

# **SOUTHERN AFRICA LITIGATION CENTRE**

**Mozambique**

**International Convention on Civil and Political Rights**

**Submission by:**

**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

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

Article 48 of Mozambique’s Constitution guarantees the right to freedom of speech, freedom of expression, press and the right to information.<sup>1</sup> 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.”<sup>2</sup>

Freedom of movement of Human Rights Defenders (HRD’s), political actors, journalists and civil society groups has also come under increasing attack. Attacks on the civilian population commenced as early as October 2017, when a group known as the Ahlu Sunnah Wal Jammah<sup>3</sup> began a two-day attack on police stations and other government buildings in Mocimboa da Praia in the Northern Province of Cabo Delgado. Instead of proactively dealing with the attacks and the possible emergence of extremist elements in the region, the Mozambican authorities claimed that the attacks were isolated incidents that were controlled by the security personnel.<sup>4</sup> Since the incident in 2017, civilians have been attacked and displaced.<sup>5</sup>

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

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There is a culture of impunity which exists in Mozambique, with little done by the government to investigate violations of human rights, violence, torture, and murder committed by State and non-State actors.<sup>8</sup> 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 the last

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<sup>1</sup> Constitution of Mozambique available [here](#).

<sup>2</sup> Mozambique: Government committed to freedom of expression – Nyusi, April 11 2018, available [here](#).

<sup>3</sup> Bloomberg, Islamist Militant Attacks Surged Most in Emerging LNG Giant, March 11 2020, available [here](#).

<sup>4</sup> BBC News, Mozambique: Is Cabo Delgado the latest Islamic State outpost? 5 May 2020, available [here](#).

<sup>5</sup> Medecines Sans Frontieres, Thousands displaced, healthcare jeopardised, as violence surges in Cabo Delgado, June 5 2020, available [here](#).

<sup>6</sup> Mozambique's Constitution of 2004 with Amendments through 2007, March 31 2021, available [here](#).

<sup>7</sup> Mozambique: Government committed to freedom of expression – Nyusi, April 11 2018, available [here](#).

<sup>8</sup> Developments in addressing torture in Mozambique, March 2018, available [here](#).

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general elections.<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup>

On 5 January 2019, two journalists from two community radio stations at the State-owned *Radio e Televisao Comunitaria Nacemie 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.<sup>12</sup> 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.<sup>13</sup>

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, aiding, and abetting the extremist group, inciting the public using electronic media and violation of state secrecy, among other charges.<sup>14</sup> 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.<sup>15</sup>

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

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<sup>9</sup> Three years on, and assassination of Gilles Cistac is still without resolution, March 6 2018, available [here](#).

<sup>10</sup> Mozambican journalist critical of government beaten unconscious, March 27 2018, available [here](#).

<sup>11</sup> Despite police harassment, CIP distributes all its t-shirts, January 23 2019, available [here](#).

<sup>12</sup> Mozambique: Joint Statement by Civil Society Groups Calling for the Unconditional and Immediate Release of Radio Journalist, April 11 2019, available [here](#).

<sup>13</sup> Mozambique: Further Information: Journalist Granted Provisional Release: Amade Abubacar, April 30 2019 available [here](#).

<sup>14</sup> Open letter: Pope Francis' visit to Mozambique presents an opportunity to address human rights violations, September 4 2019, available [here](#).

<sup>15</sup> Open letter: Pope Francis' visit to Mozambique presents an opportunity to address human rights violations, September 4 2019, available [here](#).

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Mozambique.<sup>16</sup> 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).<sup>17</sup>

On 23 August 2020, an unidentified group attacked Canal de Moçambique, a Mozambican independent weekly newspaper that publishes investigative stories of public concern.<sup>18</sup> There has also been repeated harassment of *Canal's* executive editor Matias Guente.<sup>19</sup>

## Rule of Law

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 for licensing services, renewal, registration, advertising inserts by the print, radio, and television media, including digital platforms, as well as accreditation of journalists, national, foreign correspondents, and autonomous collaborators. However, after an outcry from civil society, Decree No. 40/2018 was repealed.<sup>20</sup>

The Penal Code, which was amended in December 2019,<sup>21</sup> criminalizes various 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 these amendments were welcomed by some civil society groups, there are several concerns regarding the potential for abuse of these laws by the State if not used appropriately.

## Recommendations

- The Government must undertake thorough, impartial, and independent investigations, cases of attacks on media personnel and civil society actors and ensure that persons who are responsible for human rights violations and abuses should be brought to justice through fair trials.
- 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, reprisals, intimidation, or harassment.
- The authorities must refrain from arbitrary arrests and detention.
- 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).
- The Government must ensure that the rule of law is upheld.

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<sup>16</sup> Media statement on the recent Killing of election observer, Dr Anastacio Matavel, in Mozambique, October 11 2019, available [here](#).

<sup>17</sup> Mozambique: Journalist Feared 'Disappeared', April 17 2020, available [here](#).

<sup>18</sup> Mozambique: Media Freedom in Ashes, August 31 2020, available [here](#).

<sup>19</sup> Mozambique reels from repeated attacks on press freedom, April 26 2021, available [here](#).

<sup>20</sup> Mozambique government repeals decree setting absurd media fees, May 25 2020, available [here](#).

<sup>21</sup> Mozambique promulgates new Penal Code, June 29 2015, available [here](#).

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## 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 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.<sup>22</sup>

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.<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup>

The militants reportedly continue to attack 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.<sup>26</sup>

On 24 March 2021, militants attacked the town of Palma in Mozambique's northern province of Cabo Delgado<sup>27</sup> before it was retaken by the Mozambique security forces on 5 April 2021. However, the security situation in the region remain precarious.<sup>28</sup> There are reports that government security personnel have been arresting people suspected of collaborating with militants, and that the government is also attempting to deport foreign nationals including Asylum seekers and refugees.<sup>29</sup>

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<sup>22</sup> Thousands displaced, healthcare jeopardised, as violence surges in Cabo Delgado, June 5 2020, available [here](#).

<sup>23</sup> Mozambique: Cabo Delgado open to journalists, but it is a war zone – President, September 1 2020, available [here](#).

<sup>24</sup> The genesis of insurgency in northern Mozambique, October 27 2019, available [here](#).

<sup>25</sup> ACLED 2019: The year in review, March 2 2020, available [here](#).

<sup>26</sup> Thousands displaced, healthcare jeopardised, as violence surges in Cabo Delgado, June 5 2020, available [here](#).

<sup>27</sup> Mozambique – Attacks in Palma District, flash update, April 9 2021, available [here](#).

Mozambique Palma attack: How people tried to flee the assault, April 4 2021, available [here](#).

<sup>28</sup> Mozambique town Palma 'retaken' from militant Islamists, April 5 2021, available [here](#).

<sup>29</sup> Mozambique: Refugees, Asylum Seekers held arbitrarily, June 13 2019, available [here](#).

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## Recommendations

- The Government must put measures in place to address peace and security in the 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 must ensure the protection of property in the region and ensure that the right to life is guaranteed.
- The Government must ensure humanitarian assistance is provided to those affected by the conflict in the northern province of Cabo Delgado.