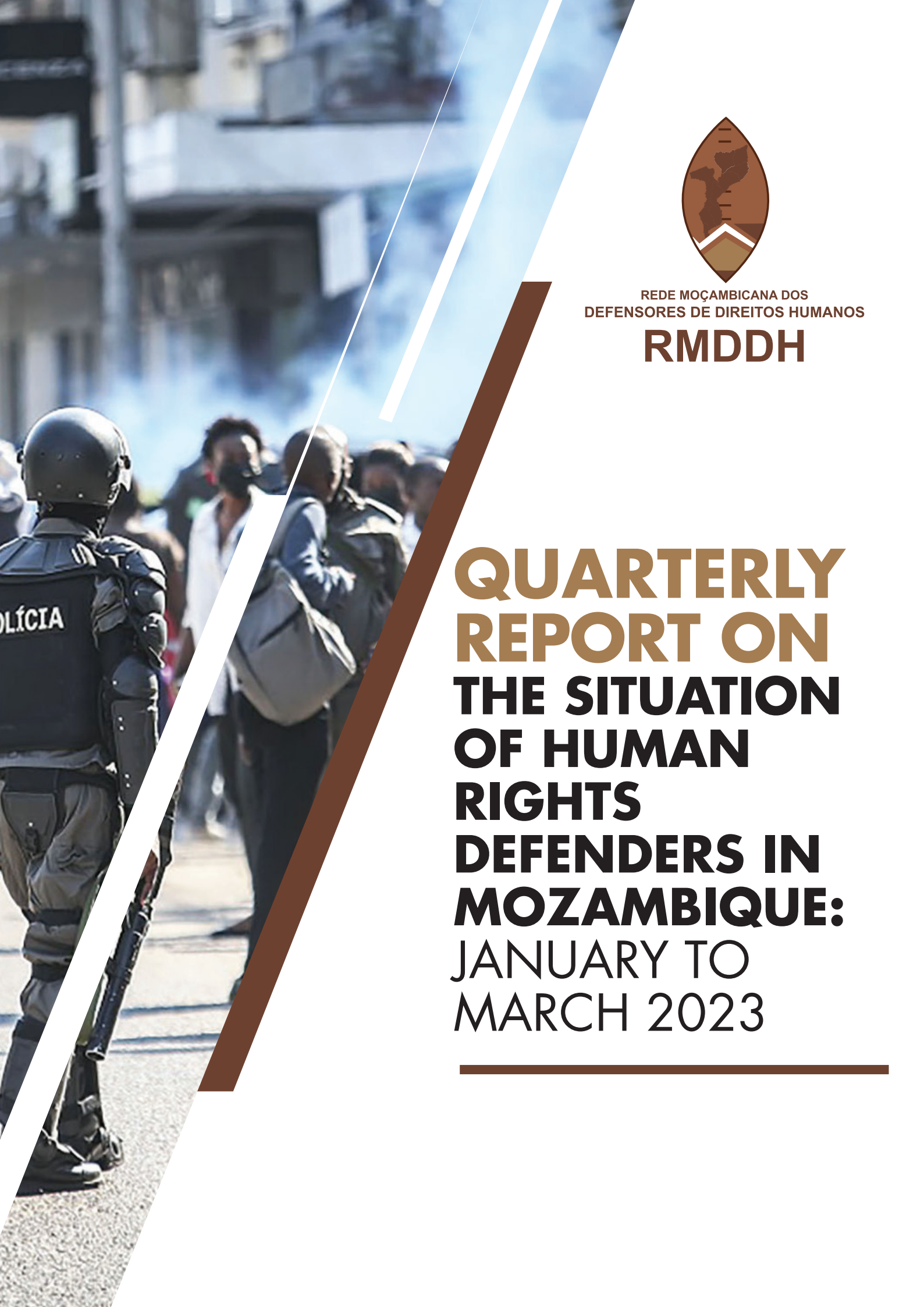




REDE MOÇAMBICANA DOS
DEFENSORES DE DIREITOS HUMANOS

RMDDH

**QUARTERLY
REPORT ON
THE SITUATION
OF HUMAN
RIGHTS
DEFENDERS IN
MOZAMBIQUE:
JANUARY TO
MARCH 2023**





QUARTERLY REPORT ON THE SITUATION OF
HUMAN RIGHTS DEFENDERS IN MOZAMBIQUE:
JANUARY TO MARCH 2023

March, 2023

About the Mozambique Human Rights Defenders Network

The Mozambique Human Rights Defenders Network (RMDDH) is an initiative of Mozambican civil society that aims to strengthen the capacity and resilience of Human Rights Defenders, as well as improve protection and security within the scope of its mission to defend human rights in Mozambique and promote civic space. RMDDH's vision is of a free and safe country for Human Rights Defenders, where communities can fully develop and youth are engaged as potential Human Rights Defenders. It is a non-partisan, impartial, non-profit organization, independent of the Government, made up of private legal persons who act in defense of human rights and individuals who are Human Rights Defenders.



First published in 2022
279 Dar-Es-Salam Street, Sommerschild District
Maputo - Mozambique
© RMDDH, 2023

Original language: Portuguese

For more information, visit our website: <https://redemoz-defensoresdireitoshumanos.org>

This report documents the work and concerns of the RMDDH in the period between January and March 2023. It is important to note that the absence of some cases and the lack of mention of a particular province in this report does not mean that violations of Defenders' of Human Rights have not occurred that concern the RMDDH during the first quarter.



Abbreviations

AR - Assembly of the Republic of Mozambique

OAM – Mozambican Bar Association

PR – President of the Republic of Mozambique

PRM – Police of the Republic of Mozambique

RMDDH – Mozambique Human Rights Defenders Network

SERNIC – National Criminal Investigation Service

UIR - Rapid Intervention Unit



1. Introduction

This quarterly report is an analysis of the situation of Human Rights Defenders in Mozambique, based on the monitoring and evaluation carried out by the RMDDH between January and March 2023.

The objective of the report is to identify and document the main challenges faced by Human Rights Defenders to provide specific recommendations that can improve the protection and guarantee of their rights.

