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MOZAMBIQUE

Submission by the
World Federalist Movement/Institute for Global Policy (WFM/IGP)
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Email: izquierdo@wfm-igp.org

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The World Federalist Movement/Institute for Global Policy (WFM/IGP), founded in 1947, is a non-profit, non-partisan civil society organization that campaigns for the establishment and strengthening of multilateral frameworks that can effectively address the causes and effects of violent conflict, human rights violations and other grave transnational challenges. The World Federalist Movement/Institute for Global Policy, Ltd., is a New York nonprofit corporation with tax-exempt Section 501(c)(3) status under U.S. law.

1. Introduction

- 1.1. The World Federalist Movement/Institute for Global Policy (WFM/IGP), founded in 1947, is a non-profit, non-partisan civil society organization that campaigns for the establishment and strengthening of multilateral frameworks that can effectively address the causes and effects of violent conflict, human rights violations and other grave transnational challenges.
- 1.2. WFM/IGP uses a Coalition Operating Model and hosts the Secretariats of two hugely influential coalitions: the Coalition for the International Criminal Court, a global network of over 2,500 civil society organizations in 150 countries, and the International Coalition for the Responsibility to Protect, a global network of over 90 civil society organisations.
- 1.1. WFM/IGP hereby submits its written submission for the third cycle of the Universal Periodic Review (UPR) of Mozambique. WFM/IGP's submission will focus on the need for Mozambique to take concrete measures to ratify the Rome Statute of the International Criminal Court (ICC) and the Agreement on Privileges and Immunities of the ICC (APIC).

2. Context of the Armed Conflict in Mozambique

- 2.1. For years, Mozambique has faced several instances of frequently violent social and political conflict.ⁱ Particularly, the country has experienced recent violence in the province of Cabo Delgado.ⁱⁱ In August 2019, Mozambique President Filipe Jacinto Nyusi and the RENAMO (opposition) leader Ossufe Momade celebrated The Peace and Reconciliation Accord, an initiative that was celebrated by the UN Secretary-General.ⁱⁱⁱ Although this is a big step to achieve peace in the country, it continues facing multiple challenges.
- 2.2. In addition, Mozambique's population faces important challenges of malnutrition. The United Nations World Food Programme currently estimates food insecurity in Mozambique to be at 24% and malnutrition at 25% of the total population.^{iv} 43% of children under 5 years suffer from malnutrition.^v The situation of food insecurity of Mozambique may make it more vulnerable to violent conflict.^{vi}
- 2.3. The effects of the cyclones Idai and Kenneth in 2019 and the current COVID-19 pandemic have worsened complex challenges already presented by food insecurity in the country.^{vii}
- 2.4. Despite the signing of the Peace Agreement, the armed conflict is still ongoing in Mozambique. The civilian population in Cabo Delgado continues to experience a scourge of violence and armed conflict since at least 2017. This has resulted in the displacement of hundreds of thousands of civilians, loss of lives and damages to infrastructure.^{viii}
- 2.5. As Mozambique struggles to protect its civilian population from violence, it needs to send a strong message confirming its commitment to deter and to fight impunity for the commission of crimes against humanity, genocide, war crimes and the crime of aggression.
- 2.6. The ratification and implementation of the Rome Statute by Mozambique, together with the accession to the ICC's Agreement on Privileges and Immunities, would represent a

significant step forward in ensuring Mozambicans' right to access to justice, promoting peace, justice and strong institutions (UN's Sustainable Development Goal 16), and contributing to strengthen Mozambique's peacebuilding efforts.

- 2.7. WFM/IGP calls on the government of Mozambique to swiftly ratify the Rome Statute and the APIC, in line with the UPR Working Group's previous recommendations.

3. Ratification and Implementation of International Treaties

Background

- 3.1. While Mozambique signed the Rome Statute on 28 December 2000, it has yet to ratify it. Similarly, Mozambique has not ratified the APIC.
- 3.2. During the First Cycle of the UPR, Mozambique received four (4) recommendations on the ratification of the Rome Statute. Chile,^{ix} France,^x and Slovakia^{xi} recommended Mozambique ratify the Rome Statute while Portugal recommended Mozambique accelerate the ratification process of a number of relevant international legal instruments on human rights, namely the Rome Statute.^{xii} In that occasion, Mozambique supported all four (4) recommendations.^{xiii}
- 3.3. During the Second Cycle, 16 countries recommended Mozambique to ratify the ICC Rome Statute: Austria,^{xiv} Botswana,^{xv} Canada,^{xvi} Cyprus, France,^{xvii} Georgia, Germany, Ghana, Latvia, Madagascar,^{xviii} Montenegro, Poland, Slovakia,^{xix} Switzerland, Timor-Leste, and Tunisia.^{xx} Slovakia was the only country that recommended Mozambique to accede to the APIC.^{xxi}
- 3.4. In a concerning change of approach, Mozambique decided to merely take note of the Second Cycle recommendations, arguing that "[r]egarding the ratification of the Rome Statute in its 2010 version, in the light of the unfolding political and legal developments, the country had opted for further studying that instrument".^{xxii} Instead of progressing towards ratifying the ICC Rome Statute and the APIC, Mozambique has shown a regressive attitude towards the recommendations made during the Second Cycle.

