

# Defending Civic Space & Protecting Human Rights Defenders in Mozambique

Dec 2021



## An Assets and Needs Assessment of Human Rights Defenders and Protection Mechanisms



REDE MOCAMBICANA DOS  
DEFENSORES DE DIREITOS HUMANOS  
**RMDDH**



**AFRICANDEFENDERS**  
Pan-African Human Rights Defenders Network

**SOUTHERN  
DEFENDERS**  
Southern Africa Human Rights Defenders Network

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## Abbreviations

ACHPR	African Charter on Human and People's Rights
AfricanDefenders	Pan-African Human Rights Defenders Network
AI	Amnesty International
CBO	Community Based Organizations
CCJP	Catholic Commission for Justice and Peace
COVID-19	Corona-Virus Disease 2019
CDD	Centre for Democracy and Development
CRM	Constitution of the Republic of Mozambique
CSO	Civil Society Organisation
FBO	Faith-Based Organizations
FRELIMO	Portuguese Frente de Libertação de Moçambique or Liberation Front of Mozambique
HRDs	Human Rights Defenders
HRDPM	Human Rights Defenders Protection Mechanisms
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MISA	Media Institute of Southern Africa
RMDDH	Mozambique Network of Human Rights Defenders
NGO	Non-Governmental Organisation
NHRI	National Human Rights Institution
OAM	Mozambican Bar Association
OECD	Organisation for Economic Co-operation and Development
PRM	Police of the Republic of Mozambique
RENAMO	The Mozambican National Resistance or Resistência Nacional Moçambicana
SAHRDN	Southern Africa Human Rights Defenders Network
SouthernDefenders	Southern Africa Human Rights Defenders Network
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNOHCHR	United Nations Office of the High Commissioner for Human Rights

# 1.0 INTRODUCTION

This report gives findings of an Assessment on the Shrinking Online and Offline Civic Space and Security for Human Rights Defenders, including Social Justice Activists and Journalists in Mozambique and is part of the Mozambique Human Rights Defender’s Network (RMDDH) strategic framework, whose global goal is to defend the online and offline civic space and protect human rights defenders who are at most risk of human rights violations in Mozambique. The report presents an assets and needs analysis for human rights defenders (HRDs) within the context of existing Human Rights Defenders Protection Mechanisms (HRDPM) within and outside Mozambique. The study informing this report is coming on the backdrop of a general shrinking of online and offline civil space notable not only in Mozambique, but indeed across the region, part of a trend of notable authoritarian consolidation and hegemony globally. Mozambique has in recent times experienced an escalation of targeted persecution and reprisals against HRDs at various scales and levels, with civil society and pro-democracy activists, journalists and social justice actors being prime targets especially in the context of rising inequality due to, inter alia, COVID-19. The table below summarizes the general and specific remits of the study.

General Remit	Specific Objectives
<p>1. Identify existing risks for women and men Human Rights Defenders, CSOs and journalists in Mozambique, including in the volatile northern provinces.</p>	<ol style="list-style-type: none"> <li>1. Conduct a detailed assessment on the situation of women and men human rights defenders in Mozambique regarding access to support mechanisms and services, identifying the risk and protective factors to enhance their safety and security.</li> <li>2. Assess the level of availability and quality of relevant services provided by human rights defenders-oriented organisations and other relevant service providers to mitigate risk and protect HRDs.</li> </ol>
<p>2. Identify factors contributing to shrinking and shifting of online and offline civic space in Mozambique</p>	<ol style="list-style-type: none"> <li>3. Identify possibilities for coordinating service provision at the national and regional level to avoid duplication and working in silos.</li> </ol>
<p>3. Suggest structured ways of sharing knowledge on mechanisms and tools to defend online and offline civic space and protect women and men human rights defenders at high risk.</p>	<ol style="list-style-type: none"> <li>4. Define the good approach for strengthening and offering integrated preventive, protective and reintegration services and improving access to mechanisms, systems, and services at all levels.</li> <li>5. Identify the institutions and actors that influence the situation of human rights defenders at risk and which the commissioning organisations will leverage to swiftly coordinate rapid protection services</li> </ol>

## 2.0 METHODOLOGY

The assessment was done at a critical moment in history when the global Covid-19 pandemic has seen the imposition of the various restrictions on the fundamental rights and freedom of citizens (female and male), which has impacted negatively on HRDs. The Covid-19 pandemic and the need to contain its spread has given cover to states to curtail some civil liberties of citizens (female and male) using public health and emergency-related laws and other associated measures. In fact, some governments treated and are still treating citizens as the enemy and not as partners in the fight against Covid-19, which is the common enemy.

Given the projected continuation of the pandemic in successive waves of spread and mortality beyond the current 2021 conjecture especially on the African continent, HRDs stand to play a critical role to generally ensure that the imposition and implementation of public health and emergency measures do not go beyond universally agreed parameters and restricting the civil liberties of citizens all in the name of public health.

In general, any laws or restrictions in response to emergencies are required to:

- have a legal basis, and be strictly necessary,
- be of limited duration, and respectful of human dignity,
- be subject to review, and be proportionate to achieving the objective,
- not involve discrimination and be used strictly to the extent required by the emergency in question.

Even in the face of an emergency, it is imperative that the state ensures that it acts within the law and that the rule of law and the protection of citizens' rights takes precedence. However, it is apparent that the daily governance practices of Mozambique were already punctuated by violation of citizens' rights, undermining of the rule of law and fueling impunity, which have all been exacerbated not only by the pandemic, but the insurgency in Northern Mozambique.

This report outlines the social, political, and economic context in Mozambique under which we have seen increasing violations of the rights of citizens and its heightened targeting of journalists and civil society activists, including the added complexities from the Covid-19 pandemic and the insurgency. It also sketches the existing framework for the protection of HRDs at risk. It then makes suggestions on how the services offered to HRDs for their protection can be done in a more integrated and holistic manner which takes into cognisance issues around the availability of rapid and practical protection services, including digital security and psychosocial support and how this also ties with improving the capacities of Mozambican civil society and HRDs to mitigate and navigate the impact of shrinking and shifting online and offline civic space. It makes recommendations as well on how various actors can leverage opportunities more structured and grounded work of HRDs, including for social justice activists and journalists as a key group.

This study adopted a qualitative research design, which included the review of secondary data sources. Secondary data sources were obtained through a thorough desktop review, including sources from local and international civil society reports, the media, and inter-governmental agencies reports.

The study also adopted the OECD Development Assistance Committee's guiding principles for reviews and evaluations. These entail that Assessment Teams conduct their work:

1. Independent of those responsible for the administration or implementation of the assessment – the contracting/commissioning organisations.
2. Using recognised methodology and principles intent on clarifying relevant issues.
3. Develop and included in their report operational recommendations that can be used when formulating further interventions by the contracting parties.

The team also generated both horizontal analysis (across main themes to create the big picture) and vertical analysis (in-depth understanding of the most important issues) using the following approach:

- The team engaged in discussion to identify and conceptualize trends and themes that emerged from the qualitative data collected (coding).
- Once all qualitative data were consolidated according to the research questions, the team identified the most prevalent themes and concepts mentioned by respondents to yield an in-depth analysis pertinent to the research questions (coding).

## 2.1 Limitations

A key limitation of the study accrued directly from the context presented by the Covid-19 pandemic and the insurgencies in the northern provinces, which naturally limited access to wider sources of primary data. This in turn lowered our ability to triangulate our data through various sources. This does not in any way however take away the validity of the assessment as so many secondary data sources were extensively reviewed.



### 3.0 DEFINING AND MEASURING CIVIC SPACE

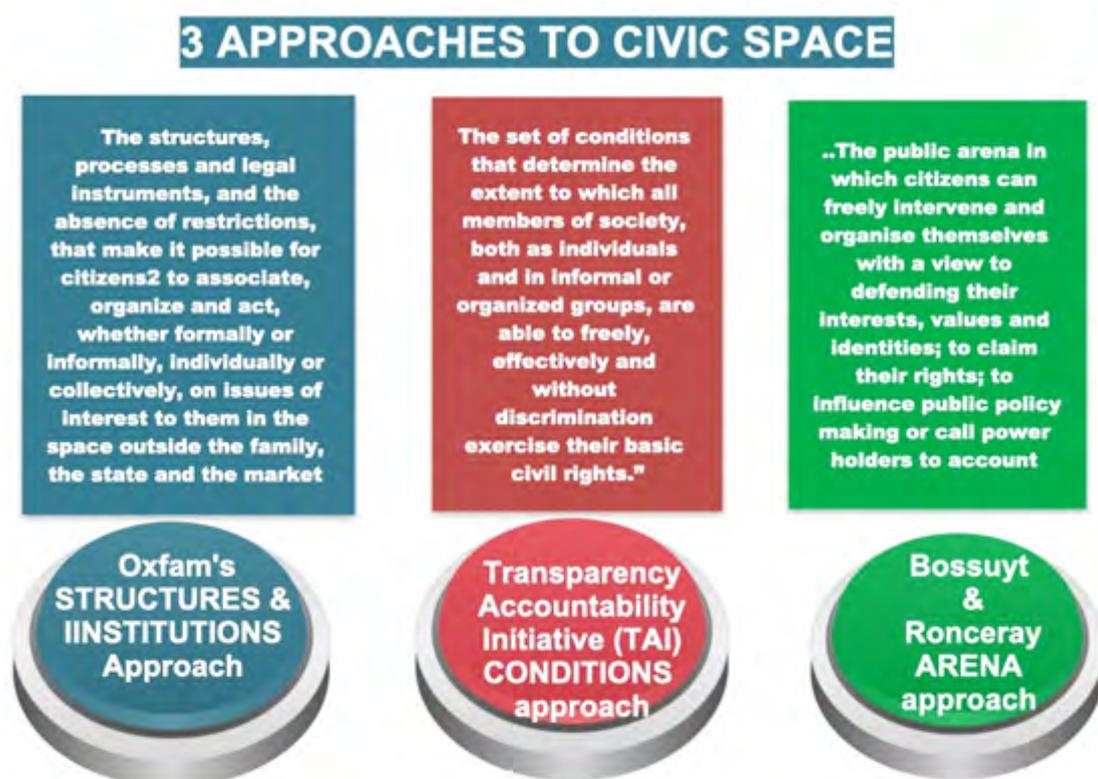
The definition of civic space remains contested and varied. However, for the purposes of this study, civic space refers to the public arena in which citizens can freely intervene and organise themselves with a view to defending their interests, values, and identities; to claim their rights; to influence public policy making or call power holders to account<sup>1</sup>. In the past two decades there has been a noticeable trend of shrinking and shifting of online and offline civic, democratic, and civil society space. This has been mainly because of various governments across the world introducing policies, laws and undertaking administrative actions that have restricted the scope of activity of civil society, including the media, human rights defenders (such as land rights, environmental rights and indigenous rights activists, women's and peasants' movements), NGOs, social movements such as, labour and students organisations. Organisations receiving foreign funding have also been targeted by the emerging retrogressive policies<sup>2</sup>. According to the former Special Rapporteur on the Situation of Human Rights Defenders, Michel Forst, these reported attacks on 'bloggers, indigenous people, journalists, community leaders, whistle-blowers and community volunteers' have been multiplying and clearly demonstrate 'concerted attacks against those who try to embody the ideal of the Universal Declaration of Human Rights in a world free from fear and want'<sup>3</sup>.

The shrinking and shifting of civic space is a phenomenon that is triggered by actions of both state and non-state actors<sup>4</sup>. These include legal, political, administrative, as well as extra-legal strategies such as violence and threats, and domination of public space to de-legitimate and stigmatize civil society actors for a range of reasons<sup>5</sup>. Van der Borgh and Terwindt identify five actions or policies used to restrict the operations of civil society<sup>6</sup> and these are summarized below.