During the period under review, the RMDDH noted a series of challenges faced by Human Rights Defenders, one of the main ones being the excessive use of force by the PRM in the management of peaceful demonstrations. This action resulted in several human rights violations, including physical aggression, arbitrary arrests, restriction of freedom of expression and intimidation.

Another significant challenge is the threat to freedom of association and civic space through the approval of a bill that establishes the legal regime for the Creation, Organization and Operation of Non-Profit Organizations. Furthermore, Human Rights Defenders face defamation and political overtones, a strategy used by their detractors to publicly attack them. Impunity for cases of rights violations is also a serious problem that urgently needs to be addressed.

This report documents these human rights violations, presenting a series of recommendations for the Mozambican state and other stakeholders. Recommendations include respecting and guaranteeing the rights of Human Rights Defenders, improving the management of peaceful demonstrations, preventing human rights violations and punishing those responsible for such violations.

Finally, it is important to highlight that the report reflects the concerns of the RMDDH regarding the situation of Human Rights Defenders in Mozambique. The absence of mention of a specific case or province does not mean that there were no violations of the rights of Human Rights Defenders that concerned the RMDDH during the first quarter.





2. Methodology

Firstly, the report used data collected in the monitoring activities of Human Rights Defenders carried out by the RMDDH. This means that field investigations have been carried out to assess the situation of Human Rights Defenders in different locations and contexts. Several monitoring techniques were used, including interviews with Human Rights Defenders, observation of relevant events and situations, as well as gathering information from local and national organizations.

In addition, existing bibliographic data and relevant legislation were crossed to complement the information obtained through human rights monitoring. This involved reviewing previous studies and research as well as analyzing relevant laws and regulations in order to gain a better understanding of the context in which Human Rights Defenders operate.

Finally, information published by the press on the subject was used to complement the information collected through monitoring activities and a literature review.

Overall, the combination of methods allowed the creation of a report on the situation of Human Rights Defenders in Mozambique between January and March 2023.

