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BUSINESS AND HUMAN RIGHTS:

THE SITUATION OF WOMEN HUMAN RIGHTS DEFENDERS IN CABO DELGADO

May, 2022

With the support of:

International Service
for Human Rights

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BUSINESS AND HUMAN RIGHTS :

The Situation of Women Human Rights Defenders in Cabo Delgado

LIST OF ABBREVIATIONS AND ACRONYMS

ACDH   Human Rights Centre Association *(Associação Centro de Direitos Humanaos)*

APWLD   Asia Pacific Forum on Women, Law and Development

CDD   Centre for Democracy and Human Rights

CNDH   National Human Rights Commission *(Comissão Nacional dos Direitos Humanos)*

CSO   civil society organisation

DI   Democracy Index

EITI   Extractive Industries Transparency Initiative

HRD   human rights defender

ICCPR   First Optional Protocol to the International Covenant on Civil and Political Rights

ICESCR   International Covenant on Economic, Social and Cultural Rights

ISHR   International Service for Human Rights

NGO   non-governmental organisation

OAM   Mozambique Bar Association *(Ordem dos Advogados de Moçambique)*

OHCHR   United Nations Office of the High Commissioner for Human Rights

PGR   The General Attorney's Office of the Republic *(Procuradoria Geral da Republica)*

PRM   Police of the Republic of Mozambique

RMDDH   Mozambique Human Rights Defenders Network *(Rede Moçambicana dos Defensores de Direitos Humanos)*

UDHR   Universal Declaration of Human Rights

UN   United Nations

VPSHR   Voluntary Principles on Security and Human Rights

WHRD   women human rights defender

BUSINESS AND HUMAN RIGHTS:

The Situation of Women Human Rights Defenders in Cabo Delgado

1. Introduction

In recent years, an increasing number of governments in sub-Saharan Africa have tended to repress civil society organisations (CSOs) that tackle human rights issues. Governments are not only closing the space for civic activism, but also destroying the backbone of democracy and inclusive development. They are doing so by intimidating and imprisoning activists and publicly criticising their human rights work, enacting restrictive policies such as laws restricting external funding for domestic civil society groups. They are using subtle ways to restrict the space for civil society to act, for example, through complicated registration processes for CSOs.[1]

In Mozambique, the human rights situation has deteriorated even more since 2020, largely as a result of the ongoing conflict in the north of the country. The humanitarian situation in the northern province of Cabo Delgado worsened owing to insecurity and violence, leaving more than 850,000 people displaced. Extremists continued to attack villages, killing civilians, kidnapping women and children, and burning and destroying property. State security forces were implicated in serious human rights violations.[2]

Indeed, in some cases, civilian authorities did not maintain control over the security forces. Because of this, significant human rights violations have been committed, including:

- summary, arbitrary and extrajudicial executions;
- enforced disappearances;
- harsh prison conditions;
- arbitrary arrests or detentions;
- serious restrictions on freedom of expression and the press, including violence, threats of violence or unjustified arrests and/or prosecutions of journalists;
- widespread acts of official corruption; and
- violence against women and inadequate government efforts to investigate, prosecute, or hold perpetrators accountable.

The government took steps to investigate, prosecute, and punish some officials who committed abuses. However, impunity remained a problem at all levels.[3]

As the 2020 Human Rights Report shows, a weak judicial system contributed to impunity, including a lack of capacity to investigate cases of violations and abuses and prosecute and try perpetrators. The government furthermore did not provide widespread or systemic training to increase respect for human rights and prevent violations by members of the security forces.[4]

This report has been produced as part of the partnership between the Centre for Democracy and Human Rights (CDD) and the International Service for Human Rights (ISHR) to strengthen the capacities and resilience of women human rights defenders (WHRDs) in Cabo Delgado.

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[1] Smidt, H. (2018). Shrinking Civic Space in Africa: When Governments Crack Down on Civil Society. *GIGA Focus Afrika*, 4. Hamburg: GIGA German Institute of Global and Area Studies.
[2] https://www.hrw.org/world-report/2021/country-chapters/mozambique
[3] Mozambique 2020 Human Rights Report: https://www.state.gov/wp-content/uploads/2021/03/MOZAMBIQUE-2020-HUMAN-RIGHTS-REPORT.pdf
[4] ibid.

2. Objectives

This paper presents the findings of a study that had the following as its objectives:

- Conduct an assessment on the situation of WHRDs in Cabo Delgado regarding access to support mechanisms and services, identifying risk factors to improve their safety and protection.
- Define the best approach to strengthen and offer integrated prevention, protection and reintegration services and improve access to mechanisms, systems and services at the local level.

3. Methodology

This report was developed based on an essentially qualitative methodology, triangulating different techniques and sources of data: (1) bibliographical research, (2) documentary research and (3) interviews. The bibliographical research comprised a review of relevant literature on human rights and, specifically, the literature that deals with human rights in a business environment. Both primary and secondary sources were consulted. For the documentary research, sectoral documents and human rights reports were consulted. As the third data-collection method, semi-structured interviews and a discussion with human rights groups in Pemba, Cabo Delgado, were conducted.

Questionnaires were sent to organisations working on corporate accountability for human rights violations and abuses in Mozambique in order to compile information on the main attacks, risks and cases of human rights violations faced by WHRDs. This activity culminated in a one-day provincial workshop to share the results of the survey and gather more information about the experiences of defenders working on corporate accountability in Cabo Delgado and their specific protection needs.