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 and 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

1. Bossuyt, J. and Ronceray, M. (2020). Claiming Back Civic Space: Towards Approaches Fit for the 2020s  
 2. Hossain N, Khurana N, Mohmand S, Nazneen S, Oosterom M, Roberts T, Santos R, Shankland A and Schröder P. (2018). What Does Closing Civic Space Mean for Development? A Literature Review and Proposed Conceptual Framework  
 3. OHCHR (2017b) Report of the Special Rapporteur on the Situation of Human Rights Defenders, Report of the Special Rapporteur on the situation of human rights defenders to the UN General Assembly A/HRC/34/52, New York: Office of the Human Rights Commissioner of the United Nations,  
 4. Bossuyt, J. and Ronceray, M. (2020). Claiming Back Civic Space: Towards Approaches Fit for the 2020s  
 5. Hossain N, Khurana N, Mohmand S, Nazneen S, Oosterom M, Roberts T, Santos R, Shankland A and Schröder P. (2018). What Does Closing Civic Space Mean for Development? A Literature Review and Proposed Conceptual Framework  
 6. Van der Borgh, C. and Terwindt, C. (2012) 'Shrinking Operational Space of NGOs – A Framework of Analysis', Development in Practice 22.8: 1065–81.

Civic space can therefore be arguably understood from two conceptual approaches: First as the existence of structures and institutions that provide for enjoyment of the fundamental freedoms and second as the actual enjoyment of these freedoms in practice. It is from the qualitative and quantitative combination of these two variables that civic space may be measured. The diagram below from SAHRDN 2020 summarises how these dominant approaches to understanding civic space.



Source: SAHRDN 2020<sup>7</sup>

Therefore, to assess civic space and situation of HRDs in Mozambique, the study reviewed the country's legal architecture to examine what is provided for within the Constitution and Acts of parliament and then the actual enjoyment of these freedoms by citizens exercising their rights.

The CIVICUS Monitor tracking changes in civic space focuses on three fundamental freedoms (freedoms of expression, association, and peaceful assembly) to assess the openness of civic space or lack of it into five categories: Open; narrowed; obstructed; repressed and closed<sup>8</sup>. The Transparency Accountability Initiative approach also uses five categories to assess the openness of civic space or lack of it and these are freedoms of information and expression,

7. SAHRDN (2020). Civic space and security for human rights defenders, activists, and journalists: An assessment of Mozambique.

8. CIVICUS (2016a). CIVICUS Monitor: Tracking Civic Space Worldwide: Findings Report October 2016, Washington DC: CIVICUS

rights of assembly and association, citizen participation, non-discrimination/inclusion, and human rights/rule of law. Keutgen and Dodsworth identifies five dimensions of civic space and pontificates to six tools that can be used to obtain information to measure changing civic space. These are summarised in the table overleaf.

Dimension of civic space	Useful source of information
Freedom of assembly	ICNL and CIVICUS Monitor
Freedom of association	CIVICUS Monitor, Bertelsmann Transformation Index, Freedom House Report
Freedom of speech	CIVICUS Monitor, Freedom House, Freedom on the Net, Bertelsmann Transformation Index
Human rights protections	CIVICUS Monitor
State-civil society relations	World Bank Regulatory Governance Indicator, V-Dem

**Source: Keutgen and Dodsworth 2020<sup>9</sup>**

Civic space is composed of various elements of fundamental freedom that looks at institutions and policies meant to provide, protect, and promote the enjoyment of freedoms and rights by citizens' either within the state or the market. The measurement of or tracking changes in civic space needs to take cognisance of both the policy and practice dimension to give a comprehensive picture. This means combining the various tools discussed in this section to produce a contextualised assessment criterion for each country under study.



8. Keutgen J and Dodsworth S. (2020). Addressing the global emergency of shrinking civic space and how to reclaim it: a programming guide. Westminster Foundation for Democracy.

## 4.0 LITERATURE REVIEW

### 4.1 Understanding the Political Context of Mozambique

Mozambique's political history has largely been defined by the civil war that pitted FRELIMO and RENAMO, right from the country's independence in 1975. The conflict between the two political parties led to the violation of citizen's rights without any recourse to justice. The cessation of the armed conflict between FRELIMO and RENAMO led to some relative stability in Mozambique as the country adopted multi-party elections in 1991 and adopted a new constitution in 1994. The introduction of democratic politics did not eliminate the conflict as the country continued to face teething problems for its fledgling democracy. Impunity for past crimes committed by both FRELIMO and RENAMO have rendered the political system vulnerable as the pursuit of peace and stability have always superseded any other objectives. This has led to the creation of a culture of non-accountability amongst duty bearers under the pretext that pursuit of justice and accountability for serious violations could compromise national peace and stability.

This is an approach that unfortunately fuels impunity in that impunity begets impunity and puts the country in a vicious cycle. The electoral environment remains tumultuous and problematic as the playing field remains continuously imbalanced. For instance, the arbitrary arrests and disappearance of election observers including the 18 election monitors who were arrested while monitoring the October 15, 2019 elections in Xai-Xai, as well as the extra-judicial killings of pro-democracy activists such as the Matavel case<sup>10</sup> ; interparty political violence; infringement of the right to parties and harassment of journalists are some of the electoral malpractices that continue to undermine the integrity of elections and subsequently the rights of citizens. RENAMO went on to reject the results of the 2014 plebiscite leading to the renewal of hostilities.

Renewed peace efforts, thereafter, led to a reinforcement of the theory of preference of peace and stability over justice and accountability, yet the road to sustainable peace and stability is to look at peace and justice as two sides of the same coin. FRELIMO has dominated the country's politics, leading to some arguing that there is no separation between the ruling party and the state, hence party-state conflation<sup>11</sup> . This has created a major problem in the implementation of laws and public administration as the executive became overwhelmingly dominant<sup>12</sup> , thus undermining the separation of powers underpinned by respect for the rule of law and protection of citizens' rights and freedoms.

The daily governance practices of Mozambique have been punctuated by violation of citizens' rights, undermining of the rule of law and impunity. Arbitrary arrests and detention of human rights defenders by the police<sup>13</sup> is a constant practice that continue to impact on human rights work in Mozambique. The police have been noted to arrest to investigate and failing to follow the due process of the law in their conduct. In contribution to the Universal Periodic Review (UPR) process, Amnesty International (AI) observes that Mozambique accepted recommendations to end arbitrary detentions, excessive use of force, torture, ill-treatment, and extrajudicial executions of detainees, and to end repression of freedom of

10. See <https://www.frontlinedefenders.org/en/statement-report/killing-activist-dr-anastacio-matavel-and-restrictions-civic-space-mar-upcoming>

11. Jeremy Astill-Brown and Markus Weimer., 2010. Mozambique Balancing Development, Politics and Security. Available at: [https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0810brown\\_weimer.pdf](https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0810brown_weimer.pdf)

12. BTI., 2020. Mozambique country report. Available at: <https://www.bti-project.org/en/reports/country-report-MOZ-2020.html>

13. International Federation for Human Rights. Mozambique: Civil Society groups call for the unconditional and immediate release of radio journalist. Press release, 11/04/2019. Available at:

<https://www.fidh.org/en/issues/human-rights-defenders/mozambique-civil-society-groups-call-for-the-unconditional-and>

expression<sup>15</sup>. But the biggest impediment has been the lack of political will to implement the given recommendations and the country's worsening human rights record is clear evidence of this failure<sup>16</sup>. The Mozambican police has been at the forefront of human rights violations as it restricts free speech and arrests voices critical of the government and the ruling party. The constitution provides the right to assembly, but this is restricted through administrative requirements and actions, and in the end seeing human rights defenders' work being stifled. Canal de Mocambique, a radio station critical of government was bombed and this points to a treacherous media terrain in Mozambique and how freedom of the press continuously gets undermined with impunity.

The revelation by civil society of the secret public debt in 2016 that had been accrued in 2013 by the Mozambican government has seen several civic organisations and human rights defenders facing the retaliatory wrath of the authorities. The Center for Public Integrity, a civil society organization, that has been leading the calls for accountability from the Mozambican government has seen a number of its staff receiving death threats and intimidation including via the social media. For instance, a FRELIMO member of parliament, Alice Tomas, is reported to have called for the raping of CIP's Researcher Fatima Mimbire by 10 strong men to teach her a lesson<sup>17</sup> because of her criticism of authorities regarding the public debt. The Cabo Del Gado conflict has also seen increased violation of citizens' rights by both security forces and insurgents, arrests of journalists and human rights defenders who attempt to report or research on the conflict. The advent of the Covid-19 pandemic has also seen violation of citizens' rights and muzzling of human rights defenders under the guise of Covid-19. The environment in which human rights defenders operate in Mozambique has been continuously worsening because of the politics.

## **4.2 Understanding the Social-Economic environment and the Impact of Covid 19 on Human Rights and HRDs in Mozambique**

Mozambique has made significant progress towards inclusive sustainable development in recent decades. In the last 20 years, it has been one of the best performing economies in Sub-Saharan Africa, with an average growth rate of 7 to 8%, as well as one of the main destinations for Foreign Direct Investment (FDI) in the continent. Although Mozambique has been on a steady economic growth in the past years, many economists have lamented that this growth has not translated into economic development as inequality and poverty continues to haunt many people including women and youth.

The high poverty incidences and high inequality, including gender inequalities, and vulnerability of women and youth, and growing violence has impacted negatively on the ability of interest groups to access justice. Amnesty International notes that many of these vulnerable groups face daunting tasks to raise legal fees which ultimately affects their chances of accessing justice. The report further notes that there are ongoing efforts to review the costs through the Code of Legal Costs review. This will immensely benefit HRDs who often are in brush with the law, as they demand justice on behalf of the poor while at the same time the government has

14. Mozambique: Call for human rights sensitivity. Amnesty International Submission for the UN Universal Periodic Review, 38th session of the UPR working group, April 2021.

15. Mozambique: Call for human rights sensitivity. Amnesty International Submission for the UN Universal Periodic Review, 38th session of the UPR working group, April 2021.

16. American Bar Association, Center for Human Rights (ABA CHR), Submission with respect to the third cycle of the 3rd Universal Periodic Review (UPR) of the Republic of Mozambique, 38th session of the UPR working group May 2021.

17.

become adept at instrumentalizing the law to persecute HRDs. Besides the Mozambique Bar Association that is trying to develop a culture of public interest litigation, Mozambique does not have an entrenched tradition of public interest lawyers embedded in civil society like other jurisdictions in Southern Africa and this makes the costs of litigation beyond the reach of the majority of HRDs. A good example is that it took the joint intervention of CDD and SAHRDN in November to December of 2019 to obtain the release of democracy activists in Gaza who languished in jail without trial for 55 days before being released without charge.

Consistent with the colonially inherited structure of the economic model of many Southern African countries, in the past years, extractive mining has increasingly become an important driver to economic development in Mozambique. It has been noted that whilst prioritizing mining, both the government of Mozambique and the private sector have failed to uphold and protect rights of communities which has often led to rancor, violence, mass evictions, legal action against communities. Violations have been recorded both during acquiring of land and during the operations by mining companies. This has mainly been attributed to the failure to reform colonial laws and regulations and to promulgate a transformative regulatory environment that ensures that companies and investors respect the rights of communities affected by their operations. This approach to economic activity that reinforces inequality and injustice, marginalizes and violates the rights of the local indigenous communities has created a structural base for radicalization, extremism and conflict. The situation has been exacerbated by the restrictions which have limited journalist access to information from conflict zones. The brave journalists who attempt to cover developments in such conflict zones have often been persecuted and harassed by the state and in some cases have reportedly disappeared. The state has in reality been complicit as it has failed to safeguard the security of these journalists. In addition, criminal libel and defamation laws deter journalists from writing freely about ongoing in the resource rich but conflict-ridden territories of Mozambique.