3. legal framework

Although there is no specific legislation for the protection of Human Rights Defenders in Mozambique, the CRM recognizes and protects fundamental rights and freedoms, including the rights of Human Rights Defenders. The CRM is, therefore, the main source of protection for Human Rights Defenders in the country, enshrining rights to freedom of expression¹, freedom of assembly and peaceful demonstration², freedom of association³, freedom of residence and movement⁴, security,⁵ and the right of access to the courts⁶.

Article 43 provides that the guarantees of citizens' fundamental rights and freedoms must be interpreted and integrated in harmony with the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, human rights instruments that recognize the right of all freedom of thought and conscience, as well as freedom of expression and peaceful assembly.

In this regard, the State must respect the principles and rights contained in the Resolution on the Situation of Human Rights Defenders in Africa⁷ and the Declaration on the Right and Responsibility of Human Rights Defenders⁸, as these principles and rights are based on norms of human rights laid down in other international instruments, such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, which are legally binding once they have been ratified by Mozambique. In addition, the Covenant and the Charter contain norms that guarantee a favorable environment for the work of Human Rights Defenders, which reinforces the importance of respecting the Resolution on the Status of Human Rights Defenders in Africa and the Declaration on the Rights and the Responsibility of Human Rights Defenders.

Furthermore, other laws in Mozambique also contain relevant norms for the protection of Human Rights Defenders, such as Law n.º 24/2019, of 24 December, which



¹ Article 48 of the Constitution of the Republic of Mozambique

² Article 51 of the Constitution of the Republic of Mozambique

³ Article 52 of the Constitution of the Republic of Mozambique

⁴ Article 55 of the Constitution of the Republic of Mozambique

⁵ Article 59 of the Constitution of the Republic of Mozambique

⁶ Article 62 of the Constitution of the Republic of Mozambique

⁷ ACHPR/Res. 376 (LX) 2017

⁸ Resolution 53/144 of the United Nations General Assembly of December 9, 1998



approves the Penal Code, Law n.º 25/2019, of 26 December, which amends the Code of Criminal Procedure, Law No. 34/2014, of 31 December, which regulates the right to information, Law No. 8/91, of 18 July, which regulates the right to free association, Law n.º 9/91, of July 18, amended by Law n.º 7/2001, of July 7, which regulates the right to demonstrate, Law n.º 21/91, of December 31, which regulates the rights of refugees, and Decree No. 31/2012, of August 8, which regulates resettlement processes.

4. State obligations in the protection of Human Rights Defenders in Mozambique

In order to guarantee the full exercise of human rights, the Mozambican State must protect Human Rights Defenders in the country and prevent any type of violation of their rights. This special protection is crucial, as Defenders play a key role in promoting and defending human rights, democracy and the rule of law.

Indeed, the CRM establishes that the defense and promotion of human rights and the equality of citizens under the law is a fundamental objective of the State, as provided for in paragraph e) of article 11. In addition, paragraph 1 of article 56 of the CRM determines that the State must guarantee the defense of the fundamental rights of citizens, including Human Rights Defenders.

Additionally, the Resolution on the Status of Human Rights Defenders in Africa⁹ and the Declaration on the Rights and Responsibilities of Human Rights Defenders¹⁰ establishes the obligation of States to protect Human Rights Defenders against any form of violence, threat, retaliation or intimidation resulting from the legitimate exercise of its activities. Protection must include measures to prevent, investigate and punish any act of violence or intimidation against Human Rights Defenders.

States must adopt adequate measures and create the necessary conditions for Human Rights Defenders to carry out their activities freely and without fear of reprisals. Measures may include, for example, creating the right conditions in the social, economic, political and other areas, as well as the legal guarantees that are required to ensure that all persons under its jurisdiction, individually and in association with others, can enjoy these rights and freedoms in practice¹¹.

Therefore, by guaranteeing the protection of Human Rights Defenders, the Mozambican State contributes to the promotion and protection of human rights in the country and the consolidation of democracy and the rule of law.

5. Role of Human Rights Defenders

Human Rights Defenders are all persons who, individually and in association with others, promote and fight for the protection and realization of human rights and fundamental freedoms at national and international levels¹².