Access to Justice and the Fight against Impunity

- 3.5. By ratifying the Rome Statute and accepting the ICC's complementary jurisdiction, States strengthen international justice; support the deterrence atrocity crimes; and respect, protect, and fulfill human Rights, including the rights to truth, justice, reparations, and guarantees of non-recurrence; and support the principle that no one is above the law.
- 3.6. Because the ICC is complementary to national criminal jurisdictions,^{xxiii} States retain the primary obligation to prevent and prosecute international crimes. Accordingly, ratifying the Rome Statute and enacting legislation to implement the Statute into national legislation is a necessary step in not only strengthening States' domestic criminal justice systems, but also ending impunity for crimes committed by State actors, as "all too often, such crimes were part of a systematic State policy and the worst criminals might be found at the pinnacle of State power".^{xxiv}
- 3.7. As part of the international legal framework, the ICC Rome Statute provides a complementary judicial avenue for the protection of fundamental rights recognized in

numerous international instruments, many of which have been ratified by Mozambique. Ratifying the Rome Statute would further facilitate the respect, protection, and fulfilment of fundamental human rights recognized in the following international instruments to which Mozambique is a State Party: the Convention on the Prevention and Punishment of the Crime of Genocide;^{xxv} the International Convention on the Elimination of All Forms of Racial Discrimination;^{xxvi} the International Covenant on Civil and Political Rights;^{xxvii} the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;^{xxviii} the Geneva Conventions and their Protocols;^{xxix} and other specific agreements protecting vulnerable groups, such as the Convention on the Rights of the Child^{xxx} and the Convention on the Elimination of All Forms of Discrimination Against Women.^{xxxi}

- 3.8. Furthermore, the ICC promotes the respect of human rights and sustainable peace and justice in line with the purposes and principles set in Articles 1 and 2 of the UN Charter.^{xxxii} The Preamble of the Rome Statute reaffirms “the Purposes and Principles of the Charter of the United Nations”.^{xxxiii} This same idea was repeated in the 2010 Kampala Declaration.^{xxxiv}
- 3.9. Therefore, the ratification and implementation of the Rome Statute and the APIC by Mozambique can only advance the respect, protection and fulfilment of the human rights protected in the aforementioned instruments by which Mozambique is already bound.

4. Recommendations

4.1. WFM/IGP calls on the Government of Mozambique to:

4.1.1. Ratify the Rome Statute of the International Criminal Court before the Fourth Cycle UPR of Mozambique; and

4.1.2. Ratify the Agreement on Privileges and Immunities of the International Criminal Court before the Fourth Cycle UPR of Mozambique.

ⁱ See UNHCR ‘Clashes drive Mozambicans to seek safety in Malawi’, available at: <https://www.unhcr.org/5698ea5c6.html>. Accessed 8 October 2020.

ⁱⁱ UN News ‘Violence leaves more than 300,000 ‘completely reliant’ on assistance in northern Mozambique’, available at: <https://news.un.org/en/story/2020/09/1072962>. Accessed 8 October 2020.

ⁱⁱⁱ United Nations, Meetings Coverage and Press Releases, ‘Welcoming Signing of Peace Agreement in Mozambique, Secretary-General Applauds Commitment on Both Sides to Finalizing Peace Process’, available at: <https://www.un.org/press/en/2019/sqsm19693.doc.htm>. Accessed 8 October 2020.

^{iv} WFP ‘Mozambique’, available at: <https://www.wfp.org/countries/mozambique>. Accessed 8 October 2020.

^v WFP ‘Mozambique’, available at: <https://www.wfp.org/countries/mozambique>. Accessed 8 October 2020.

^{vi} FAO, “Food security and conflict: Empirical challenges and future opportunities for research and policy making on food security and conflict”, September 2018, page 13, available at: <http://www.fao.org/3/CA1587EN/ca1587en.pdf>.