The recent outbreak of the coronavirus (Covid-19), forced the country to declare a state of emergency and close its borders in April 2020. The pandemic came at a time when the country was committed to peace building, prevention, and mitigation of new conflicts, particularly the armed conflicts that are taking place in areas around northern provinces, including Cabo Delgado. The violent clashes between armed groups and government forces have led to increased heinous crimes being committed including violation of rights of vulnerable groups that include women, children and the elderly and people with disabilities. The state of emergency has curtailed the ability of HRDs and journalist to move around and freely report on governance issues and violence in the conflict-ridden areas in Mozambique.

### **4.3 Legal and Institutional Overview and Understanding(s) of HRDs, Security & Protection of Human Rights Defenders and Journalists in Mozambique**

The 2004 Constitution provides the overall legal and institutional framework for the protection of fundamental human rights in Mozambique. Specifically, the constitution guarantees fundamental rights and freedoms of people in Mozambique and HRDs and in the public interest

the legal obligation to pursue the defense and promotion of human rights is bestowed upon the government. To comply with its obligations of promoting, protecting, and upholding of human rights the Mozambican government signed several international covenants. Section III of the Constitution of the Republic of Mozambique on fundamental rights, duties and freedoms, that is articles 35 to 95, is inspired by the Universal Declaration of Human Rights (UDHR) and the African Charter on Human and People's Rights (African Charter). Nearly all the 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.

According to article 18 of the Mozambican Constitution, approved and ratified international treaties and agreements are part of the national legislation and, thus, such a provision must be protected, respected, promoted and fulfilled. Mozambique supported key recommendations to ratify the ICESCR and the First Optional Protocol to the ICCPR. Sadly, Mozambique has still not signed these treaties, let alone ratified and implemented them. Although the government of Mozambique has done tremendous efforts in adopting international instruments promoting human rights, some laws passed locally are not consistent with some covenants signed creating a strong basis for law reform.

A report by the Amnesty International<sup>19</sup> has 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 into national law. This will be an important step considering that the country is marred by incidences of forced disappearance especially in conflict laden areas such as Cabo Delgado. In addition, Mozambique should work with the Committee on Enforced Disappearances to receive and relay communications from or on behalf of victims or other states parties. Other important international statutes needed for adoption and ratification include the Optional Protocol to the International Covenant on Civil and Political Rights and Rome Statute of the International Criminal Court, signed on 28 December 2000, and implement it into national law.

While the constitution provides for freedom of speech and the press government restricts these rights. While the law allows individuals to criticize the government publicly or privately without reprisal, human rights organisations have often reported cases where such criticism has landed HRDs in court, whilst others have been brutalized by the police. This mismatch between standards and practice needs to be addressed.

#### **4.4 Challenges associated with upholding of human rights in Mozambique**

The Constitution of the Republic of Mozambique (CRM) is the main document that lays out a guiding framework for the respect and guarantee of the fundamental rights and freedoms of citizens and people in Mozambique. Article 43 of the CRM places commendable importance on the utility of other universally agreed instruments towards realisation of the respect for fundamental rights and freedoms, specifically that:

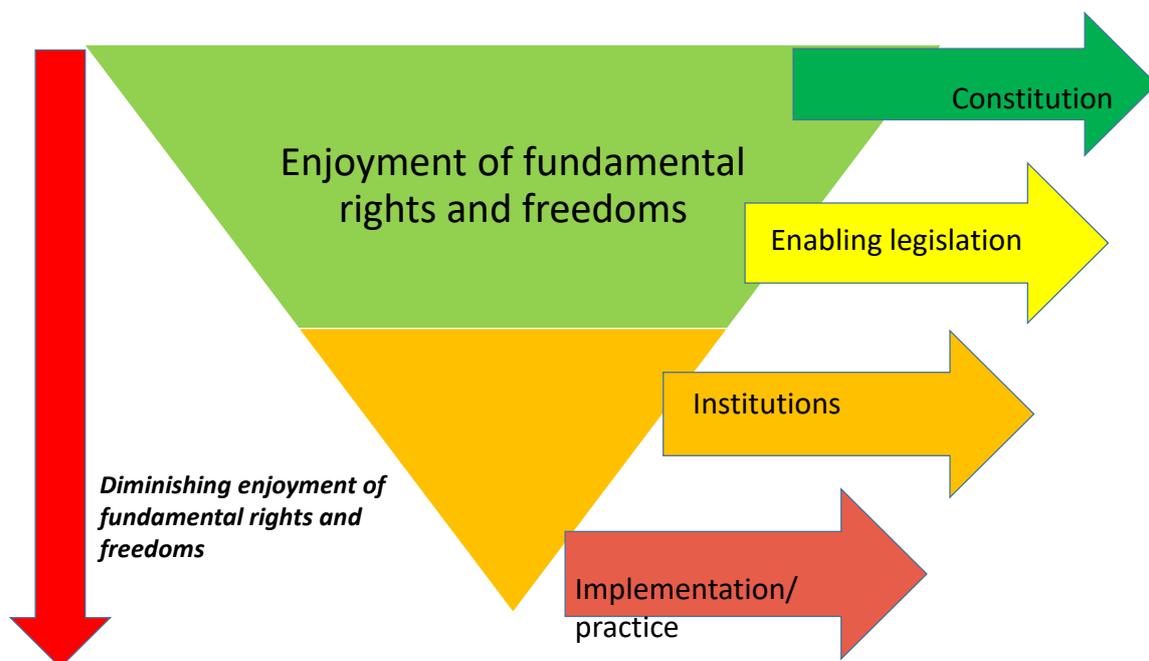
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19. Amnesty International Mozambique: Call for Human Rights Sensitivity

“The constitutional principles in respect of fundamental rights shall be interpreted and integrated in harmony with the Universal Declaration of Human Rights (UDHR) and with the African Charter of Human and Peoples Rights (ACHPR).”

This provision places Mozambique in a league of high-flyers in terms of ratification of international instruments seeking the realisation of the respect of fundamental rights and freedoms. However, as this report will show, there is a significant mismatch between the human rights standards adopted and binding on Mozambique and the state practices as primary duty bearer. This sacrosanctity of the constitution must be protected. Various enabling legislation have been affected to ensure the enforceability of the various constitutional provisions, though there remain challenges with the constitutionality of some such laws, which seem to curtail rather than promote the very constitutional principles that they have been formulated to promote<sup>20</sup>.

At the next level are the various institutions that are provided for in the constitution to ensure the realisation and respect of fundamental rights and freedoms and their administrative enforceability. Lastly, implementation or practice determines how these constitutional and legal provisions play out in reality. It can be discerned that the enjoyment of fundamental rights and freedoms by citizens adopts an 'inverted pyramid structure' which shows diminishing enjoyment of fundamental rights and freedom at each successive level. This is demonstrated in the diagram below.



Source: Consultants (2021)

20. See Annexure: Human Rights Defenders Protection guidelines/policies/regulations/administrative instructions at the end of the document

As the diagram above indicates, there is a diminishing enjoyment of fundamental rights and freedoms within the legal and institutional framework that is supposed to provide for the realisation of fundamental rights and freedoms. While the constitution broadly provides for a wide array of such rights and freedoms, legislation sometimes curtails their realisation, which is also further checked by the limited capacity of institutions meant to ensure their realisation, promotion and protection. At the end of it all, implementation or practice sees the violation of the same. A 2020 report by the Centre for Democracy and Development (CDD) on human rights and human rights defenders' notes,

"...several practices contrary to human rights, the principle of equality before the law and the most essential democratic and good governance principles relevant to the safe-guarding of human rights are notorious."

The report goes on to point out five key groups of human rights and factors within them that highlight the problem of protection of human rights and access to justice in Mozambique as a priority in the public governance agenda. These include exercise of the right to information; denial of the right to development; protection of human rights in the context of police actions; exercise of the freedom of press and freedom of expression; and the protection of HRDs.

#### **4.5 Institutional Framework and CSOs role in defending human rights**

The Mozambican governance structure like any other is made up of the three branches, the executive, the judiciary, and the legislature. Other institutions key to upholding of human rights in Mozambique includes the office of the public protector, the ombudsman, National Commission on Human Rights, and the Police among others. In principle the constitution legally provides for checks and balances through a separation of powers. Nonetheless the same constitution accords the president unlimited powers to appoint the judiciary and has led to over dominance of the president over parliament. The concentration of power in the executive (presidential position), the strong authoritarian foundation of FRELIMO and the weak checks and balances have allowed the government to slow the reform process<sup>21</sup>. Many reports have cited the weak influence of the opposition as another contributor to the weak checks and balances prevalent in the Mozambican governance system.

Given the above the two important institutions which have a mandate to provide checks and balances as well as executive oversight remain weak. The parliament, as an institution, is incapable of providing oversight over the executive branch because the majority parliamentarians hail from the ruling party FRELIMO and consider themselves as an extension of the executive. Likewise, the Mozambican judiciary's performance is highly questionable as it suffers from political interference. As highlighted above the President of Mozambique appoints the judges and FRELIMO in general is highly influential over the judges appointment process and therefore their function. Many of the judges are FRELIMO members and enjoy cordial relationship with the President and his party affecting the public's confidence in the independence and impartiality of the judiciary. This in many cases compromises the ability for the judiciary to preside over highly charged cases that involve the opposition and HRDs.

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22. BTI 2008 Mozambique Country Report

Allegations are that the judges are often appointed on party basis, and this hugely affect the branches' ability to provide checks and balances over the executive. The conflation of the party and state and over-domination of the state by FRELIMO severely curtails the system of checks and balances as it is driven by the executive. A review of country reports by BTI reveal that both the judiciary and parliament are underfunded which in turn limits its capacity to execute constitutionally mandated duties<sup>22</sup>. Many parliamentarians lack capacity to perform duties as legislators, hence there is need for training to improve the capacity to execute their duties, including protecting HRDs who are facing growing persecution day by the day.

Mozambique has also established institutions for the protection of human rights, particularly the office of the Public Protector, the Ombudsman and the Commission on Human Rights, Mozambique Bar Association which all aligns international mechanisms for advancing the protection of human rights worldwide. All these institutions have established laws and regulations but suffer from a low level of professionalism among their employees as well as low budget support from the state as a way of undermining their institutional independence and functionality. In 2006, it was revealed that only 4% of employees working in the capital or in the central organs in the provinces have a "superior level of education," while a mere 12.8% have achieved a medium level performance<sup>23</sup>. Although civil and human rights are constitutionally guaranteed, organisations such as the police have been found to be violating some of these constitutionally guaranteed rights. For example, the police have been accused of thwarting demonstrations and rallies for the opposition. More recently, in October 2019, four members of the special operation group (GOE) of the rapid intervention police force (FIR) and one civilian publicly executed Anastácio Matavele, a human rights defender and an election observer in the city of Xai-Xai, Gaza province. While it is commendable that the members of the police who were involved in the execution of the HRDs were brought to book and sentenced, those who were behind the killing remain free.

#### **4.6 CSOs and Media Landscape in Mozambique**

While there has been notable growth in the number of operational civil society organisations, civil society as a whole has remained weak, especially on internal aspects such as management and democratic governance. The government has also adopted the tactic of forming government-owned CSOs, which are usually birthed within FRELIMO as a party but in essence represent the interests of government or the state, given the levels of party-state conflation. This has rendered them largely ineffective in representing citizens and their interests. Given this large overlap between civic organisations and the ruling party, very few civil society organisations are able to effectively hold the government to account.