All interviewees are human rights defenders (HRDs) and members of human rights organisations based in Cabo Delgado. Non-probability purposive sampling was chosen as the sampling technique, which entails deliberately choosing participants, who by their quality with regard to knowledge and experience, have the potential to contribute most relevantly to the research.[5] The findings of this report are indicative of the situation of WHRDs in Cabo Delgado, but its outlines and recommendations reflect the broader environment of their rights advocacy work. This report contains the needs assessment and recommendations, so as to suggest a collective protection approach to mitigate the risks faced by HRDs.

4. Human Rights Defender

The term "human rights defender" has been used increasingly since the adoption of the Declaration on Human Rights Defenders in 1998. Up to that point, terms such as "activist", "professional", "worker", or "monitor" for human rights were more common. HRD is seen as a more relevant and useful term.[6]

This is a term used to describe people who, individually or with others, act to promote or protect human rights. HRDs are identified above all by what they do, and so the term can best be explained by describing their actions and some

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[5] Etikan, I., Musa, S.A., & Alkassim, R.S. (2016). Comparison of convenience sampling and purposive sampling. *American Journal of Theoretical and Applied Statistics*, 5(1).

[6] United Nations. (2004). *Human Rights Defenders: Protecting the Right to Defend Human Rights* (Fact Sheet No. 29). p. 2.

of the contexts in which they work. The work of HRDs is legal and legitimised by civil society. Every day, all over the world, hundreds of HRDs are exposed to various forms of political violence because of their work defending the rights of others. At the risk of their own physical and mental integrity, they strive to end impunity for human rights violations and to promote social justice and peace.[7]

According to the United Nations (UN), a HRD is a person who acts to advocate human rights and fundamental freedom on behalf of individuals or groups. HRDs seek the promotion and protection of civil and political rights, as well as the promotion, protection and realisation of economic, social and cultural rights. HRDs contest any human rights issues, which can be as varied as, for example, summary executions, torture, arbitrary arrest and detention, female genital mutilation, discrimination, employment issues, forced evictions, access to health care, and toxic waste and its impact on the environment.

HRDs are active in supporting human rights as diverse as the rights to life, food and water, the highest possible standard of health, adequate housing, name and nationality, education, freedom of movement, and non-discrimination. They sometimes advocate the rights of categories of people, for example, women, children, indigenous peoples, refugees and internally displaced persons, and national, linguistic or sexual minorities.[8]

4.1. Women Human Rights Defenders

WHRDs are considered women activists who organise or have worked courageously for the defence of their own rights and other people's rights. They include women active in defending human rights who are targeted for who they are, as well as all those active in defending women's rights who are targeted for what they do. WHRDs place themselves on the front lines in promoting and protecting human rights. In doing so, they face risks specific to their gender and additional to those faced by men. Often, the violence or threat against them is sexual in nature, or they face restrictions in their work because of their gender. In addition, prejudice, exclusion and public distaste from both state forces and social actors carry a heavy weight in their lives.[9]

The UN Office of the High Commissioner for Human Rights (OHCHR) considers WHRDs to be all women and girls who work on any human rights issues (referred to as "women defenders" and "girl defenders") and people of all genders who work to promote women's rights and rights related to gender equality. This definition is extended to any civil society actors who may not identify themselves as HRDs or those who work in non-traditional human rights fields (journalists, health professionals, environmental activists, peace builders, private actors, humanitarian and development actors, etc.).[10]

While restrictions and attacks on civic space affect all defenders, WHRDs are specifically targeted and face additional and specific obstacles, risks, violations and impacts, which are shaped by:

- who they are (women, girls, LGBTQIA+ people, etc.);
- who they identify with or are part of (such as the feminist movement) and/or;
- what they are working to promote (such as the human rights of LGBTQIA+ people).

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[7] Eguren, E. & Caraj, M. (2009). *New Protection Manual for Human Rights Defenders.* Protection International (PI). p. 12.

[8] United Nations. (2004). *Human Rights Defenders: Protecting the Right to Defend Human Rights* (Fact Sheet No. 29). p. 2

[9] Asia Pacific Forum on Women, Law and Development (APWLD). (2007). *Claiming rights, claiming justice: A guidebook on women human rights defenders.* p. 15

[10] https://www.ohchr.org/en/women/women-human-rights-defenders

The human rights challenges faced by WHRDs include:

- gender-based discrimination;
- gender-specific threats;
- gender-specific violence;
- segmentation of family members and loved ones;
- hostility from the population in general, and the authorities in particular;
- harmful anti-gender narratives and smear campaigns;
- exclusion, marginalisation, under-recognition and under-funding;
- barriers in accessing decision-making spaces and platforms;
- stigmatisation and ostracism by community leaders, religious groups, families and communities; and
- other gender-specific challenges and violence in digital spaces .[11]

All of these challenges and violations occur in the context of the closure of civic space, a phenomenon that is triggered by actions of state and non-state actors. This includes legal, political, administrative and extralegal strategies, such as violence and threats, and domination of public space to delegitimise and stigmatise civil society actors for a variety of reasons. Van der Borgh and Terwindt[12] identify five actions or policies used to restrict civil society operations, summarised in Table 1.

