

SOUTHERN AFRICA LITIGATION CENTRE

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The Southern Africa Litigation Centre (SALC) is a regional non-governmental organisation which was established in 2009. SALC promotes and advances human rights and the rule of law in Southern Africa, primarily through strategic litigation support.

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Introduction

1. This submission has been prepared by the Southern Africa Litigation Centre (SALC).
2. The issues raised relate to relating to freedom of expression, freedom of association media freedom and peace and security.

Right to Freedom of Expression, Freedom of Association and Media Freedom

Article 48 of Mozambique's Constitution guarantees the right to freedom of speech, freedom of expression, press and the right to information.¹ On 11 April 2018, the Government of Mozambique issued a press release stating that they are "working hand in hand with social communication professionals to create a healthy environment of freedom of expression and access to information, to dignify this class, building a society tolerant to the plurality of ideas"². Of concern is the culture of impunity which exists, with little done to investigate violations of human rights, violence, torture and murder committed by State and non-State actors.³ Freedom of movement of Human Rights Defenders (HRD's), political actors, journalists and civil society groups has also come under increasing attack.

On 3 March 2015, constitutional lawyer Gilles Cistac was killed in broad daylight after publicly acknowledging that there was no constitutional impediment to the claim of the largest opposition party, Renamo, to create autonomous provincial governments where it won

¹ https://www.constituteproject.org/constitution/Mozambique_2007.pdf?lang=en

² <https://clubofmozambique.com/news/government-committed-to-freedom-of-expression/>

³ <http://www.hrw.org/world-report/2018/country-chapters/mozambique>; <https://acjr.org.za/resource-centre/tortureacj-22-3-2018.pdf>.

SOUTHERN AFRICA LITIGATION CENTRE

the last general elections.⁴

On 27 March 2018, journalist, Ericino de Salema, was abducted and later found severely beaten and unconscious at a ring road in the Mutanhane area of the Maputo province.⁵

From 21 to 24 January 2019, the police surrounded the office of the Centre for Public Integrity (CIP), an independent civil society organisation, which launched a campaign against the repayment of alleged illegally acquired secret loans amounting to USD2.2 billion which were taken under former president Armando Guebuza. The police also ordered people to remove campaign T-shirts and CIP's employees to stop distributing the T-shirts.⁶

On 5 January 2019, two journalists from two community radio journalists at the State-owned *Radio e Televisao Comunitaria Naciedie de Macomia* based in Cabo Delgado province, namely, Amade Abubacar, Pindai Dube, a journalist for eNCA, and Germano Daniel Adriano, were arrested without a warrant by police officers of Macomia district, while interviewing villagers fleeing from insurgent attacks. They were detained for several days for reporting on the militants.⁷ Amade was held in pre-trial detention for nearly 100 days after he was arrested on charges of “public incitement of a crime through electronic media”, “incitement” and “injury against public forces officials”. A date for his trial is yet to be set.⁸

Other people detained by the government on some of these trumped-up charges included Estacio Valoi, an investigative Journalist, and David Matsinhe, a researcher at Amnesty International. The detained were held incommunicado for days in Mocimboa da Praia District and some of the charges levelled against them included spying and aiding and abetting the extremist group, inciting the public using electronic media and violation of state secrecy, among other charges.⁹ On 4 September 2019, SALC was part of a group of civil society organisations who addressed an open letter to Pope Francis alerting him to the human rights situation in Mozambique.¹⁰

⁴ <https://clubofmozambique.com/news/three-years-on-and-assassination-of-gilles-cistac-is-still-without-resolution/>

⁵ <https://www.reuters.com/article/us-mozambique-rights-journalist-idUSKBN1H32S4>

⁶ <https://clubofmozambique.com/news/despite-police-harassment-cip-distributes-all-its-t-shirts/>

⁷ <https://www.hrw.org/news/2019/04/11/mozambique-joint-statement-civil-society-groups-calling-unconditional-and-immediate>

⁸ <https://www.amnesty.org/en/documents/afr41/0278/2019/en/>

⁹ <https://www.civicus.org/index.php/media-resources/news/4031-open-letter-pope-francis-visit-to-mozambique-presents-an-opportunity-to-address-human-rights-violations>

¹⁰ <https://www.civicus.org/index.php/media-resources/news/4031-open-letter-pope-francis-visit-to-mozambique-presents-an-opportunity-to-address-human-rights-violations>

¹¹ <https://www.southernafricalitigationcentre.org/2019/10/11/media-statement-on-the-recent-killing-of-election-observer-dr-anastacio-matavel-in-mozambique/>

SOUTHERN AFRICA LITIGATION CENTRE

On 7 October 2019, Dr Matavel was brutally killed after he attended a training session for election observers. It is alleged that a group of five individuals, four of whom were reported to be active police officers, shot and killed Dr Matavel. Dr Matavel was executive director of FONGA-Gaza NGO Forum and chairman of the General Assembly of Joint Liga of NGOs in Mozambique.¹¹ In addition, there had also been a clampdown on journalists and activists leading up to the presidential and provincial elections which took place on 15 October 2019.