Journalists and media outlets are invaluable, but often neglected HRDs. Early conceptualization of HRDs in Mozambique covered in section 1.3, does not immediately feature the fourth estate as critical HRDs but do so when one embraces the broad remit and types of groups identified as HRDs by the UN Declaration on HRDs as well as the OHCHR. Journalists and media practitioners act as HRDs during their reportage of human rights infractions, exposure of corruption and promotion of governance with integrity. They play vital roles in defending

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23. BTI reports 2008, 2010, 2012, 2016, 2020

freedom of expression and society's right to be informed, which the UN has acknowledged as essential to the overall defence of human rights<sup>24</sup>. Often journalists do not self-identify as HRDs because of the narrow conceptions of the term that is often sponsored, but almost always de facto HRDs. Nevertheless, journalists often perform their functions at high risk as can be seen by the fact that Between 2006 and 2017, 1,010 journalists were killed worldwide, most of them local rather than international journalists and most of these crimes were unresolved<sup>25</sup>.

The crackdown against journalist and media goes against the right to freedom of expression and opinion as enshrined in international law. According to international law, everyone has "the right to hold opinions without interference" and "the right to freedom of expression." This includes the "freedom to seek, receive, and impart information and ideas of all kinds" through any media, including any form of artistic expression. This right also protects "a free, uncensored, and unhindered press or other media" (ICCPR, Part III, Article 19; Human Rights Committee, General Comment No. 34, para. 13). Regardless of this and presence of local laws to protect media and journalist, journalists often find themselves exposed to economic, professional, political, and ethical dilemmas without effective protection for possible recriminations.

Presently the Press Law, the Social Communication Law, the Broadcasting Law regulates media and journalist in Mozambique. The Mozambican government recently proposed new media laws to replace the Press Law promulgated in 1991 and the new Social Communication Law, regulating written media and a new Broadcasting Law covering radio and television broadcasting, both laws promulgated in 2020. Further reports added that, on March 22, 2021 the Parliament of Mozambique debated for the first time the drafts media and broadcasting law. Media and Election watchdogs such as Media Institute for Southern Africa (MISA) and Electoral Institute for Sustainable Democracy in Africa (EISA), have condemned such moves by government to replace progressive laws citing that the new laws criminalize journalists as well, restrict freedom of expression and press freedom.

Even though the constitution of Mozambique explicitly provides for freedom of speech and the press, the government severely restricts the enjoyment of these freedoms. Journalists who have dared to criticize government have often encountered reprisals, including through court cases, interrogations, or beatings. These have been especially targeted at independent media practitioners and has had the implication that practitioners often exercise self-censorship out of fear. Journalists have also pointed out how security legislation that contradicts the constitution is applied in judgments against journalists. Freedom of assembly faces frequent infringement mainly by the state bureaucracy and the Police of the Republic of Mozambique (PRM).

According to data from the Human Rights Measurement Initiative (HRMI), free speech is under threat in Mozambique. This has been backed up by internally and externally domiciled journalists reporting on Mozambique. Mozambique received a score of 3.6 out of 10 for protection of freedom of opinion and expression in HRMI's 2019 data compared to Liberia,

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24. BTI Mozambique Country Report

25. UN. (2012) Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Journalist Killings (A/HRC/20/22).

which scored 6.8/10. Experts identified journalists and human rights advocates as being most at risk of having their freedom of expression curtailed. In March 2018, masked men carrying AK-47s kidnapped prominent Mozambique journalist Ericino de Salema. The men abducted him outside the headquarters of the National Union of Journalists (SNJ) in the capital, Maputo, beat him with their guns, and finally dropped him, unconscious, on a road, his arms and legs broken<sup>26</sup>.

Increased human rights and media violations in Mozambique have continued to attract local and international coverage. In September 2020 the European Parliament issued a statement condemning the continued use of disproportionate force by the Mozambican government security force, including admissions by Mozambican President Filipe Nyusi to 'involuntary violations' of human rights by the authorities in Cabo Delgado. The government admittedly noted the increased incidents of crackdowns on freedom of expression, as well as harassment of journalists<sup>27</sup>. The report went on to emphasize the need for government to protect the rights of journalists, human rights defenders, activists, and citizens and made calls on the need for Mozambican authorities to investigate impartially all alleged cases of vandalism of news outlets.

### **Annexure: Human Rights Defenders Protection guidelines/policies/regulations/administrative instructions**

<b>Constitutional Provision</b>	<b>Regulating Law/guiding instrument</b>	<b>Comment</b>
1. Article 11: Defence and promotion of human rights and equality of citizens before the law (e)	Penal Code (Law 35/2014)	Is often violated through arbitrary arrests; also, political pressure on judges or judicial officers.
2. Article 40: Right to life	Article 4 of the African Charter on Human and Peoples' Rights Article 6, § 1 of the International Covenant on Civil and Political Rights (ICCPR)	Is often violated through extrajudicial killings and enforced disappearances.
3. Article 48: Freedom of expression and information	Law 34/2014, of 31 December - Law on the Right to Information. Law 18/91, of 10 August - Press Law Law 12/79, of 12 December – Law on State Secrecy: Decree 35/2015, of 31 December – specify private and public entities which are subject to the duty of providing information to interested citizens. Articles 46 and 47 of the 1991 Press	

26. HRMI Threats to free speech in Mozambique – Human Rights Measurement Initiative Accessed 11/05/2021

27. The humanitarian situation in Mozambique European Parliament resolution of 17 September 2020 on the humanitarian situation in Mozambique (2020/2784(RSP))

Constitutional Provision	Regulating Law/guiding instrument	Comment
	Law. Articles 229, 231 and 235 of the revised and approved Penal Code (Law 35/2014 of 31 December). Article 19 of the International Covenant on Civil and Political Rights (ICCPR)	Further curtailment of this right through Article 27(5) of Decree No. 12/2020 of 2 April: "During the duration of the State of Emergency, the media that broadcast information on COVID-19 contrary to the official ones are sanctioned".  Other relevant legislation on the functioning of the Public Administration;
4. Article 51: Right to freedom of assembly and demonstration	Article 21 of the International Covenant on Civil and Political Rights (ICCPR). Article 3 (1) of Law 9/91 of 18 July, amended by Law 7/2001 of 7 July;	The right to peaceful assembly and demonstration often suffers curtailment through actions of the PRM sometimes in defiance of legal provisions.
5. Article 52: Freedom of association	Law 8/91 of 18 July (1991). Article 22 of the International Covenant on Civil and Political Rights (ICCPR).	Law 8/91 of 18 July (1991) is the primary legal instrument regulating the formation of civil society in Mozambique
6. Article 59: Right to liberty and security	Article 12 of the UN Declaration on Human Rights Defenders	Human Rights Defenders continue to face an onslaught from the state especially where this pertains to issues of challenging the state's excesses.
7. Article 60: Application of criminal law	Penal Code (Law 35/2014 of 31 December);	
8. Article 62: Access to courts	Penal Code (Law 35/2014)	Is often violated through long periods of pre-trial detention.
9. Article 63: Attorneyship and advocacy	Ministerial Decree 178/2014 of 23 October	Lawyers often suffer limitations where state institutions such as the PRM hide their work.
10. Article 65: Principles of criminal process	Penal Code (Law 35/2014)	Judgment 4/CC/2013 has assisted in terms of the development of the legal framework that regulates pre-trial detention.
11. Article 70: Right of recourse to the courts		
12. Article 86: Freedom of professional associations and unions	Law 23/2007 of 1 August 2007 – Labour Law;	Labour rights have been under constant threat and are seldom enjoyed.
13. Article 87: Right to strike		
14. Article 122: Women	Law No. 29/2009 of September – on Domestic Violence Practiced against Women. Family Law, (no. 10/2004, of the 25th of August);	A commendable step in the realisation of equality between women and men though challenges remain at the institutional and implementation levels.

## 5.0 CONTEXTUAL CHALLENGES FROM THE PERSPECTIVE OF HRDS

The previous context analysis highlights that often CSOs and media working in the HRD sector in Mozambique operate in a fragile operational and institutional environment. Often critics face the full wrath of the government through use of the state institutions and the law a phenomenon often referred to as weaponization of the law or judicial persecution.

### 5.1 Negative Externalities Impacting HRD work in Mozambique

The table below lists some of the challenges faced by HRDs in Mozambique. The bulk of the political, socio-economic, legal, and technological challenges highlighted in the table are external factors and matters which require concerted civil society action to address at advocacy, campaigns, and policy reform levels.

Political	Economic + Social	Legal	Technological
<ul style="list-style-type: none"> <li>Forced disappearance and murder of HRDs and media personnel and journalists, e.g., the murder of Anastácio Matavel, an election observer in October 2019</li> <li>Criminalising and politicisation of HRD work thereby reducing their legitimacy and integrity in the eyes of the citizens and people they serve</li> <li>Deliberate underfunding and under-resourcing of the judiciary by the government resulting in undermining judicial independence and impartiality and eroding separation of powers necessary for checks and balances.</li> <li>Weaponization of the law including harassment, intimidation and arbitrary arrest and detention of HRDs</li> <li>Narratives, Smear campaigns and Character assassination e.g Labelling HRDs pursuing legitimate work as surrogates and being aligned with the opposition or enemy of the</li> </ul>	<ul style="list-style-type: none"> <li>The COVID-19 pandemic and its response policies, causing socio-economic hardships impacting on the rights and ability to work, to access public services such as health and education. Covid-19 makes the promotion of economic and social rights and the strengthening of country's civil society fabric all the more urgent.</li> <li>Poor natural resource governance: The weak governance of natural resources in an environment of extractive economic activity characterised by patronage and corruption has resulted in conflicts and a dangerous operating environment for HRDs and journalists.</li> <li>Selective government intervention and compensation on economic rights issues e.g., citizen displacements from multi-facility eco-</li> </ul>	<ul style="list-style-type: none"> <li>Absence of specific legislation recognising, defining and protecting HRDs</li> <li>General lack of adherence to the rule of law and constitutionalism by the authorities and non-state actors who operate with the acquiescence of the state.</li> <li>Judicial persecution -Politicisation, instrumentalization and abuse of the law, persecution through prosecution. Selective application of repressive legislation such as the Public Order Act, defamation laws, and media laws to target HRDs</li> <li>Abuse of COVID 19 regulations and the Public Order Act to stem protest leading HRDs to migrate from offline activism to increasingly use the digital space for their activism</li> <li>Abuse of Press Law promulgated in 1991 and the new Social Communication Law to curb HRDs activity</li> </ul>	<ul style="list-style-type: none"> <li>Internet Access gaps between rural and urban Mozambique</li> <li>Low levels of some HRDs proficiency in using ICTs and social media as aids to their activism and HRD work</li> <li>Limited HRD access to basic information, communication and technologies (ICTs)</li> <li>Cyber bullying and trolling of those active online.</li> <li>Hacking, phone tapping and online surveillance.</li> <li>Instrumentalization of technological oversight bodies to target journalists and HRDs on social media.</li> </ul>