Table 1: Actions or policies used to restrict civil society operations

Action/Policy	Examples or Cases
1. Physical harassment	Threats, injuries and killings (violence and assaults), impunity, and lack of protection
2. Criminalisation	Prosecution and investigation, preventative measures such as terrorism lists and terrorism taskforces, investigation, and prosecution for punitive (persecution) purposes
3. Administrative	Restrictive bills (legal and administrative framework) on NGO registration and operation, and ad hoc arbitrary (administrative) measures by different governments.
4. Stigmatisation and negative labelling	Criminal and social stigmatisation (character assassination) of specific actors
5. Space capture	Co-optation and the closure of newly created space

Source: Protecting human rights defenders in Mozambique: An assets and needs assessment of human rights defenders protection mechanisms. RMDDH, African Defenders and Southern Defenders, 2021.

Indeed, the quality of public institutions in Mozambique tends to deteriorate. The Democracy Index (DI) provides insight into the quality of democracy in 167 countries and territories, based on five categories, namely, (1) electoral process and pluralism, (2) government functioning, (3) political participation, (4) political culture and (5) civil liberties. The results obtained in the classification of the indicators of the five categories allow classifying each country into one of four types of regimes: (1) full de-

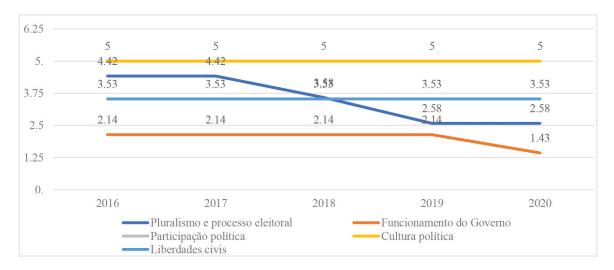[11] https://www.ohchr.org/en/women/women-human-rights-defenders
[12] Van der Borgh, C. & Terwindt, C. (2012). *Shrinking Operational Space of NGOOs – A Framework of Analysis', Development in Practice*, pp. 1065–1081.

mocracy, (2) flawed democracy, (3) hybrid regime or (4) authoritarian regime.

As in previous editions, the DI 2020 shows that Mozambique's performance has not improved substantially, but rather, this trend has been worsening, especially over the past five years. The five categories that make up the DI are based on the evaluation of 60 indicators, with each indicator rated on a scale from 0 to 10.

Figure 1: Mozambique DI category performance, 2016–2020

Source: Elaborated based on DI (2016–2020)[13]

The chart in Figure 1 shows that, in general, the country has scored low on almost all categories, the most critical being the functioning of the government, electoral process and pluralism, and civil liberties. As shown in Table 2, Mozambique has steadily dropped by seven places in ranking, from 115th (of 167 countries) in 2016, to 122nd in 2020. Up to 2017, by maintaining 115th position, Mozambique was considered a hybrid regime. The drop into 116th position in 2018 was also the year that the country was first reclassified as an authoritarian regime.

Table 2: Mozambique DI ranking and classification, 2016–2020

Year	Position (out of 167)	Classification (type of regime)
2016	115	Hybrid regime
2017	115	Hybrid regime
2018	116	Authoritarian regime
2019	120	Authoritarian regime
2020	122	Authoritarian regime

Source: Data from the Democracy Index (2016–2020)[14]

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13 Data from the Democracy Index (2016–2020). The EIU's Democracy Index provides a snapshot of the state of democracy worldwide. https://www.eiu.com

14 Data from the Democracy Index (2016–2020). The EIU's Democracy Index provides a snapshot of the state of democracy worldwide. https://www.eiu.com

By the DI's definition, hybrid regimes are those in which elections have substantial irregularities that often prevent them from being free and fair, corruption tends to be widespread, and the rule of law is weak. Meanwhile, in authoritarian regimes, political pluralism is either virtually absent or severely limited. Elections are not free and fair, civil liberties are disrespected and violated, the media is controlled, there is repression of criticism of the government and widespread censorship.

In addition to the challenges linked to the adverse political context for human rights advocacy work, HRDs face internal constraints and organisational challenges. The report of the Mozambique Human Rights Defenders Network (*Rede Moçambicana dos Defensores de Direitos Humanos*, RMDDH), African Defenders and Southern Defenders[15] systematises these challenges and constraints into seven levels, namely:

1. **Weak internal governance practices:** HRDs and some CSOs suffer from governance challenges, including the absence of sound internal structures and transparency mechanisms. Some have irregular registration and structures creating perceptions of one-person bands or briefcase organisations with limited semblance of accountability.

2. **Lack of transparency and accountability:** Some HRDs and CSOs have faced accusations of corruption. Generally, some of these accusations are invented with the aim of negatively impacting the perceptions of HRDs and their ability to mobilise after losing their morale and prestige. However, they are not, in fact, transparent and suffer from a lack of sound governance mechanisms.

3. **Weak coordination between HRDs and CSOs:** Mozambique has a significant number of CSOs working in the HRD space, but lacks effective coordination on human rights issues, with limited attempts at a unified voice and corporation. As a result, there is limited joint advocacy and implementation of activities. HRDs typically work in isolation and sometimes appear to be in competition with each other. This challenge often leads to limited solidarity among them, duplication of efforts, and allegations of plagiarism and mistrust.

4. **Limited protection mechanisms for HRDs at risk or under attack:** This challenge contributes to the limited coordination and ability to act in solidarity and support HRDs at risk, especially in the northern provinces of Mozambique.