Ibrahim Abu Mbaruco, a journalist from a community radio station in Palma district, Cabo Delgado province, has been missing since April 2020 and no developments are known regarding an investigation into the case announced by the Attorney General's Office (PGR).¹²

On 23 August 2020, an unidentified group attacked Canal de Moçambique, a Mozambican independent weekly newspaper that publishes investigative stories of public concern.¹³ There has also been repeated harassment of *Canal's* executive editor Matias Guente.¹⁴

There have also been concerns relating to the enactment of laws which could curtail freedom of expression. In July 2018, the Mozambique government gazetted regulations which set fees and fines due for licensing services, renewal, registration, advertising inserts by the print, radio and television media, including digital platforms, as well as accreditation and accreditation of journalists and national and foreigners correspondents, and autonomous collaborators. After civil society opposition, Decree No. 40/2018 was repealed.¹⁵

The Penal Code was amended in December 2019,¹⁶ criminalizes all types of invasion of privacy via mobile phones, as well as the publication of images or videos without authorization by the people recorded or photographed. Whilst the amendments were welcomed by some civil society groups, concerns have been raised around the potential for abuse of these laws, and that duplicated existing protections under civil laws.

Recommendations

- The Government must ensure that members of civil society, journalists and human rights defenders can carry out their work freely and without fear of attacks, intimidation or harassment.
- The authorities must refrain from arbitrary arrests and detention.
- The Government should ensure that persons who are responsible for human rights violations and abuses should be brought to justice in fair trials.
- The Government should review the Penal Code with a view to reforming legal provisions which threaten freedom of expression, including sedition (section 403) and criminal defamation, including defamation of public officials (section 405).

Peace and Security

The North-Eastern Mozambique region of Cabo Delgado has seen a rise in incidents of violence and attacks against the civilian population. The geographical spread of the violence

¹¹ <https://www.southernafricalitigationcentre.org/2019/10/11/media-statement-on-the-recent-killing-of-election-observer-dr-anastacio-matavel-in-mozambique/>

¹² <https://www.hrw.org/news/2020/04/17/mozambique-journalist-feared-disappeared>

¹³ <https://www.amnesty.org/en/documents/afr41/2947/2020/en/>

¹⁴ <http://www.ipsnews.net/2020/09/mozambique-reels-from-repeated-attacks-on-press-freedom/>

¹⁵ <https://misa.org/news/mozambique-government-repeals-decree-setting-absurd-media-fees/>

¹⁶ <https://jornalvisaomoz.com/muitos-bloggers-youtubers-e-facebookers-vao-desaparecer-em-mocambique/>

SOUTHERN AFRICA LITIGATION CENTRE

is concerning as it has now reached several districts and villages including the town of Mocimboa de Praia, Miangalewa Muidumbe, Macomia, Ibo, Quissangaa and the village of Xitaxi in Muidumbe district. The attacks on civilians have increased both in frequency and fatalities, and many people are currently internally displaced.¹⁷

The Mozambican Government has been suppressing reports about the conflict in the Northern Region District of Cabo Delgado. Several journalists have been arrested since reports of the violence started in 2017.¹⁸ Media reports of the insurgency started making rounds on 5 October 2017 when unknown armed militants attacked three police stations in Mocimboa da Praia where five people were killed. The Government denied the existence of militants in the region while describing the 2017 incidents as acts of banditry by a few criminals.¹⁹

Reports indicate that thousands of people have died from the violence since the attacks commenced in 2017. An annual report by the Africa Conflict Location & Event Data Project (ACLED) reveals that civilians have been killed by militants who are claiming to be al-Shabab, an affiliate of the Islamic State group.²⁰

The militants reportedly attacked entire villages, government buildings, Catholic Churches, and offices of non-governmental organisations like Doctors without Borders. They also reportedly target youths and young men by beheading or killing if they refuse to join their ranks. The killings have increased in frequency with militants increasingly becoming violent while deploying different tactics including attacking in small groups fragmented in vast areas of the province.²¹

Recommendations

- The Government must ensure that peace and security prevail in northern Region districts of Cabo Delgado.
- The Government must ensure that persons responsible for committing atrocious crimes and gross human rights violations are apprehended and held accountable through transparent and due process of the law.
- The Government must also ensure prompt, thorough, impartial and independent investigations into cases of extrajudicial killings.
- The Government should ensure that persons who are responsible for human rights violations and abuses should be brought to justice.
- The Government must ensure the protection of property in the region and ensure that the right to life is guaranteed.

¹⁷ <https://www.msf.org/thousands-displaced-violence-surges-cabo-delgado-mozambique>.

¹⁸ <https://clubofmozambique.com/news/mozambique-cabo-delgado-open-to-journalists-but-it-is-a-war-zone-president-170294/>

¹⁹ <https://issafrica.s3.amazonaws.com/site/uploads/sar-27.pdf>.

²⁰ <https://acleddata.com/2020/03/02/acled-2019-the-year-in-review/>.

²¹ <https://www.msf.org/thousands-displaced-violence-surges-cabo-delgado-mozambique>.