Political	Economic + Social	Legal	Technological
<p>state.</p> <ul style="list-style-type: none"> <li>• General lack of respect for Human rights, and those pursuing the HRD agenda in Mozambique</li> <li>• Forced disappearance and murder of HRDs and media personnel and journalists, e.g., the murder of Anastácio Matavel, an election observer in October 2019</li> <li>• Criminalising and politicisation of HRD work thereby reducing their legitimacy and integrity in the eyes of the citizens and people they serve</li> <li>• Deliberate underfunding and under-resourcing of the judiciary by the government resulting in undermining judicial independence and impartiality and eroding separation of powers necessary for checks and balances.</li> <li>• Weaponization of the law including harassment, intimidation and arbitrary arrest and detention of HRDs</li> <li>• Narratives, Smear campaigns and Character assassination e.g Labelling HRDs pursuing legitimate work as surrogates and being aligned with the opposition or enemy of the state.</li> <li>• General lack of respect for Human rights, and those pursuing the HRD agenda in Mozambique</li> <li>• Limited commitment, especially political will to address critical institutional and environmental challenges to the respect of rights</li> <li>• Political interference in NGO or HRD work by political agents.</li> <li>• Thuggery: HRDs are targeted with thug-</li> </ul>	<p>conomic zones.</p> <ul style="list-style-type: none"> <li>• Criminalisation of transparency and accountability work leading to politicians stifling HRDs who bring these issues to light because they are impeding their political and economic agendas</li> <li>• Corruption, manipulation and capture of state institution with impunity and no judicial accountability</li> <li>• Religion, culture, and skewed understanding of the doctrine of respect for elders and forgiveness as part of Mozambique family values and Christian culture</li> <li>• Severe underfunding of the HRD sector and its work including limited pact or conditionalities – free resources to pursue HRD work. Donor organisations that fund HRD work have reduced their portfolio, or they have completely phased out or closed.</li> <li>• Limited institutional support for HRDs in favour of intermittent activities.</li> <li>• Government as the biggest and central distributor of economic patronage resulting in partisan access to state led economic opportunities.</li> <li>• A limited understanding by the majority of grassroots HRDs that they are in fact HRDs reducing their opportunity to access support from HRDs mechanisms.</li> <li>• Collusion of the state and business in stifling HRDs working on resource extraction/ equitable distribution</li> </ul>	<p>online.</p> <ul style="list-style-type: none"> <li>• NGO Legislative framework via the NGO Act and restrictions and prescriptions it imposes that leads some organisations to be apathetic for fear of deregistration, especially international organisations.</li> <li>• Internal or NGO governance challenges.</li> <li>• Official secrecy and government reluctance to make information easily available, result in HRDs becoming sitting ducks.</li> </ul>	

Political	Economic + Social	Legal	Technological
<p>gery by party cadres especially when their work touches on human rights violations by these thugs or cadres. The emergency of violent political culture of thuggery and threats has introduced fear into the operational environment for both HRDs and the community they service</p> <ul style="list-style-type: none"> <li>• Media censorship and intimidation: Media houses are less likely to air any views on HRDs for fear of being closed by government as well as journalists being targeted for persecution.</li> <li>• Polarisation and intolerance that creates a toxic operating environment for HRDs</li> <li>• Patronage and paternalistic politics that makes the beneficiaries of patronage anti-human rights and HRDs at the local/community level as well as at the policy community level.</li> <li>• The COVID-19 pandemic and lock down measures restricting enjoyment of fundamental rights and freedoms such as freedom of association, assembly and movement</li> <li>• Elections as a threat multiplier: HRDs always face increased threats during election periods. These include smear campaigns, abductions, torture, arbitrary arrests and detention including potential extra-judicial killings.</li> <li>• The insurgency in northern Mozambique has added another layer of violations of citizens' rights by non-state actors</li> <li>• Impunity especially for past crimes committed by both FRELI-</li> </ul>			

Political	Economic + Social	Legal	Technological
MO and RENAMO have rendered the political system vulnerable			

The preceding contextual realities have real and serious negative implications for the work of HRDs and media practitioners in Mozambique. The slide towards authoritarian modes of punishing dissent and the cultural shift, politically, towards violence and coercion makes HRD work in Mozambique more dangerous. An extensive review of literature in Mozambique shows that the extremism and violence in some parts of Mozambique such as Cabo Delgado have been accompanied by increase in human rights violations and abuse of HRDs and media practitioners by government agencies.

## 5.2 Contextual Challenges from the perspective of HRDs

Just like a lot of other Sub-Saharan Africa countries, Civil Society Organisations and HRDs operate in a fast changing and often harsh environment in Mozambique. It is not uncommon that such HRDs are often 'criminalized' and labelled as 'threats to state security' to justify harsh action by state-aligned actors and institutions.

These realities, as captured from some of the HRDs the research interacted with, point to a toxic operating environment which becomes naturally unconducive for executing HRDs work. The confluence of the political and socio-economic challenges locates the state or government and the ruling party within it, firmly at the centre of the concerted use of political and economic means to stifle dissent. While the historical political-military tussle between FRELIMO and RENAMO has been an underlying 'political question' in the past under whose cover human rights violations have proliferated, the recent insurgency in the Cabo delgado region presents an even more daunting challenge for HRDs as the situation creates a pretext for further clamp down on defenders under the guise of fighting extremism.

The preceding contextual realities have real and serious negative implications for the work of HRDs and media practitioners in Mozambique. The slide towards authoritarian modes of disciplining dissent and the cultural shift, politically, towards violence and coercion makes HRD work in Mozambique more dangerous than it has been in the past despite Mozambique being modeled as a modern democratic state. Conversations with HRDs in Mozambique and insights from other jurisdictions presented several interventions that could assist Mozambican HRDs to mitigate the negative effects of the operational environment.

### 5.2.2 HRD Responses to Negative Externalities & Associated Implications on Civic Space and the HRD Sector

The prevailing operational context has meant that different civil society organizations and HRDs respond differently to the threats to themselves and their work. The ability to respond to the threats that the external environment offers is directly dependent on the degree of vulnerabilities or capacities that the HRDs have. For many, the primary goal in such an environment becomes self-preservation, which ensures 'safety' from physical or other harm including denial of basic resources. Four broad strategies are notable and illustrative of how civil society and HRDs have responded to the continuing threat of attacks and of shrinking

civic space. Each of these responses can further be compared in terms of their likelihood and overall effect of HRD work with a given risk assessment ranking, while also highlighting the broad implications of each response on civil society and HRD work. The four response strategies (that fall into 4 categories namely resistance, adaptation, desisting, and disbanding) are illustrated in the table below.

General Response	Strategy	Broad Implications	Risk Assessment
Some HRDs have continued with their work of challenging state/ government excesses even in the face of a less than conducive operating environment.	Resistance	<ul style="list-style-type: none"> <li>Continued reprisals and curtailing of HRD work</li> <li>Erosion of local solidarity as HRD work is seen as 'dangerous' or confrontational</li> </ul>	<ul style="list-style-type: none"> <li>High</li> </ul>
Some HRDs have adopted balancing directly challenging the state and cooperation - challenges are made on 'softer' issues while steering clear of more 'contentious' ones.	Adaptation	<ul style="list-style-type: none"> <li>Some reprisals with covert targeting</li> <li>Intermittent vilification where HRDs work challenge power/ position holders</li> <li>Limited solidarity for HRDs, coupled with loss/shrinking funding</li> </ul>	<ul style="list-style-type: none"> <li>Medium</li> </ul>
Some HRDs have had to develop new operational methods and foci that steer clear of challenging the state/ government.	Desisting	<ul style="list-style-type: none"> <li>•Very limited to no reprisals or vilification</li> <li>•High possibility of co-optation and infiltration</li> <li>•Increasing divisions and mistrust among HRDs</li> </ul>	<ul style="list-style-type: none"> <li>High</li> </ul>
Some HRD work has stopped totally in the face of shrinking civic space that has seen increasing violations of rights, including the right to operate.	Disbanding	<ul style="list-style-type: none"> <li>HRD sector is weak and signals success of the authoritarian undermining of HRDs in particular and the civil society sector in general</li> </ul>	<ul style="list-style-type: none"> <li>High</li> </ul>

The prevailing operating context in Mozambique has meant that the way HRDs confront different challenges must be understood as stemming from the varied interests of the different actors that either wield or challenge power at various levels. It is therefore crucial that to understand these responses, one must go beyond their individual identification and stratification to how the different contextual parameters interplay as different actors with varying interests contest for power in society. These contests for power occur at different levels, and at different times and across different spaces. Whereas some challenges are time-bound and are easily notable within time-bound epochs, for example election-related rights violations, others are more structural and are rooted in the various institutions, laws and general practices that define everyday life.

While the state (this includes the government, ruling/governing party, and its functionaries) has for long been considered as the chief perpetrator of rights violations against HRDs and the concomitant closure of civic space, the recent rise in terrorist acts by insurgents especially in northern Mozambique's Cabo delgado region, has added a new dimension to the threats that HRDs face. While different theories have been thrown around to explain the rise of insurgency in that region and elsewhere, there is strong evidence to structural issues of power and access to national resources by locals as an underlying and long-term factor in the ensuing instability. Despite economic progress which is acknowledged externally, rising inequality within Mozambique has meant that more people, especially women have become poorer than they were before, yet some who are connected to the political elite have become extremely wealthy.

All identified challenges are driven and sponsored by particular and different interests and actors who will respond to different forms of pressure, dialogue, and forms of dissent. As such, it is worthwhile for HRDs and their supporters to invest gaining grounded understandings of the political, economic, and socio-cultural dimensions of operational contexts if they are to achieve better results at a broad impact level regarding the promotion and respect of human rights in Mozambique<sup>28</sup>. Despite the foregoing HRDs in Mozambique are not bereft of ideas on mitigating some of the contextual risks and challenges. The table below is an indicative list of some of the political and socio-economic challenges and suggested sector wide interventions outside individual and institutional HRD protection mechanisms which are covered in the sections that follow.

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28. Harris, D. (2013) Applied political economy analysis: A problem-driven framework. ODI Politics and Governance.

Contextual Challenge/ Threat	Responsible Actors	Intended Effect ON HRDs	Possible HRD/CSO Interventions
Labelling, Criminalization, and politicization of HRDs' work	<ul style="list-style-type: none"> <li>retrogressive media (state &amp; private)</li> <li>Government officials</li> <li>Party officials and activists</li> <li>Online trolls and bullies</li> <li>Police and judiciary</li> </ul>	Undermines HRD credibility and removes moral-high-ground on governance, human rights & accountability issues	<ul style="list-style-type: none"> <li>Investing in being organically rooted in communities and people and ensuring that human rights discourse and civic education is also in the vernacular languages and not just Portuguese or English .</li> <li>Developing alternative/ counter propaganda narratives</li> <li>Being deliberate about CSO/ HRD enhancing credibility</li> <li>Supporting HRDs under attack, lending credibility to each other.</li> <li>Mobilising regional and international support for HRDs</li> </ul>
General lack of respect for Human Rights	<ul style="list-style-type: none"> <li>Government\</li> <li>Police of the Republic of Mozambique</li> <li>State-aligned nonstate actors like party youth/ activists</li> </ul>	<ul style="list-style-type: none"> <li>Unwarranted victimization</li> <li>Impeding HRD work</li> <li>Impunity</li> </ul>	<ul style="list-style-type: none"> <li>Approach HRD work as a culture war and invest in long term norm and culture shifting approaches.</li> <li>Campaign for the respect of human rights outside incidents (popular education)</li> <li>Mobilising regional and international support and recognition for local HRDs</li> </ul>
Political interference in NGO/HRD work by political agents	<ul style="list-style-type: none"> <li>Members of parliament and government officials, State aligned/partisan</li> </ul>	<ul style="list-style-type: none"> <li>Derails and obfuscates HRD initiatives and work</li> </ul>	<ul style="list-style-type: none"> <li>Have HRD work guided by principles and be a straitjacket regarding what is and what is not permissible.</li> <li>Lobby for self-regulation</li> </ul>
			<ul style="list-style-type: none"> <li>Develop an identity as HRDs that exposes GANGOS AND GONGOS</li> </ul>