5. **Severe underfunding of the HRD sector and selective donor support to "favoured" organisations, a focus on results, and formality:** Some donors have "favourites" whom they consistently support regardless of ideas, while some organisations do not receive support, no matter how brilliant their initiatives are.

6. **High staff turnover:** Challenges related to sustained institutional support to the sector have often led to some passionate HRDs leaving the sector in search of greener pastures. This has often been in the following forms: HRDs crossing over to other institutions that may not necessarily be doing HRD work, but which enjoy more lucrative funding; HRDs being bought out by the state and offered material rewards to stay away from

15 Defending Civic Space & Protecting Human Rights Defenders in Mozambique: An Assets and Needs Assessment of Human Rights Defenders Protection Mechanisms. RMDDH, African Defenders and Southern Defenders, 2021.

human rights issues; some HRDs have left the sector either through direct co-option or in search of more secure jobs at directorial or even ministerial level in government.

7. **Infiltration**: Political society and the state have an ongoing interest in the Mozambique HRD sector. This interest has led to the proliferation of "bogus" NGOs and individuals sponsored either by the state or parties to masquerade as HRDs, and in the process sow confusion and misinformation, as well as champion partisan agendas in the HRD sector.

5. The Role of the State in Protecting Women Human Rights Defenders

There is no legally binding and comprehensive international framework to monitor, uphold, hold accountable and remedy the activities of multinational companies and corporations. Associated with this are gaps in national legislation, judicial systems, and the frequent absence of political will to prosecute offenders. The lack of a comprehensive legal framework means that violations committed against communities and WHRDs often go unpunished. Furthermore, the complexity of ensuring accountability for violations committed by companies within and outside of their borders contributes to perpetuating impunity for these violations.[16]

5.1. International Human Rights Tools

The adoption by the United Nations General Assembly of the 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (commonly known as the Declaration on Human Rights Defenders) was a milestone in the development of a multi-level, multi-sectoral international protection regime for the rights of HRDs. From these instruments, the main features of the protection regime for HRDs can be gleaned, namely:[17]

• First, it derives its "principles, norms, rules and decision-making procedures around which actors' expectations converge from the international human rights regime. The declaration itself did not create new rights, but reaffirmed rights that are fundamental to human rights advocacy." These include: the recognition of local actors as key agents of change; the importance of promoting and protecting civil society space; the need to tailor protection interventions to meet the unique and specific needs of individuals, groups, and communities; and the need to complement reactive measures with efforts to build a safe and enabling environment for human rights advocacy.

• Second, the regime is goal driven – its aim is to protect and support defenders operating in their own contexts in the face of threats and risks. Depending on the circumstances and actors involved, these threats and risks may include surveillance, harassment, verbal and written

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16 Barcia, I. (2017). *Women human rights defenders confronting extractive industries: An overview of critical risks and human rights obligations*. AWID and Women Human Rights Defenders Coalition.

17 Bennett, K., Ingleton, D., Nah, A.M., & Savage, J. (2015). Critical perspectives on the security and protection of human rights defenders. *International Journal of Human Rights*, 883–895.

threats, stigmatisation, criminalisation, restrictions on funding for and registration of NGOs, arbitrary arrest and detention, manufactured charges, unfair trials, abduction, torture, ill-treatment, and murder. Perpetrators range from state actors to non-state actors, such as government officials, armed forces, police, religious fundamentalists, transnational corporations and criminal gangs. In a significant number of cases, defenders do not know the identity of those who attack them.

• Third, the regime adopts a human security paradigm, with individuals, groups and communities as security subjects rather than states. Its goal-oriented, practice-oriented and rights-based nature helps actors in this regime avoid some of the debates that question the usefulness of the human security paradigm for meaningful action, policy and research. WHRDs, in particular, emphasise the importance of understanding how discrimination, stereotypes, and stigmatisation – rooted in the social structures of society, such as patriarchy and the militarisation of society – compromise security.

• Fourth, it is a multi-level regime, so there are formal protection mechanisms for HRDs at the national, regional and international levels. However, there is a geographical unevenness in the availability of protection mechanisms. Many countries have not enacted laws or created institutions that recognise and protect the rights of HRDs.[18]

• Fifth, the regime has many stakeholders – ranging from civil society groups, donors, national human rights institutions, states, multilater-

al bodies, and individual defenders – who create and use different tools, strategies and tactics to identify, support and protect the rights of HRDs. These include the provision of emergency grants, temporary relocation initiatives, security training, advocacy, follow-up, trial monitoring, networking, and capacity building.

In 2011, the Human Rights Council endorsed the Guiding Principles on Business and Human Rights through Resolution 17/4 of 16 June 2011. These Guiding Principles are grounded, among other principles, in the recognition of:

• the existing obligations of states to respect, protect and fulfil human rights and fundamental freedoms;
• the role of business enterprises as specialised organs of society performing specialised functions, obliged to comply with all applicable laws and respect human rights; and
• the need for rights and obligations to be combined with appropriate and effective remedies when violated.