In this sense, Human Rights Defenders play a key role in ensuring respect for human rights in Mozambique and addressing all issues related to human rights, which can be as varied as, for example, summary executions, torture, arrests and detentions, arbitrary practices, female genital mutilation, discrimination, employment issues, forced evictions, access to healthcare and toxic waste and their impact on the environment¹³.

⁹ ACHPR/Res. 376 (LX) 2017

¹⁰ Resolution 53/144 of the United Nations General Assembly of December 9, 1998

¹¹ Number 1 of Article 2 of Resolution 53/144 of the United Nations General Assembly of December 9, 1998

¹² Article 1 of Resolution 53/144 of the United Nations General Assembly of December 9, 1998

¹³ <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet29en.pdf>



Human Rights Defenders are active in supporting the realization of human rights as diverse as the right to life, food and water, the highest possible level of health, adequate housing, a name and nationality, education, freedom of movement and non-discrimination. Sometimes they address the rights of categories of people, for example, women's rights, children's rights, rights of indigenous peoples, rights of refugees and internally displaced persons, rights of lesbian, gay, *bisexual*, transgender and intersex people, the rights of persons with disabilities and national or linguistic rights¹⁴.

In summary, Human Rights Defenders are a fundamental part of civil society that work tirelessly to ensure that all individuals have their rights respected and protected. Your work is critical to promoting justice and equality around the world.

6. Situation of Human Rights Defenders

Despite playing a key role in ensuring respect for human rights in Mozambique, the situation has been particularly difficult for Human Rights Defenders.

Human Rights Defenders face many challenges, including threats to their lives and their freedom to act, such as physical and psychological violence, arbitrary arrests, harassment, repression, kidnappings and murders.

The recent approval of the bill that establishes the legal regime for the Creation, Organization and Operation of Non-Profit Organizations is worrying.

In 2023, the RMDDH recorded a series of challenges faced by Human Rights Defenders in Mozambique. One of the main challenges is the excessive use of force by the Police of the Republic of Mozambique (PRM) in managing peaceful demonstrations, which has resulted in several human rights violations, including physical aggression, arbitrary arrests, limitation of freedom of expression and intimidation, and the proposed law to limit the right to freedom of association, which poses a threat to civic space.

Furthermore, Human Rights Defenders face defamation and political connotation, a strategy used by their detractors to publicly attack them. Impunity for cases of rights violations is also a serious problem that urgently needs to be addressed.

¹⁴ <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet29en.pdf>



6.1. Restriction of the right to demonstrate using excessive use of force by the Police

The right to freedom of demonstration is protected by the CRM and numerous international and regional legal instruments, but the State, through the police force, imposes illegitimate restrictions that result in a series of violations of rights in the context of peaceful demonstrations in Mozambique.

Article 51 of the CRM protects the right to freedom of demonstration and Article 21 of the International Covenant on Civil and Political Rights protects the right to freedom of peaceful assembly. Demonstrations are also protected by the right to freedom of association, the right to freedom of expression and the right to participate in public affairs, provided for in articles 19, 22 and 25 of the Covenant¹⁵. Article 20 of the Universal Declaration of Human Rights recognizes that “everyone has the right to freedom of peaceful assembly and association”.

Indeed, this right is under threat in Mozambique, as for several years the state authorities, through the police forces, have implemented a set of actions aimed at restricting the freedoms and fundamental rights of citizens in the country.

On March 18, 2023, without legal grounds, the PRM restricted, using excessive force and brutal violence, a national demonstration such as a march in honor of the musician Azagaia, unloading tear gas and rubber bullets on hundreds of young people¹⁶.

Acting as a protective force for the supreme interests of the ruling party, the Police tortured, injured and detained innocent citizens who took to the streets to pay tribute to a Mozambican *hip-hop singer*, who distinguished himself for his music of social intervention in the fight for human rights, social justice and equality in Mozambique.

According to official data from the coordination group of the peaceful demonstration of March 18, 2023, published during a press conference, on March 21, 2023, police violence caused at least 19 injuries that required medical intervention, of which two lost their eyes after being shot with rubber bullets by the UIR in Maputo City.