Contextual Challenge/ Threat	Responsible Actors	Intended Effect ON HRDs	Possible HRD/CSO Interventions
Political interference on socio-economic rights matters.	<ul style="list-style-type: none"> <li>Party leaders, government officials, Members of Parliament</li> <li>Donor countries, multi-national companies (MNCs)</li> </ul>	Undermines the causes for justice and fairness and creates an incentive structure for unjust partisan behavior	<ul style="list-style-type: none"> <li>Call out patronage and political interference.</li> <li>Develop hybrid approaches that marry (functionally recognises the interdependence and interrelatedness of all rights) civil and political rights to socio-economic opportunities.</li> <li>Emphasize people's rights and just and fair governance in public education campaigns.</li> <li>Lobby cooperating partners/donors on funding</li> </ul>
IMPUNITY- of human rights violators	<ul style="list-style-type: none"> <li>PRM and judicial arms, as well as</li> <li>Private capital interests.</li> <li>Religious + Faith based interests/ groups</li> </ul>	<ul style="list-style-type: none"> <li>Undermines HRD work, leads</li> <li>Struggle fatigue</li> <li>Breed's fear</li> <li>Apathy and hesitation for HRDs and inability to tackle rights violations</li> </ul>	<ul style="list-style-type: none"> <li>Name and shame perpetrators locally and abroad.</li> <li>Communications to other human rights mechanisms beyond Mozambique</li> <li>Engage the ecumenical community on issues of impunity.</li> <li>Invest in long-term norm shifting initiatives to address retrogressive and repressive elements of culture and religion.</li> </ul>
Terrorist insurgency	<ul style="list-style-type: none"> <li>Islamist insurgents</li> <li>Recruited young locals</li> </ul>	Stifle information flow	<ul style="list-style-type: none"> <li>Advocating for an urgent and transparent multinational intervention</li> <li>Mobilising regional and international support and recognition for local HRDs</li> </ul>

### 5.3. Internal HRD and HRD Organisational Challenges

Human rights work and its defence in Mozambique is not just faced by external challenges caused by the operating context/environment. It is also afflicted by internal and sectoral contradictions and challenges. Some of the intra-industry challenges that HRDs were able to attest to are as follows:

1. Weak internal governance practices: HRD and some CSOs have suffered governance challenges including the absence of solid internal structures and mechanisms for transparency within their organisations. Some have irregular registration and structures creating perceptions of one-person bands/brief case organization with limited semblance of accountability. RMDDH is a strategic vehicle to improve the coordination and governance challenges with HRD centric organisations in Mozambique.

2. Lack of transparency and accountability: Some CSOs and HRDs have faced corruption allegations. In the main some of these allegations have been fabrications aimed at negatively impacting the perceptions of HRDs and their ability to mobilize after losing the moral high ground, but some have also been a function of a lack of transparency and solid governance mechanisms with HRD institutions.

3. Weak coordination amongst HRDs and CSOs: Mozambique has quite a good number of CSOs working in the HRD space but lacks effective coordination on Human rights matters with limited attempts at a unified voice and corporation. As a result, there is limited joint advocacy and implementation of HRD activities. HRDs typically work in silos and at times appear to be in competition with one another. This challenge often leads to:

- a. Limited Solidarity amongst HRDs: For instance, when one HRD is attacked or victimized there is limited solidarity on offer from other like-minded actors and CSOs.
- b. Duplication of efforts and Allegations of Plagiarism: lack of originality, duplication, and plagiarism as part of the ecosystem of challenges that impede HRD cooperation, solidarity, and coordination. Sentiments echoed related to some lack of creativity and originality as well as accusations of the high crime of plagiarism on reports and duplication of initiatives to get funding.
- c. Mistrust: A natural corollary of some of the challenges raised above was the low levels of trust amongst HRD organisations. Some respondents argued that mistrust and the absence of meaningful safety nets led to limited overt coordination. Their argument was that it is not that coordination is absent, but it is below the surface because everyone cannot coordinate with everyone overtly because of limited trust, but it is there.

4. Limited protection mechanisms for HRDs at risk or under attack: Some respondents noted this challenge as foundational and contributory to the limited coordination as well as in ability to act in solidarity and support HRDs at risk, especially in northern provinces of Mozambique. However, some respondents noted that support was almost always available but could not be publicized because there are no protection mechanisms to defend the defenders in Mozambique, leading to limited advertisement of existing support initiatives.

5. Severe underfunding of the HRD sector and selective donor support to “favored” organisations, a focus on results, and formality: Some of the HRDs engaged for the assessment felt that some donors had favorites whom they consistently supported regardless of ideas and some organisations that did not get support no matter how brilliant their initiatives. Allied to this were also concerns around:

- a. Limited recognition and support to less formal organisations like social movements, cultural activists, and creatives as well as less established organisational start-ups and CBOs in favor of large NGOs.
- b. Too many conditionalities and a dogmatic emphasis on results which ignored the long nature of the path to full recognition of rights and shifting culture. Allied to conditionalities HRDs also raised some inflexibility and stringent guidelines around resource use which sometimes made it difficult for HRDs to be responsive to emergent situations and creative in the implementation approaches.
- c. Underfunding of the National Human Rights Commission

6. High Staff Turnover: Challenges related to sustained institutional support to the sector has often led to some passionate HRDs leaving the sector in search of greener pastures. This has often been in the following forms:

- d. HRDs crossing over to other institutions that may not necessarily be doing HRD work, but which enjoy more lucrative funding.
- e. HRDs being bought-out by the state and offered material rewards to stay away from human rights issues.
- f. Some HRDs have left the sector either through direct cooption or in search of more secure government 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.

Despite the internal challenges and contradictions which negatively impact HRD practice in Mozambique, there are some alternative views on some of the issues. For instance, for some respondents, the high staff turnovers were not just an effect of the need for professional growth and or the search for greener pastures, but also limited passion and integrity on the part of some HRDs. The issue of funding also solicited a mixed response with some respondents noting that while aid has reduced drastically in recent years, Mozambique has remained some aid continues to HRDs. Various funding partners have remained operational in the country and continue to support a number of local HRD institutions. Respondents also noted the intermittent presence of calls for proposals for HRD work from some of the listed organisations.

### 5.3.1 Impact of Internal Challenges & Possible Interventions

The preceding challenges individually and collectively have deleterious effects on HRDs and HRD work. The assessment found that a lot of HRD workers hold back on their activities due to unanswered questions for instance:

- Will I have a legal backing in case I am summoned looking at the fact that the HRD community is uncoordinated?
- Who will sign my bail in case I am arrested, seeing that we lack safe havens to which I can run to in case I am being fetched?
- Where will I get resources in order for me or my organization to adequately implement this HRD activity?
- What does my religion doctrine command me to do in such a case?

The above challenges are in addition to those posed by the external context. The internal contradictions and challenges also need to be addressed as part of building a meaningful protection infrastructure that considers incentives for HRDs continued engagement and participation. The table below is an illustrative matrix that presents the challenges, how they manifest, their effect on HRD work and civic space as well as some tentative ideas on addressing them.

Internal HRD/ CSO Challenge	Manifestation of the challenge	Effect ON HRDs	Possible/Recommended HRD/ CSO Interventions
<b>Internal Governance Challenges</b>	<ul style="list-style-type: none"> <li>• Absence of solid internal governance structure &amp; controls</li> <li>• Irregular registration</li> </ul>	<ul style="list-style-type: none"> <li>• Undermines HRD credibility and legitimacy.</li> <li>• Creates perceptions of "briefcase organisations" and one (wo)man bands</li> </ul>	<ul style="list-style-type: none"> <li>• Encourage HRDs and HRD organisations to institutionalize (set-up proper governance structures (including boards, internal statutes)</li> <li>• Regularize legal/ registration status.</li> <li>• Set up effective internal controls, especially on financial resources.</li> <li>• Build credibility through credible structures and leadership.</li> </ul>
<b>Corruption</b>	<ul style="list-style-type: none"> <li>• (Fabricated) Allegations of misappropriation of funds and corruption allegations.</li> <li>• lack of transparency.</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of moral high ground to fight corruption at national level.</li> <li>• Loss of credibility &amp; respect from citizens</li> </ul>	<ul style="list-style-type: none"> <li>• Institutionalize internal accountability within established governance structures.</li> <li>• Embrace a culture of radical transparency and open governance of HRD institutions.</li> </ul>

Internal HRD/ CSO Challenge	Manifestation of the challenge	Effect ON HRDs	Possible/Recommended HRD/ CSO Interventions
			<ul style="list-style-type: none"> <li>Regularize and routinise accountability trails financially (regular audits) and politically (regular reporting and feedback to internal structures).</li> <li>Proffer counter narratives based on evidence (e.g., allegations of misappropriation can be fought through audit trails).</li> <li>Institute self-regulation that allows HRDs and CSOs to stay ahead of the curve through identifying and sanctioning errant parties.</li> <li>Practice justice, including the right to administrative justice and popularization the notion of innocent till proven guilty.</li> </ul>
<b>Coordination And Collaboration</b>	<ul style="list-style-type: none"> <li>Limited Solidarity amongst HRDs</li> </ul>	<ul style="list-style-type: none"> <li>Targeted HRDs are victimized and "suffer alone"</li> </ul>	<ul style="list-style-type: none"> <li>Institutionalize/build a formal coordination and solidarity HRD network/platform which can coordinate and routinise solidarity responses while also shielding individual organisations.</li> <li>Build unusual alliances beyond the orthodox human rights sector (creatives, religious groups, business, and media partnerships) which can amplify HRD issues to various audiences and in different ways.</li> </ul>
	<ul style="list-style-type: none"> <li>Duplication of efforts, plagiarism, and lack of innovation</li> </ul>	<ul style="list-style-type: none"> <li>Reduction in breadth of initiatives, ideas and services offered by HRDs.</li> </ul>	<ul style="list-style-type: none"> <li>Develop cultures of collaborative programming and value co-creation and division of labor in the HRD movement.</li> <li>Create formal platforms for sharing information, collectively solving HRD and contextual challenges beyond individual organisations.</li> </ul>
	Mistrust	<ul style="list-style-type: none"> <li>Reduces cooperation and coordination.</li> </ul>	<ul style="list-style-type: none"> <li>Trust is built through regular engagement and knowledge of self and each other.</li> <li>HRDs must create formal and informal platforms of engagement to invest in knowledge of each other, and to build relationships and</li> </ul>

Internal HRD/ CSO Challenge	Manifestation of the challenge	Effect ON HRDs	Possible/Recommended HRD/ CSO Interventions
			<p>commitment to the values and causes as well as individual HRDs.</p>
<p><b>Limited protection mechanisms for HRDs at risk or under attack</b></p>	<p>Targeted HRDs are victimized and "suffer alone"</p> <ul style="list-style-type: none"> <li>• Limited to no legal, medical, psychosocial, and material support.</li> <li>• Limited local and international solidarity &amp; amplification of issues/causes</li> </ul>	<ul style="list-style-type: none"> <li>• HRD work is disincentivized as "dangerous" and a fool's errand.</li> <li>• The state and non-state actors eliminate possible change agents from the struggle for human rights and open civic and expanded space.</li> <li>• Individual culpability for national causes.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop a coordinated and well-structured protection and response mechanism incorporating <ul style="list-style-type: none"> <li>o Legal – support with lawyers for arrested HRDs through a an HRD Legal Support fund/mechanism,</li> <li>o psychosocial, medical – through creating working relationships with private hospitals, medical practices, and psychologists across provinces on a retainer or pay as you go basis as part of HRD support fund/mechanism or framework.</li> <li>o Social support – liaise with churches and other groups or develop small support funds within particular institutions to support materially (food and other provisions for arrested/incarcerated activist and families).</li> </ul> </li> <li>• Such a mechanisms do not need to be housed in one institution.</li> <li>• Connect with regional and international support mechanisms for local replication and additional support.</li> </ul>
<p><b>Severe underfunding of the HRD sector</b></p>	<ul style="list-style-type: none"> <li>• Limited ability to act and or respond to emergent HRD issues and human rights concerns.</li> <li>• Staff flight.</li> </ul>	<ul style="list-style-type: none"> <li>• HRD work is disincentivized.</li> <li>• Limited ability to counter the state and capitol when human rights infractions occur.</li> <li>• Limited technical competences in HRD organisations</li> </ul>	<ul style="list-style-type: none"> <li>• Invest in capacity building on fundability and fundraising for smaller HRD organisations.</li> <li>• Build alliances and working relationships with regional and international human rights and HRD groups and leverage relationships for material and nonmaterial support.</li> <li>• Develop relationships of trust that can allow for the exercise of fiscal agency by more developed HRD organisations on behalf of developing ones.</li> <li>• Coordinate on key issues and present agendas for action and support to donors rather than</li> </ul>