These Guiding Principles apply to all states and to all commercial, transnational and other enterprises, regardless of their size, sector, location, ownership and structure. In conflict-affected areas, because of the increased risk of serious human rights abuses and violations, states should help to ensure that businesses operating in such contexts are not involved in such abuses, including by:

• engaging as early as possible with business enterprises to help them identify, prevent and mitigate human rights-related risks arising from their business activities and relationships;
• providing appropriate assistance to

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[18] ibid.

businesses to assess and mitigate the increased risks of abuse, paying particular attention to gender-based violence and sexual violence;

- denying access, support and public services to a business that is involved in serious human rights abuses and refuses to cooperate to deal with the situation;
- ensuring that their policies, legislation, regulations and enforcement measures are effective in mitigating the risk of business involvement in serious human rights abuses.

There are two global initiatives that focus on the extractive industries: the Extractive Industries Transparency Initiative (EITI) and the Voluntary Principles on Security and Human Rights (VPSHR). The EITI is the global standard for promoting open and accountable management of oil, gas and mineral resources. It requires the disclosure of information along the extractive industry value chain, from the point of extraction, to how revenues reach the government and benefit the public. The VPSHR is a multi-sectoral initiative that promotes the implementation of a set of principles that guide companies in securing their operations and promoting human rights. While these frameworks represent progress on the long road to regulating business conduct, they have proven inadequate to protect individuals and communities from human rights abuses.[19]

5.2. National Human Rights Defenders Tools

Mozambique is a democratic state under the rule of law, as well as a state of social justice, based on the respect and guarantee of fundamental rights and freedoms of citizens, as embodied in the Constitution of the Republic. Under the Constitution, the public administration has the legal obligation to pursue the public interest, and the defence and promotion of human rights. In this context, Mozambique has signed several binding international instruments that compel it to respect, promote, protect and fulfil human rights. Regarding the institutional framework, in Mozambique, the main institutions for the promotion and protection of human rights are the executive, legislative and judicial powers. The institutional framework also includes other relevant public institutions, such as the Public Prosecutor/Attorney General of the Republic (*Procuradoria Geral da Republica*, PGR), the National Human Rights Commission (*Comissão Nacional dos Direitos Humanos*, CNDH), the Ombudsman, the Bar Association of Mozambique (*Ordem dos Advogados de Moçambique*, OAM) and the Police of the Republic of Mozambique (PRM).[20]

To fulfil its obligations to promote, protect and defend human rights, the Mozambican government has signed several international conventions and treaties. Section III of the Constitution, on rights, duties, and fundamental freedoms (i.e. Articles 35 to 95), is inspired by the Universal Declaration of Human Rights (UDHR) and the African Charter on Human and Peoples' Rights. Almost all human rights enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) are listed in Section III. As stated in Article 18 of the Constitution, approved and ratified international treaties and agreements are part of the national legislation and, therefore, the provisions enshrined therein must be protected, respected, promoted and fulfilled. Mozambique supported the main recommendations to ratify the ICESCR

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[19] Barcia, I. (2017). *Women Human Rights Defenders Confronting Extractive Industries: An Overview of Critical Risks and Human Rights Obligations*. AWID and Women Human Rights Defenders Coalition.

[20] https://cddmoz.org/wp-content/uploads/2020/09/RELAT%C3%93RIO-DE-DIREITOS-HUMANOS-E-DOS-DEFENSORES-DOS-DIREITOS-HUMANOS-REFERENTE-AO-PRIMEIRO-SEMESTRE-DE-2020-EM-MO%C3%87AMBIQUE.pdf

and the First Optional Protocol to the ICCPR. However, Mozambique has not yet signed these treaties, much less ratified and implemented them. Although the government of Mozambique has made efforts in adopting international instruments to promote human rights, several laws adopted locally are inconsistent with the signed conventions, creating a solid basis for legal reform.[21]

An Amnesty International report recommended that the Mozambican government ratify the International Convention for the Protection of All Persons from Enforced Disappearance, signed on 24 December 2008, and implement it in the national legislation. This will be an important step, considering that the country is marked by incidences of enforced disappearances, especially in conflict areas such as Cabo Delgado. In addition, Mozambique should work with the Committee on Enforced Disappearances to receive and transmit communications from or on behalf of victims or other state parties. Other important international statutes needed for adoption, ratification and implementing into national legislation include the Optional Protocol to the ICCPR and the Rome Statute of the International Criminal Court, signed on 28 December 2000.

While the Constitution provides for freedom of speech and press, the government restricts these rights. In fact, while the law allows individuals to criticise the government publicly or privately without reprisal, human rights organisations have often reported cases in which such criticism has brought HRDs to court, while others have been brutalised by the police. This incompatibility between standards and practices must be tackled.[22]

Like many other states, Mozambique does not have specific legislation regarding HRDs. However, there is a set of provisions relevant to the actions of HRDs, because they realise some of the human rights provided by the United Nations Declaration on Human Rights Defenders in Africa. Below are some examples:

- Law no. 24/2019 of 24 December, Criminal Code;
- Law no. 25/2019 of 26 December, Law for the Revision of the Code of Criminal Procedure;
- Law no. 34/2014 of 31 December, Right to Information Law;
- Law no. 8/1991 of 18 July, Associations Law;
- Law no. 9/1991 of 18 July, Law of Demonstrations (revised by Law no. 2/2001 of 7 July);
- Law no. 05/2018 of 2 August, Prevention, Repression and Combat of Terrorism Law;
- Law no. 21/1991 of 31 December, the Refugees Law;
- Decree No. 31/2012 of 8 August, Resettlement Regulation.[23]

6. Initiatives Focused on Business and Human Rights in Mozambique

In 2021 the government of Mozambique expressed its intention of becoming a member of the VPSHR initiative, and has been using these principles as a framework for governing security relationships between some extractive companies and state and non-state actors.

