locality and population, as a way of bringing services closer to citizens.

<sup>12</sup> The following are competing for this purpose: irregularities in voter registration, non-republican police action, political and electoral violence, the murder of political opponents and civil society activists, geographical restrictions for certain competitors to materialize their electoral campaign actions and cases of ballot box filling

<sup>13</sup> Principles of Criminal Procedure.

<sup>14</sup> Recommendation 128.78 Take the necessary measures to ensure that allegations of killings, torture, arbitrary detentions, extrajudicial executions, excessive use of force and mistreatment of detainees are promptly investigated and perpetrators brought to justice (Ghana); Source: A / HRC / 32/6 - Parag. 128

<sup>15</sup> The wave of murders of members of the largest opposition party that occurred between 2015 and 2017 amounts to 50 cases; the Giles Cistac case; the case of Renamo party member of the State Council, Mr. Jeremias Pondeca; the case of the academic and political commentator, Jaime Macuane; the case of journalist Paulo Machava; the assassination attempt of the then Renamo Secretary General, Mr. Manuel Bissopo; the kidnapping and killing of the journalist and political commentator, Ericínio de Salema; the recent case of the murder of the social activist in Gaza, Mr. Anastácio Matavel; the cases of prisoners who die in jail victims of violence; the case of mass graves in the provinces of Sofala and Manica; the case of the murder of Edil de Nampula, Mr. Mahamudo Amurrane, among several other cases of anonymous citizens.

#### **4.10. Justice, combating impunity and corruption**

Domain aligned with SDG 16. Justice is one of the pillars of the Democratic Rule of Law. In Mozambique, access to justice is a constitutional guarantee provided for in Articles 62<sup>16</sup> and 70<sup>17</sup>. For a long time, access to justice was conditioned to legislation inherited from the colonial period and which needed reforms, in order to conform it to the new contextual framework.

Legal and institutional reforms to guarantee access to justice are currently underway, as a result of the approval of the new Penal Procedure Code, Penal Code, Penalty Execution Code and Private and Non-Private Measures of Liberty, the organic laws of the judicial magistrates and prosecutors, the expansion of the network of courts and prosecutors, through the palaces of justice, etc., which all testify to these advances. But the sector continues to face enormous challenges that make it difficult for citizens to exercise their right of access to justice, especially the lack of staff, meager working means, procedural delays in execution of sentences, exorbitant legal costs, and deficit in coverage of the judicial networks etc.

Constitutionally, the Judiciary is independent<sup>18</sup>, but, from a functional point of view, it still depends on the executive, with regard to the provision of the budget and means of work, as well as the appointment of judges, which is conducted by the President of the Republic. This situation undermines the independence of the Judiciary and is in violation of the constitutional provision on separation of powers.

The issue of impunity continues to characterize institutions and is a major challenge. There are very few records of cases of State agents involved in abuses and violations of human rights or corruption that have been investigated and criminally sanctioned, and or, administratively; as well as the fulfillment of articles 58 of the CRM<sup>19</sup> remains a challenge. Investigating murder, corruption and organized crime processes remains a major challenge for Mozambican criminal and judicial authorities, as criminal investigations are generally inconclusive.

Corruption is another major problem in the country, whose paradigmatic example is in the contraction of hidden and illegal debts. It is no coincidence that in the main international indicators, Mozambique, annually ranks in the group of the 10 most corrupt countries in the world, according to Transparency International.

#### **4.11. Prison situation and detention centers**

Domain aligned with SDG 16. Mozambique is a state - party to the main international human rights instruments that regulate prison conditions. During the last cycle, the State received nine recommendations, which were accepted<sup>20</sup> but are still in the process of implementation. Meanwhile the prison situation continues to be characterized by excessive overcrowding, which reaches rates well above 200%, in relation to the installed capacity of 8,188, despite the downward trend between 2016 to 2018<sup>21</sup>; and conditions of seclusion remain degrading, and undermining to human dignity. Although the prison conditions continue to be terrible, the fight against overcrowding has been taking shape through the application of the figure of Indult<sup>22</sup> by the President of the Republic and the organs of justice in coordination with the Government<sup>23</sup>.

In the recent reform of the Criminal Justice System (2019), together with the approval of the Penal Code, the Code for the Execution of Penalties and Private and Non-Private Measures of Liberty was also approved, which represents a major advance in the Reform of the Penitentiary System. However, the challenge remains of its effective application by the judicial magistrates and the prison administration of the country. Detention centers – and police stations - continue to be the main foci of the greatest violation of human rights through recurrent practices of torture and other cruel acts in flagrant violation of the Constitution of the Republic and CAT and the respective protocols that Mozambique is a state party to, largely due lack of civil society oversight and engagement.