Internal HRD/ CSO Challenge	Manifestation of the challenge	Effect ON HRDs	Possible/Recommended HRD/ CSO Interventions
			<p>wait for donors to dictate.</p> <ul style="list-style-type: none"> <li>• Build unusual partnerships and develop advanced understandings of value and appreciation of varied skills and competencies differ as do competences, but all are needed.</li> <li>• Provide funding to the National Human Rights Commission</li> </ul>
<b>Infiltration</b>	<ul style="list-style-type: none"> <li>• Appearances of spoilers, agent provocateurs and bogus HRD organisations</li> </ul>	<ul style="list-style-type: none"> <li>• Sowing confusion and persuasion towards violent forms of resistance.</li> </ul>	<ul style="list-style-type: none"> <li>• Work on values and check actors who act outside the human rights value system.</li> <li>• Build narratives around HRDs commitment to non-violent protest and constitutional supremacy.</li> </ul>



## 6.0 HRD PROTECTION & SECURITY: MEASURE & MECHANISMS

There is general consensus that Mozambican CSO lack a unified and or coordinated mechanism that provides security and protection to HRDs. However, the RMDDH is poised to plug that gap, and will have to spread its wings to ensure that no one is left behind. In addition to RMDDH, there are also some CSOs, HRD organisations and state institutions that provide HRDs with access to limited security and protection as reported by HRDs and shown in the table below. The table below also include state, quasi-state actors as well as regional and donor organisations that support HRD work in Mozambique.

Name of Institution	Type of assistance
Mozambique Human Rights Defenders' Network (RMDDH)	<ul style="list-style-type: none"> <li>Strengthen the capacity and resilience of human rights defenders, as well as to improve their protection and security within the scope of their mission to defend human dignity, fight against injustice, and prevent the closure of the civic space.</li> <li>Empower human rights defenders and civic space so that they are more aware of the risks associated with their work and needs in terms of protection.</li> </ul>
Southern African Human Rights Defenders Network (SAHRDN)	<ul style="list-style-type: none"> <li>A sub-regional Network that works to protect and promote the rights of Human Rights Defenders within the sub-region.</li> </ul>
Mozambican League for Human Rights (LDH)	<ul style="list-style-type: none"> <li>Defense, protection, and promotion of human rights in Mozambique</li> <li>Provide legal counsel to women in difficulty concerning awareness of rights and access to justice facilities.</li> </ul>
The Christian Council of Mozambique	<ul style="list-style-type: none"> <li>Deeply involved in preparing the people, especially the poor, for taking a more active role in relation to their rights.</li> </ul>
Catholic Commission for Justice and Peace (CCJP)	<ul style="list-style-type: none"> <li>Implement programmes and activities related to social justice and peace.</li> <li>Conducts civic education, capacity building and advocacy.</li> <li>CCJP offers free legal services to all regardless of their religious, social, cultural, and political affiliation.</li> </ul>
Forum of Non-Governmental Organizations in Gaza (FONGA)	<ul style="list-style-type: none"> <li>NGO Forum of Gaza Province promotes human rights in the province</li> </ul>
Police - Victim Support Unit	<ul style="list-style-type: none"> <li>Arrests HRD perpetrators</li> <li>Provides counselling to victims</li> </ul>
Victim support unit	<ul style="list-style-type: none"> <li>Provides counselling to victims</li> </ul>
Young Women Christian Association (YWCA)	<ul style="list-style-type: none"> <li>Provides socio-economic support and provides empowerment, and leadership development on the rights of women, young women, and girls.</li> </ul>

Name of Institution	Type of assistance
The Centre for Democracy and Development (CDD)	<ul style="list-style-type: none"> <li>Advocates for the promotion and defence of human right and citizen centric governance.</li> </ul>
Women and Law in Southern Africa (WLSA)	<ul style="list-style-type: none"> <li>Referral mechanism for women through the national legal aid clinic.</li> </ul>
Oxfam	<ul style="list-style-type: none"> <li>Promoting the rights of women</li> <li>CSO capacity building</li> </ul>
SOLIDAR Network	<ul style="list-style-type: none"> <li>Advances social justice in Europe and worldwide. Provides financial resources and capacity building to partners and members in Mozambique.</li> </ul>
MISA Mozambique	<ul style="list-style-type: none"> <li>Provides citizens with effective knowledge of the laws that regulate freedom of the press, expression, and the right to information.</li> <li>Mobilizes and ensure the engagement of civil society in favour of the right to information, good governance, respect for democratic freedoms and responsible citizenship.</li> <li>Advocates for the approval of a legal framework for broadcasting regulation based on the principles of a Democratic Rule of Law.</li> <li>Strengthen the profession of journalists and the role of the media.</li> </ul>
OSISA	<ul style="list-style-type: none"> <li>Provides support to Human Rights and media CSOs in Mozambique</li> </ul>
Caritas	<ul style="list-style-type: none"> <li>Protects children's rights.</li> </ul>
Caritas	<ul style="list-style-type: none"> <li>Protects children's rights.</li> </ul>
JCTR	<ul style="list-style-type: none"> <li>Children's rights advocates</li> </ul>
Mozambican Association for the Defense of Sexual Minorities (LAMBDA)	<ul style="list-style-type: none"> <li>Although still unregistered, this is the country's only lesbian, gay, bisexual, transgender, and intersex (LGBTI) advocacy NGO.</li> <li>Advocates for the respect of the rights of minority groups.</li> </ul>
Action aid	<ul style="list-style-type: none"> <li>International HRD Organisation</li> </ul>
The Mozambican Association for the Disabled Persons (ADEMO)	<ul style="list-style-type: none"> <li>Promote rights of minority and disabled.</li> </ul>
National Commission on Human Rights (NCHR)	<ul style="list-style-type: none"> <li>An independent body which became operational in 2012 set up by government to promote and protect human rights.</li> <li>Mandated to promote and defend the human rights provisions of the constitution</li> </ul>
Ombudsman Office	<ul style="list-style-type: none"> <li>Whose objective is "to ensure the citizens' rights, the protection of legality and justice in the action of Public Administration.</li> <li>Constitutionally designated as guarantor of citizens' legal rights in dealings with the government. Citizens may file complaints with the Ombudsman's Office.</li> </ul>

Name of Institution	Type of assistance
Mozambique Human Rights Defenders' Network (RMDDH)	<ul style="list-style-type: none"> <li>Strengthen the capacity and resilience of human rights defenders, as well as to improve their protection and security within the scope of their mission to defend human dignity, fight against injustice, and prevent the closure of the civic space.</li> <li>Empower human rights defenders and civic space so that they are more aware of the risks associated with their work and needs in terms of protection.</li> </ul>
The Attorney General's Office,	<ul style="list-style-type: none"> <li>Holds public prosecutions; heads the investigation of criminal offenses; represents public interest and social control; and guarantees the protection of minors, citizens, and legal entities in general, including respect for human rights.</li> </ul>
Public Prosecutor's Office (PGR)	<ul style="list-style-type: none"> <li>Prosecution of crimes and human rights violations</li> </ul>
Public Prosecutor's Office (PGR) Mozambican Bar Association (OAM)	<ul style="list-style-type: none"> <li>By law citizens may file lawsuits Mozambican Bar Association seeking cessation of human rights abuses, damages for abuses.</li> </ul>
Mozambique Republic Police (PRM)	<ul style="list-style-type: none"> <li>Has a primary mandate of guaranteeing law and order, to safeguard the security of persons and property, public tranquillity, respect for the democratic rule of law and strict observance of the fundamental rights and freedoms of citizens, one of which is the right to life, physical integrity, liberty, and securities as set out in articles 253, 40 and 59 of the Constitution of the Republic.</li> </ul>
The Legal Research Directorate (DIL) of the Ministry of Justice	<ul style="list-style-type: none"> <li>Has a primary mandate of guaranteeing law and order, to safeguard the security of persons and property, public tranquillity, respect for the democratic rule of law and strict observance of the fundamental rights and freedoms of citizens, one of which is the right to life, physical integrity, liberty, and securities as set out in articles 253, 40 and 59 of the Constitution of the Republic.</li> </ul>
The Centre for Judicial Studies and Training, Centro de Formacao Juridica e Juriciaria (CFJJ)	<ul style="list-style-type: none"> <li>Established to increase the capacity and efficiency of the justice sector in disseminating legal information.</li> <li>Its main goal is to train legal personnel, judges, prosecutors, and legal defenders. It also promotes the distribution of legal texts to the provinces.</li> </ul>

- Despite the absence of a mechanism, data on HRD repression exists, is often well documented and captured. The following reports and organisations were mentioned as good sources of HRD information: Annual Human rights report, Office of the Ombudsman, National Human Rights Commission, Centre for Democracy and Development, Southern Africa human rights defenders' network, The EU, Special rapporteur on Human, Amnesty International, Civicus, Human Rights Watch, Southern Africa Litigation Centre.

### **6.1 Covering the HRD Security and Protection Gaps in Mozambique: some tentative guiding notes**

Mozambique has a national platform for HRDs, the RMDDH which serves both as a protection mechanism as well as a network of HRDs from different and intersecting backgrounds. There are different ways of making RMDDH are comprehensive HRD protection mechanism that has popular buy-in and guarantees some measure of effective HRD protection and can track and ascertain the safety of HRDs at high risk.

- The mechanism must be a full house shared resource that covers legal, Health, material, reputational, digital, and psycho-social support for HRDs at high risk. This also entails clear standardized guidance on risk, who is at risk, who is an HRD and the kinds of support that can be availed directly or through referrals dependent on situations and assessments.
- A clear coordination and referral system must be put in place utilizing natural strengths and mandates of specific organisations.
- It must act as a shield that acts on behalf of and covers HRDs and individual organizations from reprisals.
- It must also be a platform to boomeranging issues and abuses to increase the political, legal, and social costs of intransigence by parties that aid the shrinking of civic space and increase the risks of HRDs.
- The setting up such an infrastructure hinges on trust and coordination. As such recommendations on trust building and coordination from previous pages must be borne in mind and actioned.
- In addition, such a mechanism must be decentralized and devolved enough to cater for grassroots, community-based organisations and social movements operating away from major urban centers. These types of organizations can also:
  - provide mechanisms for monitoring and reporting human rights infractions and threats to HRDs
  - act as a verification foil to triangulate and verify reports received by larger organizations or the mechanism.
  - form early warning and early response committees at community level risk assessments.
- It must be well connected to regional and international mechanism in way that mitigate financial and capacity challenges within the local civil society and HRD sector.
- The mechanism must have a built-in capacity to collect, clean, organize, store, and analyze data to inform contextual analysis as well as strategic position of HRDs and the mechanism.
- The development of protection mechanisms must be done with full participation of HRDs to ensure that services provided are relevant and answers extant needs for the sector

that are context appropriate. HRDs must be afforded the right, in such development, to participate individually and collectively in the planning and implementation of measures that impact their security and wellbeing, as well as to intermittent reviews of the ways in which different elements are serving them.