This mechanism is already used by some companies to govern and manage their security relationships, and to identify and mitigate risks of human rights abuses. They are integrated into their codes of conduct and the memoranda of understanding with the government, and pro-

21 RMDDH, African Defenders and Southern Defenders. (2021). Defending civic space & protecting human rights defenders in Mozambique: An assets and needs assessment of human rights defenders protection mechanisms.
22 Ibid.
23 ACDH. (2022). *O ambiente politico, institucional legal dos defensores dos direitos humanos em Moçambique* (Policy Brief).

vide a framework for including communities in security issues. Although this is an important step, adherence to the VPSHR is not in itself enough to significantly improve human rights in Mozambique's critical extractive sector.[24]

The implementation of VPSHR is more challenging when companies operate in conflict areas. Effective implementation usually requires the involvement of multiple stakeholders, including different actors within companies, community leadership, governments, NGOs and service providers.[25] Among the most important companies operating in Mozambique, ExxonMobil, Galp, TotalEnergies, Shell, BP, Rio Tinto and Vale are already signatories to the VPSHR. Gemfields and Eni are engaged members at the corporate level and are expected to be full members in the near future. Important partners of Mozambique, such as diplomatic missions in the capital, Maputo, are also members. These include Argentina, Canada, the Netherlands, Norway, Switzerland, the UK and the USA.[26] In the country, the process of implementing the VPSHR is being catalysed on the civil society side, by the Centre for Democracy and Development (CDD), in partnership with the Ministry of Justice Constitutional and Religious Affairs and the Ministry of National Defence. A National Working Group for VPSHR has already been formed.[27]

Also in the extractive industry field, despite its focus on issues of transparency and accountability, the EITI is also seen as a human rights instrument in such a way that the human rights violations can call into question the success of the initiative. As Heidi Feldt has noted, the "EITI is not a human rights organization, nor is it expected to become one. However, neglecting human rights undermines the impact and success of the EITI's own goal of improving transparency and accountability in the extractive industries."[28]

Mozambique joined the initiative in 2009 and became a full member in 2012. This initiative sets a global standard for transparency and accountability through the disclosure of information along the extractive industry value chain, from the point of extraction to how revenues reach the government and how they benefit the public, aiming to strengthen governance and promote reforms.[29] The implementation of the EITI has allowed the integration of a traditionally excluded actor in the debate about the extractive industry – civil society – and has improved their relationship with the government and companies in the extractive sector.

Both the VPSHRs and the EITI allow various stakeholders to come together to foster dialogue to build trust and establish constructive relationships and dialogue, minimise the risk of human rights abuses occurring and security-related incidents in communities. However, such dialogues are business oriented and do not include the situation of WHRDs, a group that is being targeted increasingly in the business–human rights nexus.

7. Main Violations of the Rights of Women Human Rights Defenders in Cabo Delgado

In conflict situations, patriarchal attitudes and values are almost inevitably reaffirmed at all levels. The availability of small weapons, the collapse of law-enforcement mechanisms, the general breakdown of law and order, and the lack of attention to human rights violations committed by agencies and institutions charged with

[24] https://www.chathamhouse.org/2021/11/mozambique-and-voluntary-principles-security-and-human-rights
[25] https://www.voluntaryprinciples.org/implementation/
[26] https://www.chathamhouse.org/2021/11/mozambique-and-voluntary-principles-security-and-human-rights
[27] https://cddmoz.org/criado-grupo-nacional-de-trabalho-sobre-principios-voluntarios-sobre-seguranca-e-direitos-humanos-em-mocambique-3/
[28] Feldt, H. (2019). The Extractive Industries Transparency Inititive (EITI) as a human rights instrument: Potentials and shortcomings. In I. Feichtner, M. Krajewski & R. Roesch (eds), *Human Rights In The Extractive Industries: Transparency, Participation, Resistance, Vol. 3: Interdisciplinary Studies in Human Rights*.
[29] https://eiti.org/who-we-are

protecting the rights of civilians increase the risks and vulnerabilities of WHRDs living and working in conflict situations. Conflict also creates conditions of severe economic deprivation, where the civilian population, particularly women, become almost totally dependent on certain authorities (whether occupation forces, peacekeepers, or aid workers) for survival, leaving them extremely vulnerable to sexual and other forms of exploitation.[30]

Despite the strengthening of international and regional mechanisms for the protection of HRDs, few governments in Africa have established protection mechanisms for HRDs, and, as a result, many continue to suffer human rights violations perpetrated with impunity by state and non-state actors. In Mozambique, the space for HRDs is becoming increasingly restricted. The effects of summary executions or mutilations against prominent HRDs prevail in the civic space as an abstract threat, defining the limits of action for HRDs. WHRDs tend to be victims of stereotyping and violence. Reports of enforced disappearances, arbitrary deprivations of liberty and mistreatment of HRDs – in particular journalists, religious leaders and community members – have emanated from the northern part of the country. These violations and abuses were committed by the defence and security forces and violent extremist groups.