#### **4.12. Public insecurity and police action**

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<sup>16</sup> Access to the courts.

<sup>17</sup> Right to go to court.

<sup>18</sup> Article 3 (Democratic Rule of Law) and Article 215 of the CRM (Independence of Judges)

<sup>19</sup> Right to compensation and State liability.

<sup>20</sup> Area: 12.6. Detention conditions and Area: 13.3. Arbitrary arrest and detention

<sup>21</sup> National Institute of Statistics (INE), Crime and Justice Statistics, 2018.

<sup>22</sup> When presenting your report on the General State of the Nation-2018. Indult is based on Decree-Law 39,997 of December 29, 1955, published in the Official Gazette nr. 6 of February 9, 1955, which extends to Mozambique the prison regime instituted by Decree-Law number 26.643, of May 28, 1936. This legal provision deals with the pardon and commutation of sentences in articles 403 to 407

<sup>23</sup> In 2018, the President of the Republic granted pardon to 1498 prisoners and contributed to a drop of 11% of the total prison population carried over to 2019. Also in 2018, July, the Ministry of Justice, Constitutional and Religious Affairs with other administrative bodies of justice promoted "Trials in Campaign" in seven provinces that culminated in 680 convicted inmates, 267 acquittals and 228 benefited from alternative sentences to prison.

Domain aligned with SDG 16. During the last cycle, the police received more than eight direct and indirect recommendations accepted by the Government, with emphasis on the domain of extrajudicial, summary or arbitrary executions<sup>24</sup>, whose implementation was not satisfactory, as result of poor performance, impunity and lack of accountability of State agents involved in acts of abuse and violation of Human Rights.

Despite advances in the training and capacity-building curricula for police officers, which incorporate human rights, as one of the structuring elements, the poor performance of police forces<sup>25</sup> continued to be a major public problem that jeopardizes their role in a State of Law.

#### **4.13. Rights of women, girls and children**

Domain aligned with SDGs 5, 8, 10 and 16. Mozambique is a State - part of several international, continental and regional instruments and mechanisms of reference in the fight against discrimination against women, girls and child protection in accordance with the constitutional principles of universality and equality before the law, and gender equality expressed in articles 35 and 36.

The State's commitments to the advancement agenda for women, including the Agenda For a Planet 50-50 in 2030: a decisive step towards the UN's gender equality, Mozambique has made significant advances with regard to the participation of women in spaces of decision making. But, in general, women are still underrepresented in development processes, especially in local bodies, which means that their specific agendas are not met.

Several programs aimed at reducing gender differences and improving the rights of women and girls in health, education and livelihoods, have been developed, but these areas still face challenges of effectiveness and positive impact, including on the right to sexual and reproductive health<sup>26</sup>.

The child protection system has constitutional coverage under the terms of number 1 of Art.47 of the CRM, which enshrines the rights of the child. Furthermore, Mozambique is a State party not only to the CRC, but also to several international instruments that guarantee the protection of the right of the child. However, the indicators on child protection in the country illustrate a very worrying scenario<sup>27</sup>.

#### **4.14. International Humanitarian Law**

Domain aligned with SDG 16. As part of the latest UPR review, Mozambique received and accepted a recommendation on this issue<sup>28</sup>, which is in the process of being implemented. This category of implementation level was due to the non-inclusion of other non-belligerent political parties and civil society in the mediation process to end the political-military conflict between the Government and Renamo, which mostly devastated the central region of the country, since 2016, and which culminated in the signing of the Peace and Reconciliation Agreement on August 6, 2019. But despite being a historic agreement, the process was not sufficiently inclusive as it excluded many conflict stakeholders and civil society. It does not also provide for compensation for direct and indirect civilian victims; and nor does it advocate for accountability to those who deliberately violated international humanitarian law.

Moreover, Mozambique is experiencing two situations of military conflicts expressed in the terrorist attacks carried out by Islamists in the province of Cabo - Delgado, since 2017, and which have already caused another 1000 deaths and hundreds of displaced people, according to the Government. Similarly the armed attacks in the provinces of the central zone of the country (Manica and Sofala) carried out by the Renamo Military Junta further contributes to violation of international humanitarian law and exacerbate the humanitarian situation. It is

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<sup>24</sup> Area 12.3. Sources A / HRC / 32/6 - Par. 128 (United Kingdom of Great Britain and Northern Ireland), A / HRC / 32/6 - Par. 128 (United States of America), A / HRC / 32/6 - Par. 128 (Sweden) and A / HRC / 32/6 - Par. 128 (France).