- Given the fluid nature of the environment and contestant changes to manners in which civic space and HRDs are suffocated, the protection mechanism must be adaptive and embrace emergent programming as well as regular political-economy and contextual analysis as recommended in the section on context. HRDs can use various tools and methods to scan the environment including Strength, Weaknesses, Opportunities and Threats (SWOT), PEST, Triangle Analysis, and basic brainstorming around key developments to help them adapt to the environment and develop strategies. They can also network to gain varying perspectives on situations and pick-up new information which they can use to adjust their initiatives.

## **6.2 Other Points to ponder from HRD Protection Mechanism experiences in the SADC region**

The Mozambique Assessment on Shrinking Civic Space & Security for Human Rights Defenders (HRDs), had as a precedence a similar assessment on Zimbabwe and Zambia commissioned by the Southern Africa Human Rights Defenders Network. Some of the lessons drawn from that needs and capacity assessment based on standing HRD Protection mechanisms may be instructive for setting up similar initiatives in Mozambique. The insights are steeped in practice and experience and are shared on that basis as general insights below while Box 3 captures more specific additional elements:

- Where HRD security is concerned, everything matters: There is a need for constant vigilance of HRDs both at work and in social settings. When it comes to HRD security and protection everything, including choice of recreational activities and areas, family environment, residential space, and HRD's personal morality, matters.
- To enhance security and protection, HRDs need an informed personal solidarity network: HRDs recognize the importance of having a close personal network beyond work to ensure their safety and that of their loved ones which looks out for them and can raise necessary alarm should an incident occur off-site and in their personal spaces.
- Means and channels of communication must be secure: It is important for HRDs to recognize the importance of securing information, finding, and using channels of communication that are secure through secure mobile applications to limit the possibilities of face the risk of hacking of their social media properties (Facebook, Twitter, Instagram, WhatsApp) and email accounts.
- Rapid and effective communication of risk – the ability for raise alarm as soon as possible, including being able to ensure one's own narrative of events before perpetrators can

proffer alternative narratives.

- Prevention is better than cure: Activist and HRD Retrievals: The process of retrieving those at risk from the areas of danger is an effective preventative protection measure and better than dealing with the aftermath of reprisals, victimization, and other outcomes of compromised HRD security.

### **Box 3: Ten Points on enhancing HRD protection mechanisms**

**1. Proactive and Anticipatory Protection/Early Warning System:** An effective protection mechanism must have a proactive and anticipatory approach to danger faced HRDs. This includes an early warning and early response system with the following elements.

- i. It should pick up the escalation of tensions in communities
- ii. It should have clear indicators of what constitutes impending danger
- iii. Is premised on contextual understanding of who HRDs are
- iv. Is anticipatory of the kind of threats HRDs are facing
- v. Has the means to provide proactive responses and diffuse threats
- vi. Is based on a clear understanding of the triggers of violations
- vii. Has some leverage within the state system on contacts that can de-escalate HRD danger?
- viii. Provides efficient communication of the threats and raises the costs of endangering HRDs.
- ix. Has clear links to the regional HRDs solidarity network.

**2. Inter-agency/Service Provider's collaboration:** An effectively functioning HRDs protection mechanism must be characterised by inter-agency collaboration to ensure holistic provision of protection services including a diverse range of services (medical, legal, advocacy, and psychosocial support). Inter-agency collaboration should consider the following as key considerations for effective inter-agency collaboration:

- i. Having a few select case officers in the agencies
- ii. Keeping HRDs in-country rather than assisting them to leave the country/to be exiles thus depleting rather than strengthening the network.
- iii. Trust-building among individuals and institutions, and developing a shared behavioural code to minimise risks through indiscretion

**3. Information Gathering Systems:** An effective HRDs protection mechanism must develop a scientific system of processing information beyond trust which includes:

- i. Information gathering based on structured and standardised tools.
- ii. Information analysis informed by observations in addition to intuition.
- iii. Solid verification means and triangulation of gathered data through various sources and creative ways of verification, like the use of investigative journalists at different levels

**4. Mainstream Security Training and Risk assessment;** HRD protection mechanisms should mainstream the training of HRDs in self-protection mechanisms and situational awareness which also includes the following key elements.

- i. mainstreaming security training within organisations
- ii. constant risk assessment within organisations
- iii. Effective definition and documentation of security incidents.

**5. Rapid Reaction and Response:** HRDs protection mechanisms must develop ways of rapidly responding to security incidents. This means that the response by service providers such as lawyers must be swift. Where there should be retrievals, these have to be swiftly done. This can aid by and built on existing hotline infrastructure for key response institutions and replicating this framework at sub-national level.

**6. Political, Symbolic and Solidarity Actions:** An effective HRDs protection mechanism could also have a system of mobilising political action and solidarity for HRDs, including during court appearances, during incarceration or hospitalization and during periods of danger.

**7. Devolution of Response and Protection mechanisms;** HRDs protection mechanism must be devolved to improve accessibility to all HRDs including those in rural communities. This includes devolution of key response institutions and their contacts.

**8. Conflict Management Approach:** An effective HRDs protection mechanism must take a conflict management approach.

**9. Triggers for State response;** Protection mechanisms must invest in ensuring that they have access to the state at some meaningful enough level that can be leveraged to trigger state responses regarding safety and protection of HRDs. The sense is that mechanisms that involve civil society alone without triggering state responses will be inadequate. This includes involving constitutional bodies such as the Ombudsman and National Human Rights Commission (NHRC).

**10. Multi-Tier Approach with which includes the following components.**

- i. System for information collection, verification, and triangulation
- ii. Psychosocial support and Rehabilitation
- iii. Litigation and Advocacy
- iv. iCapacity-building
- v. State response component

**11. Manipulation-Proof:** Human Rights Defenders are human. While most operate with integrity and are often in real danger and need, there are instances where some unscrupulous characters try to game the system through crying wolf simply to gain access to resources, especially when knowing that other HRDs have been assisted financially during critical times. The protection mechanisms must find effective ways of separating the weed from chaff, the genuine from the ingenious, and the real needy cases and opportunistic attempts at self-aggrandizement.

## 7. Key Recommendations to RMDDH, Southern Defender and African Defenders plus

- Capacitate the recently launched RMDDH to enhance its mandate of being a “bulletproof vest” for the protection of activists in the country.
- Facilitate a Mozambican HRDs symposium that can allow for the generation of shared perspectives and understandings on HRDs, HRD work, values, and principles.
- Facilitate conversations with HRDs on the findings of this assessment with a view specifically to further validate the need for coordinated structured HRD protection mechanism.
- Support the process of conducting regular country level political-economy and context including an Operating Environment Indicator Indices to keep an eye on civic space developments ahead of the 2024 elections and beyond.
- Institute a temporary mechanism that can support HRD protection ahead of a more substantive process to establish a standing mechanism to support HRDs.
- Support local HRDs to construct devolved community level interventions that enhance HRD protection and feed into the regional framework administered by SAHRD and other international HRD protection mechanisms.
- Institute and facilitate capacity building and coordination processes around some of the key contextual challenges and identified capacity gaps.
- Develop mechanisms to assist local/community level organisations regularization regarding registration and compliance regarding democratic and accountability principles.
- Encourage national organisations to take up strengthening roles and partnerships with individual HRDs and smaller HRD organisations to enhance their fundability and credibility through incubation.
- Develop and share lessons on HRDs and human rights organizations' worker commitment through non-financial incentives based on other experiences in the SADC.

### 7.1 General recommendations to improve human rights situation in Mozambique

- Assist the Catholic Church, Council of Christian Churches, and the Islamic Council to mediate in the conflict between government and insurgent groups. Interfaith cooperation in Mozambique is high, hence the need to replicate an inter-religious conference, as one previously held in 2008 on peace and reconciliation that unites the religious leaders, politicians, and civil society.
- Mozambican CSOs and the international community must lobby the Government of Mozambique to abide to its responsibility to provide justice through fair trials, including calling the Government to set up an independent commission to investigate allegations of torture and other violations allegedly committed by its security forces in Cabo Delgado and against all HRDs.
- Government must promote the Economic and Social Rights, as well as creating an enabling environment for CSOs and Human Rights to report on corruption and other economic abuses by government.

- Underlines the importance of protecting the rights of journalists, human rights defenders, activists, and all those simply exercising their human rights and expressing their views on issues of public concern.
- Put pressure on the Mozambican government to guarantee respect of individuals' fundamental rights, including freedom of expression, thought and information, as well as support the government in ensuring accountability for perpetrators of violence against Human Rights Defenders, including members of law enforcement units.
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- Conduct swift, impartial, and transparent investigations into allegations of gross human rights violations by the government security forces and bring all those suspected of criminal responsibility to justice in fair trials before ordinary civilian courts.
- Advise the Mozambican government to adopt new legislation targeted specifically at the protection of Human Rights Defenders, as well as allocate more resources to guarantee the effective and efficient activities of the Ombudsman Office and the National Commission on Human Rights. This can be done through crafting for model acts that CSOs can use to lobby government.
- Support the government in: – creating a public funding mechanism for CSOs and providing more training opportunities to strengthen the Mozambican civil society fabric; – establishing a systematic political consultation system to guarantee civil society participation in the policy-making process.
- Civil society organizations, the rural community and traditional leaders must be able to monitor and evaluate human rights progress, which is fundamental to building a culture of accountability.
- Develop a clear human rights mechanism for engagement to ensure the effective participation of civil society in the decision- making process.
- Assists the state to train its agents or public servants on the principles of equality and non-discrimination, and this matter should be integrated in an inclusive way, with a view to putting an end to acts of aggression, intolerance, and abuse of authority.
- Undertake human rights education and the implementation of training programmes for civil servants, with particular attention to professionals in the administration of justice and PRM agents.
- Strengthen the Rule of Law to ensure the realization of human rights and development. Build institutional structures in Mozambique to fight hate speech and abuse of office by the elites.

- Instead of creating many complex institutions, the Mozambican State should improve the functions and develop the capacity of existing institutions. A systematic effort is needed to integrate development planning with a human rights framework.
- Provide adequate funding and other necessary support to National Human Rights Commission so that it can effectively and independently carry out its mandate to monitor the human rights conditions in the country.
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- Ensure that prevention of, and protection from, gender-based and domestic violence is an integral part of national responses to pandemics and other emergencies, including by collection of disaggregated data in order to identify and prioritize supporting women and girls at greatest risk of different types of gender-based violence.
- Local and international CSO leaders must continue to urge the Ministry of Justice, Constitutional, and Religious Affairs to register the Mozambican Association for the Defense of Sexual Minorities (LAMBDA), - the country's only lesbian, gay, bisexual, transgender, and intersex (LGBTI) advocacy NGO. The ministry has not acted on LAMBDA's request of registration since 2008.
- End the current climate of intimidation, harassment, and arbitrary arrests and detentions, forced disappearances of journalists, human rights defenders, activists, and all those simply exercising their human rights and expressing their views on issues of public concern.
- Local and international human rights CSOs must work with the Comissão Nacional de Direitos Humanos (CNDH), the Government Human Rights Body mandated to promote and defend the human rights provisions of the constitution. The act governing the CNDH must be reformed to allow the human right body to prosecute violations. Presently, the CNDH has no authority to prosecute abuses and must refer cases to the judiciary.

### **Together We Defend**

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