In Mozambique, HRDs – particularly journalists, religious leaders and community members – face pressure from different sectors of the government, but also oppose corporate interests, corruption, gender-based violence, unfair community practices, particularly against women and children, organised crime and power abuse.[31] Violations and abuses vary, depending on the circumstances and the actors involved. Perpetrators range from state actors to non-state actors, such as public officials, armed forces, police, religious fundamentalists and transnational corporations. The main violations are:

- threats and persecution (as one interviewee reported, threats can be received directly from identified individuals, but also via anonymous messages);
- harassment;
- stigmatisation and exclusion;
- restrictions on funding and registration of NGOs;
- arbitrary arrests and detentions;
- ill-treatment; and
- denial of access to justice.

7.1. Needs of Women Human Rights Defenders

Personal Security: Measures include those related to physical protection as well as those related to physical and psychosocial well-being. Most countries do not provide measures to ensure the physical protection of WHRDs. These measures include temporary relocation, the provision of cell phones to facilitate rapid communication with the relevant authorities in case of threats, safe transportation, bulletproof vests, armoured cars, equipment to protect the WHRDs' houses, bodyguards, and psychosocial support.

Legal support: Many WHRDs need legal assistance in cases of detention or when they are targeted for prosecution and trial. The judicial system in many cases is controlled and manipulated by those with public and economic power. At many times, HRDs feel abandoned and need support because the costs for legal assistance are high.

Networking and training: This is crucial for the protection of WHRDs so that they may continue their human rights work safely and sustainably, even in the face of threats.

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[30] APWLD. (2017). *Claiming rights, claiming justice: A guide book on women human rights defenders.*

[31] ACDH. (2022). *O ambiente politico, institucional legal dos defensores dos direitos humanos em Moçambique* (Policy brief).

Provision of emergency allowances: Emergency funds are crucial because they offer rapid assistance to HRDs who are in danger.

Temporary relocation initiatives: This entails the evacuation or removal of a WHRD and her family from one zone to another. It usually involves paying for transportation (land or air, depending on the characteristics of the zone), either as an emergency measure or with more plan-ning. It may entail temporary relocation to a different, risk-free zone (this can be out-side the country, but usually is to another location within the national territory).

Digital security training: These types of training are important because they equip the WHRDs with the knowledge and skills to protect themselves, their teams, information, and the people whose rights they are trying to defend from external threats.

7.2. Effective Protection Mechanisms

Protection mechanisms for HRDs must go beyond the narrow approach focused on risk analysis of individual HRDs and develop comprehensive public policies for the protection of the right to defend human rights. By virtue of this, protection should be understood not as a technical know-how, but as a political change to-wards the safe exercising of HRDs' work.[32]

It is important to emphasise that HRDs do not usually work alone, but in groups, in association with others, in social move-ments, building collective networks and supporting one another. Therefore, focus-ing protection mechanisms on individual protection limits the impact of measures to a very small number of defenders, ignoring the collective dimension of human rights advocacy work, which can even undermine the collective processes and dynamics of groups and communities working together for the cause of human rights.[33]

These elements emphasise the need to adopt a collective protection approach.

Collective protection is seen as a set of strategies, measures and actions that aim to protect both a collective actor (an or-ganisation, a community, a group) and the individuals who are part of it, and who are or may be at risk as a result of their HRD activities. Therefore, collec-tive protection goes beyond protecting groups that may, in principle, be the main target of attacks. It also goes beyond granting individual security measures to each member of a group.[34] Figure 2 cap-tures some of the reasons for a collective protection approach.

The protection of HRDs is a process that must take into account the human nature of people as social and relational beings. A more relational approach that includes networks and interactions between de-fenders, group and communities is crucial to rethink the protection from a collective angle that can help overcome the short-comings of current narratives of protect-ing HRDs at risk.[35]

32 https://www.protectioninternational.org/sites/default/files/2017-Roundtable-report-EN.pdf
33 *Collective Protection of Human Rights Defenders: A collective approach to the right to defend human rights*. Protection International & Communities are Human Right Defenders. https://www.protectioninternational.org/sites/default/files/Collective-protection-WEB-spreads.pdf
34 ibid.
35 https://www.protectioninternational.org/sites/default/files/Collective-protection-WEB-spreads.pdf

Figure 2: Reasons for a collective protection approach

COLLECTIVE CAUSES — The root causes and struggles of HRDs are collective by nature, as they normally pursue rights that are relevant for groups, communities, and ultimately for the whole society

COLLECTIVE WORK — HRDs rarely work as individuals but evolve as part of groups, i.e. communities, grassroots organisations, NGOs, or less structured and informal social movements

COLLECTIVE IMPACT OF VIOLENCE — Whenever a HRD is attacked, his or her entire community or group is affected. Threats and attacks have a collective impact even when the target is just one person

Reasons for a **collective protection** approach

COLLECTIVE RISKS — The risks faced by one defender due to her/his human rights work show patterns of threats and structural violence against other defenders in a given context.

COLLECTIVE STRENGTHS — Because together means stronger, protection is better ensured by the collective and relational work carried out by HRDs. A stronger social fabric allows HRDs to better defend their rights, improving their capacity to react to attacks and threats thanks to solidarity and protection networks

COLLECTIVE STRATEGIES — Collective protection allows to better interpret and address the contextual factors and root causes that lead to violence against defenders. Strategies can thus be understood in a more comprehensive manner, expanding the impact of protection beyond individual cases

Source: https://www.protectioninternational.org/sites/default/files/Collective-protection-WEB-spreads.pdf

Combined with a collective approach, the following elements are crucial to ensuring the effectiveness of HRD protection mechanisms:[36]

- An effective protection mechanism must take a proactive and anticipatory approach to HRDs in danger. This includes an early-warning and early-response system that contemplates, among other elements, some influence within the state system of contacts that can reduce the danger for defenders and has clear links to a regional solidarity network of HRDs.