<sup>25</sup> As a result of the excessive and disproportionate use of force; Power abuse; corrupt performance - just to exemplify, in the various studies on corruption in Mozambique, the police appear to be one of the most corrupt institutions; allegations of serving the interests of the ruling party - mainly on matters of a political nature, such as elections; torture practices and summary executions; criminal association; among others.

<sup>26</sup> Maternal mortality (489 / 100,000), Serious Prevalence Rates (11%), Gender Parity Index in education against women and girls (IPG: 0.95-1.04), Female Illiteracy Index (49.4%). Sources: Index Mundi Report, 2017. It can be consulted at: [https://www.indexmundi.com/pt/mocambique/taxa\\_de\\_mortalidade\\_infantil.html](https://www.indexmundi.com/pt/mocambique/taxa_de_mortalidade_infantil.html); Survey on Indicators of Immunization, Malaria and HIV / AIDS, MISAU, 2018; INE - Women and Men in Mozambique, 2018; and UNESCO, 2018

<sup>27</sup> According to UNICEF - Mozambique, 46% of families live below the poverty line, about 2 million children do not live with biological parents, 22% of children are engaged in child labor, 1 in 3 Mozambicans suffer violence against women and For girls (15-49 years), the Prevalence Rate of Premature Marriages (<18 years) is 48% and only 48% of children under 5 have birth records (2011). These indicators can be consulted at: <https://www.unicef.org/mozambique/protoc%C3%A7%C3%A3o-da-crian%C3%A7a>

<sup>28</sup> Recommendation No. 128.111: "Intensify the mediation process between the parties to the conflict, emphasizing the principles of inclusion of all relevant stakeholders in the conflict, as well as parity" (Source: A / HRC / 32/6 - Parag. 128 )

the primary responsibility of the State to protect and provide security to citizens. Yet some elements of the Defense and Security Forces have been implicated in the abuse of defenseless civilian populations that the state is supposed to protect, as Amnesty International reported in 2020<sup>29</sup> with the case of the execution of a helpless woman, who was tortured, as well as the practice of summary executions, arbitrary killings and intimidation. Other examples include the forced disappearance of journalists Ibrahimo Mbaruco of Rádio Comunitária de Palma, on April 7, 2020, the detention of Independent Television Journalist STV, Hizdine Acha, and the arrests of journalists Amade Abubacar and Germano Adriano in 2019, among others.

#### **4.15. COVID-19 pandemic prevention and response**

Domain aligned with SDGs 3, 6 and 16. The COVID -19 pandemic surprised the entire world in December 2019, creating a global public health crisis that forced each country to adopt restrictive measures that in many cases have threatened the human rights and fundamental freedoms of citizens. Mozambique was also affected by this global public health crisis, and its implication on human rights. As such it is important to ensure that “human rights cannot be neglected” And that “people and their rights must be an absolute priority”, as the UN Secretary General emphasized<sup>30</sup>, because in Mozambique the police's abuses and overzealousness in implementing the Covid-19 measures enacted by the President were noted with great concern.

#### **4.16. Minority rights of key populations: disabled people, LGBTI community, people with albinism, blind and partially sighted, sex workers, people living with HIV / AIDS, drug users and young people**

Domain aligned with the SDG 10. Articles 35 and 37 of the Constitution (universality and equality, and the disabled) and protect the rights of these minorities whose material element is regulated in the other ordinary laws. In the previous cycle, the State adopted several recommendations on these social categories, with the exception of recommendation on the situation of the LGBTI groups (which were noted). Therefore, challenges remain in the field of equality and non-discrimination; and access to basic health, employment, education services, among others. Examples are the non-legalization of the LAMBDA Association (LGBTI), non-compliance with the law that requires the construction of ramps in public and private buildings for people with motor disabilities (wheelchair users)<sup>31</sup>, the traffic in organs and parts of the human body of people with disabilities, albinism, etc.

#### **4.17. Business and Human Rights**

Domain aligned with SDG 16. The discovery of natural resources and the consequent inflow of massive investments poses a major challenge to the country with regard to safeguarding the rights of local communities and access to land. During the second cycle, the Government accepted a recommendation (28.1)<sup>32</sup> on business and human rights. Despite the joint efforts between the Government and civil society to produce the National Action Plan on Business and Human Rights, no development was noted.