In Lichinga, the capital of Niassa Province, the representative of the group organizing the march was held for a long time by SERNIC to respond to an inquiry and was only released after OAM intervened.

In Nampula, more than 16 people were arrested and seriously injured. In the same province, the signatory of the march communication letter submitted to the Nampula City Council was kidnapped and tortured, burned with hot water and forced to answer questions while the agents claimed to be recording the act. During the recording, he was asked if he is the one who defines heroes in the country.

In Chimoió, Manica, the march coordination group registered eight arrests for wearing T-shirts with a photo of the singer Azagaia. In Beira, Sofala, there were records of more than 10 detainees, a citizen being run over and in serious condition and a minor injured. Among those arrested is the President of the Municipal Assembly of Beira allegedly for listening to Azagaia’s music. In Vilanculos, Inhambane, a demonstrator was arrested. In the city of Inhambane, dozens of people were directly affected by tear gas, with emphasis on a lady who felt sick when she had nothing to do with the march. And, in Xai-Xai, Gaza, there was one arrested and one injured.

The Police action on March 18, 2023 violates numbers 1, 2 and 3 of article 7, of Law n.º 9/91, of July 18, amended by Law n.º 7/2001, of 7 July (Law of Demonstrations), insofar as the Police used violence and means that threaten the lives of demonstrators to prevent the holding of a peaceful demonstration whose legal procedures were followed. In

¹⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/343/05/PDF/G2234305.pdf?OpenElement>

¹⁶ https://cddmoz.org/wp-content/uploads/2020/07/Policia-rasga-Constituicao-e-esmaga-o-povo-em-nome-de-ordens-superiores-do-Governo-de-Nyusi01_dfd7fbclid=IwAR2iSjglAHtqjqHcqxiDHjLAjY1fDWvHfpPLDkKyK2tHQMHtpmdWJyP9KXc



addition, at no time did the demonstration disturb public order and tranquility.

In addition, the Police also violated the terms of the Basic Principles on the Use of Force and Firearms by United Nations Law Enforcement Officials which states in paragraph 12 that “since all persons may participate in meetings lawful and peaceful, following the principles enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, governments and law enforcement agencies and officials must recognize that force and firearms may only be used under principles 13 and 14”.

Within this context, under the terms of no. 4, article 7, of Law no. 9/91, of 18 July, amended by Law no. 7/2001, of 7 July, the Police must be held accountable for the interruption of the peaceful demonstration on March 18, 2023 and for the brutal violence against peaceful demonstrators.

6.2. Proposed law to restrict the right to freedom of association

Between January and March 2023, Human Rights Defenders in Mozambique continued to fight against the approval of the Proposal for a Law that Establishes the Legal Regime for the Creation, Organization and Operation of Non-Profit Organizations by AR.

The proposed law approved by the Council of Ministers, on September 6, 2022, was developed without the participation of the main stakeholders and limits the exercise of freedom of association¹⁷, which is essential for the work of Human Rights Defenders.

Indeed, paragraph 1 of article 52 of the CRM establishes that “citizens enjoy the freedom of association” and article 3 provides that Mozambique is a State governed by law, based on pluralism of expression, democratic organization, respect and guarantee of rights and freedoms fundamentals of man.

This democratic backsliding is cause for great concern. The closure of civic space, the repression of freedoms and fundamental rights, the increase in social inequalities and the deterioration of the living conditions of most citizens must be fought and reversed to guarantee a more just and egalitarian society for all.

¹⁷ <https://www.liberdadeassociaomz.org/mensagens>



In this context, Human Rights Defenders carried out a series of activities with the aim of drawing attention to the negative impacts of the law and defending the right to freedom of association.

Activities included the creation of working groups and advocacy for the right to freedom of association with the Ministry of Justice, Constitutional and Religious Affairs and the AR itself.

The activities culminated in a consultation¹⁸ of associations at a national level, between the 7th and 16th of February 2023, by the AR, which involved spending financial resources from the associations for the organization and preparation of the consultation meetings.