- **Collaboration between agencies' services**: An effectively functioning protection mechanism for HRDs should be characterised by inter-agency collaboration to ensure holistic delivery of protection services, including a diverse range of services (medical, juridical, advocacy and psychosocial support).

- **Information-collection systems**: An effective HRD-protection system must develop a scientific mechanism for information processing. This system should be based on structured

36 SAHRDN. (2021). *Zimbabwe Human Rights Defenders assets and needs assessment.*

and standardised tools. Information analysis should be informed by observations in addition to intuition. It should have a solid means of verification and triangulation of data collected through various sources. Finally, it should allow for creative forms of verification, such as the use of investigative journalists at different levels.

- **Security training and risk assessment**: Protection mechanisms for HRDs should integrate the training of HRDs in self-protection methods and situational awareness, including security in organisations, constant risk assessment within organisations, and the effective definition and documentation of security incidents.

- **Reaction and rapid response**: Mechanisms for protecting HRDs, in particular journalists, religious leaders and community members, must develop ways to respond quickly to security incidents. It means that the response of service providers, such as lawyers, must be rapid. When recoveries are to be made, these must be made quickly. It can be assisted and built upon the existing hotline infrastructure for key response institutions and replicating that structure at the sub-national level.

- **Political, symbolic and solidarity actions:** An effective protection mechanism for HRDs must have a system for mobilising political action and solidarity for HRDs, especially during court hearings, during incarceration or hospitalisation, and during periods of danger.

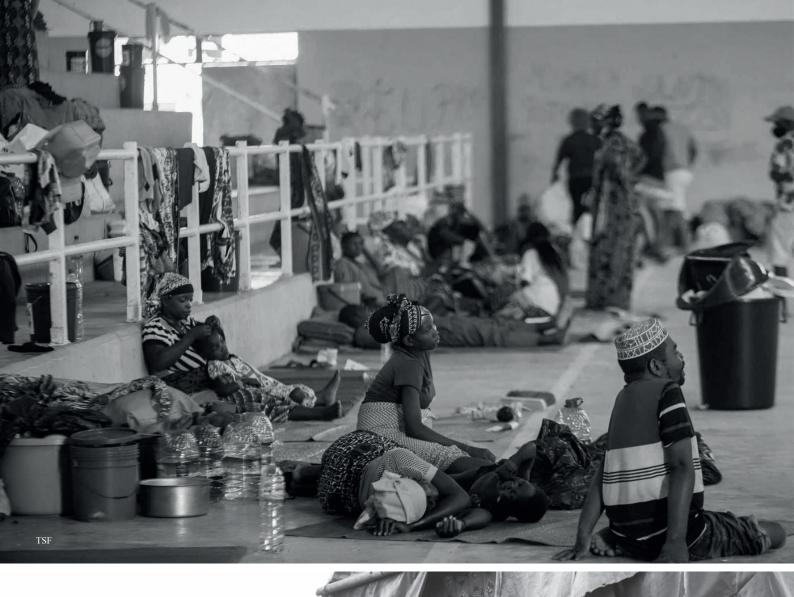- **Return of response and protection mechanisms:** The protection mechanism for HRDs should be decentralised to improve accessibility to all HRDs, including those in rural communities. It includes the return of the main response institutions and their contacts.

- **Conflict-management approach:** An effective mechanism for protecting HRDs, in particular journalists, religious leaders and community members, should adopt a conflict-management approach.

- **Access to state response**: Protection mechanisms must invest in making connections to ensure that they have access to the state at some meaningful level. The relationship should be significant enough that it can be harnessed to trigger state responses regarding the security and protection of HRDs. The feeling is that mechanisms that engage civil society alone without triggering state responses will be inadequate.

- **Multi-level approach**, which includes systems for information collection, verification, and triangulation; psychosocial support and rehabilitation; litigation and advocacy; capacity-building; and a state-response component.

- **Manipulation-proof**: HRDs are human beings. While most operate with integrity and are often in real danger and need assistance, there are cases in which some unscrupulous individuals may try to cheat the system just to access resources, especially when they know that other HRDs have been helped financially during critical times. Protection mechanisms must find effective ways to separate the "wheat from chaff", the genuine from the ingenious, and the real cases of need from opportunistic attempts at self-aggrandisement.[37]

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37 ibid.

8. Recommendations

The different risks and violations that WHRDs face emphasise the need for differentiated support and gender-specific protection measures that take into consideration their needs and realities.[38] These include the following:

- increased support from state and non-state actors;
- ensuring the protection of WHRDs that work to defend territories and natural resources and provide an enabling environment free of violence in accordance with international human rights standards;
- full and independent investigation of violations (intimidation, threats, violence and other abuses) against WHRDs by all perpetrators and ensuring that such violations do not go unpunished. The state should provide victims with access to effective judicial remedies and redress; and
- the formulation of protection policies and programmes that focus on eliminating the structural causes of violence against WHRDs and advocate specific measures to prevent, investigate and punish those responsible for abuse and violence perpetrated against them.

38 AWID. (2014). *Our Rights to Safety: Women Human Rights Defenders' Holistic Approach to Protection.*

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