#### **4.18. Rights of migrants, refugees and asylum seekers**

Domain aligned with the SDG 16. The country is a State party to the United Nations Convention on the Status of Refugees and, internally displaced, which are provided for by Laws 21/91, of 31 December 1991 and 5/93 of 28 December 1993<sup>33</sup>. Given its strategic geographical position, Mozambique is one of the countries with the highest flow, hosting more than 30,000 refugees in 2018<sup>34</sup>. Despite the economic difficulties facing the country, migrants, refugees and asylum seekers have access to documentation and other rights - although procedural delays in granting Refugee Status and other documentation hinders their access to education, employment, business development, and free movement. Social reception conditions in refugee centers also need to be improved.

#### **4.19. Prevention and response to natural disasters**

Domain aligned with SDG 13. Mozambique is a signatory to the Paris Agreement. The country has been plagued by cyclical natural disasters with great socio-economic impact, affecting all population segments and has been ranked as the second in the world with the greatest exposure to high-risk ecological shocks<sup>35</sup>.

<sup>29</sup> <https://www.amnistia.pt/tag/cabo-delgado/>

<sup>30</sup> <https://unric.org/pt/mensagem-do-secretario-geral-sobre-a-covid-19-e-os-direitos-humanos/>

<sup>31</sup> Law 53/2008, of 30 December.

<sup>32</sup> Source: A / HRC / 32/6 / Add.1 - Parag. 23 (Czech Republic)

<sup>33</sup> Regarding the process of granting Refugee Status.

<sup>34</sup> Source: National Refugee Institute (INAR), 2018.

<sup>35</sup> According to the Register of Ecological Threats, published by the Institute for Economics and Peace of Australia, 2020. Source: <http://visionofhumanity.org/indexes/ecological-threat-register/>

Despite having a Master Plan for Disaster Risk Reduction 2017-2030<sup>36</sup>, and other regulatory and programmatic instruments, the preventive and humanitarian response capacity remains far below the country's climate challenges due to ineffective alert levels, few resources, weak resource management mechanisms available and corruption.

#### **4.20. Implementation and follow-up of MRPU recommendations**

This domain is in line with SDG 17. Despite the positive experience of the Government's openness to involve civil society, in the context of constructive dialogue, in the MRPU processes, on the one hand, at the level of state authorities, there were great levels of low coordination and articulation that negatively influenced the process of implementing the recommendations, but on the other hand, the Action Plan was not an appropriate tool for various segments or sectors of the State, dictating a low implementation.

### **5. Recommendations to the Government of Mozambique**

#### *General scope*

- Implement all accepted recommendations from the second cycle of the UPR, which were not fully implemented, according to the Evaluation Report on the Implementation of the Recommendations of the Second Cycle (Annex 1).
- Establish an Inter-ministerial Committee on Human Rights with civil society representation as observers to better implement, coordinate, monitor and report on the MRPU recommendations, in particular, and of Human Rights, in general.

#### *Specific scope*

##### **5.1. Regarding the ratification and domestication of international instruments**

- Immediately ratify the ICESCR; the International Convention for the Protection of All People against Forced Disappearances; the First Optional Protocol to the International Covenant on Civil and Political Rights; and the Rome Statute of International Criminal Court.
- Embark on judicial and legal reform to harmonize the domestic legal framework with the international legislation of which the country is a State party.

##### **5.2. As for cooperation with international human rights mechanisms and treaty bodies**

- Extend a standing invitation to all Special Procedures mandate holders, especially the Special Rapporteur of the Committee against Torture, Summary Executions and Cruel Treatment to conduct a visit to Mozambique and fulfil Mozambique's legal obligations to comply with treaty bodies, including through the periodic reporting on the human rights situation specific to each body.
- Accredite and register all national Human Rights institutions, especially the Ombudsman and the CNDH, with the Global Alliance of National Human Rights Institutions.

##### **5.3. Freedom of association**

- Reform the domestic law on associations that dates from 1991 to conform to the current context.
- Improve civic space and enabling environment for civil society to function.
- Remove discriminatory and exclusionary barriers to registration of civil society organizations based on sexual orientation, gender identity, political affiliation and economic status.