^{vii} World Food Program, ‘WFP Mozambique: Country Brief’, August 2020, available at: https://docs.wfp.org/api/documents/WFP-0000119476/download/?_ga=2.193058349.1057878521.1603289524-1677617683.1603289524. Accessed 8 October 2020; UN News ‘Protecting people from conflict, cyclones and COVID-19 in Mozambique: a UN Resident Coordinator Blog’, available at: <https://news.un.org/en/story/2020/08/1070762>. Accessed 8 October 2020.

^{viii} UN News, ‘Violence leaves more than 300,000 ‘completely reliant’ on assistance in northern Mozambique’, available at: <https://news.un.org/en/story/2020/09/1072962>. Accessed 8 October 2020. See also UNGCR, ‘Fresh violence in northern Mozambique forces thousands to flee’, 07 February 2020, available at: <https://www.unhcr.org/news/briefing/2020/2/5e3d2d8f4/fresh-violence-northern-mozambique-forces-thousands-flee.html>. Accessed 8 October 2020.

^{ix} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC’s 17th Session, para. 90.8, Chile.

^x Report of the Working Group on the Universal Periodic Review, Mozambique, for the Human Rights Council's

(HRC) 17th Session, para. 90.1, France.

^{xi} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 17th Session, para. 90.6, Slovakia.

^{xii} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 17th Session, para. 90.5, Portugal.

^{xiii} Report of the Working Group on the Universal Periodic Review, 'Mozambique, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review', for the HRC's 17th session, para. 6.

^{xiv} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.10, Austria, Cyprus, Georgia, Germany, Ghana, Montenegro, Poland, Switzerland, Timor-Leste.

^{xv} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.9, Botswana.

^{xvi} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.8, Latvia and Canada.

^{xvii} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 120.5, France.

^{xviii} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.7, Madagascar.

^{xix} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.6, Slovakia.

^{xx} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.1, Tunisia.

^{xxi} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 130.6, Slovakia.

^{xxii} Report of the Working Group on the Universal Periodic Review, Mozambique, for the HRC's 32nd Session, para. 126.

^{xxiii} Article 1 of the Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002), 2187 UNTS 3.

^{xxiv} United Nations, 'Summary records of the plenary meetings and of the Committee of the Whole', A/Conf.183/13 (Vol.II).

^{xxv} Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951), 78 UNTS 277, available at: <
<https://treaties.un.org/pages/showDetails.aspx?objid=0800000280027fac>>

^{xxvi} International Convention on the Elimination of All Forms of Racial Discrimination (adopted 03 March 1966, entered into force 4 January 1969), 660 UNTS 1, available at:
<https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280008954&clang=en>.

^{xxvii} International Covenant on Civil and Political Rights (Adopted on 16 December 1966, entered into force 23 March 1976), 999 UNTS 171

^{xxviii} Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987), 1465 UNTS 85, available at:
https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-9&chapter=4&lang=en.

^{xxix} Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (adopted 12 August 1949, entered into force 21 October 1950), 75 UNTS 287 available at:
<https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158b1a>; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at the Sea (adopted 12 August 1949, entered into force 21 October 1950), 75 UNTS 85, available at:
<https://treaties.un.org/Pages/showDetails.aspx?objid=08000002801591b0>; Geneva Convention Relative to the Treatment of Prisoners of War (adopted 12 August 1949, entered into force 21 October 1950), 75 UNTS 135, available at: <https://treaties.un.org/pages/showDetails.aspx?objid=0800000280159839>; Geneva Convention relative to the Protection of Civilian Persons in Time of War (Adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287, available at: <https://treaties.un.org/pages/showdetails.aspx?objid=0800000280158b1a>; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), (adopted 08 June 1977, entered into force 1 July 1978), 1125 UNTS 3; Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of non-international armed conflicts (Protocol II), (adopted 08 June 1977, entered into force 7 December 1978), 1125 UNTS 609.

^{xxx} Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, available at: <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002800007fe&clang=en>.

^{xxxi} Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981), 1249 UNTS 1, available at:
<https://treaties.un.org/Pages/showDetails.aspx?objid=080000028000309d&clang=en>.

^{xxxii} Charter of the United Nations and Statute of the International Court of Justice (adopted 26 June 1945, entered

into force 24 October 1945), available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>.

^{xxxiii} Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, available at:

https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-10&chapter=18&lang=en.

^{xxxiv} ICC Assembly of State Parties, Kampala Declaration, 1 June 2010, Declaration RC/Decl.1, adopted by consensus, available at: https://asp.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Decl.1-ENG.pdf.