Human Rights Defenders across the country remain committed to advocating for the proposed law to be carefully evaluated and rethought to ensure that it fully respects human rights and fundamental freedoms.

6.3. Defamation and political overtones to intimidate and harass human rights defenders

In Mozambique, those who take a stand against human rights violations, injustices or corruption become the target of public attacks and defamation often associated with a negative political agenda by state authorities.

On March 16, 2023, during the opening of the training seminar for members of the Frelimo Verification Committee, the President of the Republic of Mozambique (PR) urged members to remain vigilant against all those who want to destroy the party, stating that there are civil society organizations that want to destroy Frelimo¹⁹. “With the political liberalization that the country is experiencing and attentive to the other phenomena that the country is experiencing, the action of certain forces and organizations that, under the guise of supporting communities, seeks to undermine the position of Frelimo and the Government”, said the PR.

On the afternoon of March 21, 2023, in a press conference, the Deputy Commander of the PRM, Fernando Tsucana, stated that the national demonstration on March 18, 2023, organized in honor of the musician Azagaia, had political interests, as in which it involved “figures with political connections”. In addition, Tsucana stated that police violence was proportionate as there was resistance and signs of violence. “The agents used non-lethal means of mass dispersion in strict observance of the principle of proportionality of forces and equity of means,” said Tsucana. The Deputy Commander of the PRM also accused some local media of promoting a social uprising²⁰.

However, the RMDDH participated in the march and witnessed brutal and disproportionate violence by the Police, even before the start of the demonstrations whose legal processes had been followed²¹.

¹⁸ <https://web.facebook.com/photo.php?fbid=108566615482534&set=pb.100089875863183.-2207520000.&type=3>

¹⁹ <https://opais.co.mz/nyusi-diz-que-ha-organizacaoes-da-sociedade-civil-que-querem-destruir-a-frelimo/>

²⁰ <https://www.dw.com/pt-002/digam-que-erraram-cr%C3%ADticas-à-pol%C3%ADcia-moçambicana-aumentam/a-65085688>

²¹ <https://cddmoz.org/wp-content/uploads/2020/07/Polícia-rasga-Constituição-e-esmaga-o-povo-em-nome-de-ordens-superiores-do-Governo-de-Nyusi01.pdf?fbclid=IwAR2iSjglAhtqjqHcqxlDHjLAjY1fDWvHfpPLDkKYk2tHQMhtpmdWJyP9KXc>

7. Conclusion

The human rights situation in Mozambique is a cause for concern, especially concerning violations of the rights of Human Rights Defenders. Although the country is bound by several instruments that protect human rights and fundamental freedoms, including the CRM, the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, it is clear there are still many unresolved issues regarding the promotion and protection of these rights.

An example of this is freedom of expression, which is a fundamental right for all citizens. However, there are records that the PRM often uses excessive force to disperse peaceful demonstrations, which is a flagrant violation of the right to freedom of expression and the right to peaceful assembly that characterize a democratic rule of law. In addition, Human Rights Defenders in Mozambique face threats, intimidation, political connotation and even physical and psychological violence and few measures are taken by the authorities to protect them.

Another example of the violation of the rights of Human Rights Defenders in Mozambique is the limitation of the right to association. Although the CRM guarantees the right to association, the Council of Ministers intends to pass a bill that limits this right.

8. Recommendations

Mozambique must adopt the legislative, administrative and other measures that prove necessary to ensure that the rights and freedoms referred to in the Resolution on the situation of Human Rights Defenders in Africa and in the Declaration on the Right and Responsibility of Human Rights Defenders are effectively guaranteed. In fact, the adoption of a specific law for the protection of Human Rights Defenders, as well as other instruments that prove necessary, is a constitutional and international obligation imposed on the Mozambican State.

The PRM must move away from a militarized approach in managing peaceful demonstrations to avoid serious harm to protesters, as happened in the first quarter of 2023.





REDE MOÇAMBICANA DOS
DEFENSORES DE DIREITOS HUMANOS

RMDDH

PREPARED BY: **SHEILA NHANCALE**



REDE MOÇAMBICANA DOS
DEFENSORES DE DIREITOS HUMANOS

RMDDH