##### **5.4. Concerning intimidation and attacks against human rights defenders, civil society activists and journalists**

- End the culture of impunity and hold legally accountable the perpetrators of abuses against human rights defenders, activists, political opponents and journalists before a competent court of law.
- Ensure transparency and clarification to the public of pending court cases.

##### **5.5. As for freedom of expression, access to information and freedom of the press**

- Ensure greater and unhindered access to information.
- Develop protection systems and mechanisms for journalists and the media.
- Institute transparent financing mechanisms equitably accessible public and private media.
- End intimidation, censorship and judicial pressure against professionals of the press and independent bodies.

##### **5.6. Freedom of assembly and peaceful demonstration**

- End police brutality and the use of excessive force, and remove administrative barriers that undermine the right to free expression, assembly, association and peaceful demonstration.
- Build the capacity of law enforcement agencies (police, local authorities - municipalities) to uphold the law and in particular Laws 9/91 of 18 July 1991, and 7/2001 of 7 July 2001, which protect the exercise of freedom of expression, assembly, association and peaceful demonstration.

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<sup>36</sup> Approved by the 36th Ordinary Session of the Council of Ministers, on October 17, 2017.

### **5.7. Regarding the peace process and elections**

- Incorporate a Transnational Justice provision in the agreement tailored to Mozambique, with a view to provide justice and accountability for human rights abuses, ensure reparations and promote national reconciliation and lasting peace.
- Ensure inclusivity of the process and greater involvement of civil society, youth, women, religious actors and all other relevant stakeholders.
- Reform the electoral system to end electoral fraud, and ensure free, fair, transparent, timely and credible conduct of general elections.
- Adopt a law to regulate transparent and equitable financing of political parties.

### **5.8. As for justice, combating impunity and corruption**

- Separate powers of the three branches of the government, and ensure the independence and of the judiciary through budgetary autonomy and appointment of judges.
- Reduce court fees, to guarantee access to justice for the vast majority of the population.
- Uphold impartial rule of law application within the framework of the constitutional principle of equality of citizens before the law.
- Combat corruption and ensure transparent and accountable governance and management of state resources.
- Increase in Zero Tolerance actions against corruption in all its forms and dimensions in society;
- Introduce human rights based approach to rule of law application in the judiciary and rule of law enforcement agencies.

### **5.9. The prison situation and alternative measures to imprisonment**

- Reform the penitentiary system and harmonize it with international standards.
- Operationalize the Penalty Execution Code and Alternative Prison Measures approved in 2019.
- Promote effective policies and programs to combat overcrowding in prisons and detention centers.
- Ensure prisons and detention centers are Covid19 sensitive and responsive and release those held accountable for minor crimes.
- Promote rehabilitation and resocialization programs for prisoners through, vocational training, the productive sector and civil society.
- Allow access and systematic monitoring of prisons and detention centers by civil society organizations.

### **5.10. Regarding torture, summary executions and private imprisonment**

- Cooperate and share information with national and international independent and multi-sectoral investigative bodies in cases or allegations of summary executions.
- Provide judicial and / or administrative accountability to state agents implicated in torture, summary killings and executions and private detention practices.
- Disclose to the public the chances of murders, torture, abductions and enforced disappearances hitherto unreported.

### **5.11. Regarding the insecurity and actions of the police forces**

- Reform the police and reinforce internal monitoring and inspection mechanisms to combat abuse of power by law enforcement agencies.
- Ensure greater dissemination of the culture of Human Rights within the police forces, through training and capacity building initiatives.

### **5.12. As for the rights of women, girls and children**

- Implement policies, and legal and institutional framework to improve the situation of the rights of women, girls and children.
- Increase the representation of women in decision-making bodies, mainly at the local level.
- Improve indicators of Gender Parity Rates in education and other key sectors.
- Ensure the implementation of the National Action Plan to Combat the Worst Forms of Child Labor in Mozambique 2017-2022.
- Implement programs and curricula to ensure comprehensive sexual and reproductive health education in schools.
- Increase efforts to combat gender-based violence, as well as combat harmful practice of early and child marriages.

### **5.13. Regarding international humanitarian law in the context of terrorist and armed attacks**

- Ensure compliance with the four 1948 Geneva conventions.
- Prosecute and hold accountable all actors, including personnel in the Defense and Security Forces involved in / or accused of human rights violation in conflict zones.
- Ensure humanitarian access to affected communities and conflict hotspots and involve the civil society.
- Provide access for journalists to conflict zones, with due protection, for better coverage and reporting to the public.

### **5.14. Regarding the prevention and response to the COVID-19 Pandemic**

- Promote human rights based approach in measures to combat the spread of COVID-19.
- End the excessive use of force by police authorities in enforcing civilian compliance with restrictions and social distancing measures.
- Increase in the Water for Life Program and programs for sanitation of the environment in the communities.

- Promote responsible and transparent social assistance policies for people affected by the impact of COVID-19.

#### **5.15. Regarding the rights of minorities and key populations**

##### ***a. The Persons with disabilities***

- Implement the Law No. 53/2008 of December 2008, which provides regulations for construction and maintenance of technical devices for accessibilities, circulation and use of systems and services and public places for person living with disability, including on mobility access ( ramps).
- Adopt the mandatory use of ramps in public buildings and public transport as a criterion for approving construction license projects or operating the public transportation business to ensure access for persons living with disabilities.
- Ensure 5% of job vacancies are reserved for disabled people in a strict compliance with the stipulation of Law No. 23/2007 of 1 August, 2007.

##### ***b. LGBTI Community***

- Legalize and recognize LGBTI associations.
- Amend the new Penal Code to criminalize discrimination based on sexual orientation and gender identity.
- Review the National Gender Policy, approved by the Council of Ministers, in 2018, to safeguard the rights of transgender people.
- Promote awareness-raising strategies on equal rights that include LGBTI people in all sectors of the society.

##### ***ç. Persons With Albinism***

- Amend the Law to Prevent and Combat Human Trafficking, promulgated in 2008, to include criminalization of trafficking involving the use of persons living with Albinism.
- Develop a national action plan, institutional policies and legal framework to criminalize violence against persons living with albinism.
- Improve the right to health and protective skin material to persons living with albinism and promote their equal access to education and employment opportunities, as well as social integration.

##### ***d. Blind and partially sighted***

- Ratify the Marrakesh Treaty, signed by Mozambique in 2008, which promotes access to education and information for the blind and partially sighted.
- Adopt a legal framework to institutionalize the Braille System in provision of basic services (computers, ATMs, ballot papers and in book publishing) and in the education system.
- Develop programs to distribute white canes for free or at subsidized costs.

##### ***e. Sex workers***

- Integrate sex workers into social protection programs.
- Adopt a legislation to protect sex workers against discrimination and abuse.

##### ***f. Persons living with HIV / AIDS***

- Increase the rate of access and retention to ART services for persons living with HIV/AIDS.
- Include as risk groups lesbian and bisexual women in the main health policies in the field of HIV / AIDS.
- Continue to prioritize persons living with HIV/AIDS even amidst the distractive impact of COVID-19.

##### ***g. Drug users***

- Continue combating the production, commercialization and trafficking of drugs.
- Develop programs to combat drug use in schools through testing and monitoring offices.
- Promote health programs for the recovery and social reintegration of people with drug addiction.
- Do not criminalize the use of drugs for therapeutic purposes.
- Amend the Law 3/97 of 3 March 1997, from a human rights perspective to ensure that drug consumption is a user health issue.

#### **5.16. As for Business and Human Rights**

- Ensure human rights due diligence, legal informed consent of concerned communities and stakeholders, and environmental impact assessments as criteria for approving investment proposals.
- Adhere to the United Nations principles on Business and Human Rights and develop a National Action Plan.
- Involve civil society in community consultations, with a view to safeguarding the rights of local communities on the sustainable use of resources.

#### **5.17. As for the rights of migrants, refugees and asylum seekers**

- Ensure a speedy process for issuing refugee status documentation.
- Align legislation on refugees and asylum seekers with the current situation and international standards.
- Guarantee the security and free legal and social protection services for refugees, migrants and asylum seekers.

#### **5.18. Regarding prevention and response to natural disasters**

- Ensure effective and transparent involvement of civil society in the operationalization of the Master Plan for Disaster Risk Reduction 2017-2030.
- Upgrade the alert and response systems for natural disasters.
- Ensure transparent distribution of humanitarian aid to the needy and affected.

#### **5.19. Implementation actions and follow-up to the recommendations of the third cycle of the MRPU**

- In close collaboration with civil society, national human rights institutions, and commissions, develop a comprehensive and coherent Action Plan that integrates the SDGs in the implementation process of accepted recommendations from the third cycle.

- Harmonize and integrate the accepted recommendations in the National Planning Cycle System.
- Ensure the preparation of periodic progress and mid-term reports and strategic cooperation and engagement with civil society, as well as international partners, especially the UN.