

**Mandates of the Special Rapporteur on the human rights of internally displaced persons; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination and the Independent Expert on the enjoyment of all human rights by older persons**

REFERENCE:  
AL MOZ 1/2021

19 March 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the human rights of internally displaced persons; Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right to food; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination and Independent Expert on the enjoyment of all human rights by older persons, pursuant to Human Rights Council resolutions 41/15, 42/22, 44/10, 44/5, 32/8, 43/14, 42/9 and 42/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of human rights violations and mass displacement in Mozambique in the context of attacks and military operations in Cabo Delgado province.**

A case of the alleged arbitrary detention of a journalist who had been investigating the conflict in Cabo Delgado was previously raised in the communication UA MOZ 1/2019. On 23 January 2019, the receipt of the communication was acknowledged but no further reply has been received.

According to the information received:

Over the past years, there has been a series of brutal attacks by non-state armed groups in Cabo Delgado in Northern Mozambique, which have severely impacted the civilian population. The first attacks were registered in 2017. Over time, the attacks have increased in frequency and intensity and the weapons used have become more sophisticated. Attacks have already taken place in nine of the districts of Cabo Delgado and, in August 2020, attackers seized the town of Mocimboa da Praia. Civilians have been killed and injured, their houses burned and looted and their lands ravaged, forcing them to leave their homes and the lands that constitute their livelihoods.

Non-state armed groups have reportedly conducted public executions, beheadings, abductions of women and girls, sexual violence and child

recruitment. They have looted and destroyed homes, schools, health facilities and government infrastructures.

There have also been reports of violations committed by state military and security forces, including arbitrary arrests, torture and ill treatment of detainees, summary executions and excessive use of force against civilians. Reportedly, in September 2020 video footage emerged appearing to show the extrajudicial killing of a woman in Cabo Delgado by members of the Mozambique Armed Defense Force. Private military companies, including a South African registered company Dyck Advisory Group (DAG), have been hired as mercenaries by the Government to fight insurgents. They have reportedly launched helicopter attacks, while failing to discriminate between civilian and military targets; committed indiscriminate killings; and destroyed civilian property such as homes and schools and protected structures including hospitals.

There have been reports of people, including aid workers, who were stopped by authorities and failed to show identification documents or authorization to be in a certain location and were beaten, temporarily held and in some cases taken away, presumably for further interrogation leading to de facto detention. There have also been a number of reports of arbitrary detentions of journalists who had been investigating or reporting on the conflict in Cabo Delgado. For example, information has been received regarding the alleged arbitrary arrest and ill-treatment of Mr. Amade Abubacar on 5 January 2019 in Macomia, Cabo Delgado. Mr. Amade Abubacar was a community radio journalist for the state-owned Rádio e Televisão Comunitária Nacedje de Macomia and independent journalist for Zitamar News, who had been photographing and interviewing people who had fled militant attacks in the province. He was allegedly arrested without a warrant and was not officially charged with any crimes. On 18 January 2019, the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal to the Government of Mozambique regarding this case (UA MOZ 1/2019) but no substantive response has been received.

The impact of the conflict has been compounded with disasters and the COVID-19 pandemic. On 25 April 2019, cyclone Kenneth devastated the coastal Ibo district and Quirimbas Islands and produced unprecedented inundations in Cabo Delgado's provincial capital Pemba. Cabo Delgado province has also been hardly hit by COVID-19. In addition, according to the World Food Programme, as of January 2021, 900,000 people were facing 'crisis' or 'emergency' levels of food insecurity in the northern provinces of Cabo Delgado, Niassa and Nampula.<sup>1</sup>

### *Internal displacement*

There is a humanitarian crisis unfolding quickly as large numbers of internally displaced persons have no or limited access to food, water, housing and basic services. The number of people displaced due to the escalating violence in Cabo Delgado has reached 530,000 as of January 2021, and new arrivals continue to

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<sup>1</sup> <https://www.wfp.org/stories/northern-mozambique-hunger-conflict-crisis-africa-un-wfp-refugees>

be registered at the time of writing. The majority of internally displaced persons are children and women, but also include older persons and persons with disabilities.

As an example, the Muidumbe district of Cabo Delgado, which used to have a population of 79,000 spread over 26 villages, was reportedly depopulated. Everyone who was able to flee left, mostly on foot, walking over 200 km to reach Pemba. The journey took up to two weeks during which people traversed the bush without food or water.

Many internally displaced persons fled the northern districts of Cabo Delgado by sea, facing a dangerous journey where at least one boat sank, resulting in numerous deaths. Internally displaced persons have often experienced multiple displacements until reaching their current location, as the areas where they took refuge were subsequently attacked. In areas of refuge, most internally displaced persons have been sheltered by host communities, putting strain on already scarce resources. Others have taken shelter in public buildings, built huts for themselves or have no shelter at all.

Most people fled to southern districts of Cabo Delgado, which has the second highest rate of chronic malnutrition in the country (53 per cent),<sup>2</sup> including thousands of people who fled to the provincial capital, Pemba. There are now over 150,000 internally displaced persons in Pemba, almost doubling the city's normal population of 200,000. Many displaced people have built themselves reed shacks in Paquitequete beach, one of the poorest areas in Pemba and a site where displaced people have arrived by boat. They live in overcrowded conditions and lack clean drinking water, health and sanitation. Others have fled to Ancuabe District of Cabo Delgado, which now hosts thousands of internally displaced and many have continued to arrive daily. The rates of malnutrition and hunger are very high and, reportedly, several internally displaced persons are suffering of starvation in Ancuabe. Internally displaced persons have also been affected by cholera.

The Metuge District of Cabo Delgado hosts many internally displaced persons, with only limited shelter availability. Reportedly, many internally displaced persons have constructed shelters from grass for themselves, while some have no shelter at all and have slept in the sand under mosquito nets.

Internally displaced persons have also sought refuge in Nampula, Zambezia and Niassa provinces. There are reportedly more than 40,000 internally displaced persons in Nampula Province (more than 300 km away) with 20,000 in the city of Nampula itself.

Protection risks for internally displaced persons in Mozambique are numerous amid the brutality of attacks and human rights violations. Internally displaced persons have also faced discrimination as, on many occasions, they have allegedly been treated by authorities and community leaders with suspicion that they might be affiliated with armed groups, and there have been reports of

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<sup>2</sup> <https://www.who.int/health-cluster/countries/mozambique/Cabo-Delgado-Mozambique-Rapid-Response-Plan-May-Dec-2020.pdf?ua=1>

interrogations and abuses in locations where internally displaced persons have taken refuge. In particular, there have been numerous reports of abuses committed by authorities against internally displaced persons when they fail to present civil documentation. As many internally displaced persons were forced to flee their homes in a hurry, or had their homes and belongings looted and destroyed, many do not hold identification documents. Reportedly, when they fail to present documentation, they might be extorted by authorities, beaten up or subjected to threats that they will be arrested, and in some cases arbitrarily detained.

While all land in Mozambique is state owned and its use and occupation is conferred by a duat (*direito de uso e aproveitamento da terra*), a number of internally displaced persons who fled violence in Cabo Delgado and who held duats from their place of origin have reportedly had their duats cancelled, making it impossible for them to recover their homes and lands when the violence ceases. Instead, some displaced persons have been given duats to occupy and cultivate lands in other locations. Many others have never had a duat and have total uncertainty as to whether they will ever be able to recover the homes and lands where they used to live.

#### *Civilians trapped in the conflict zone*

Many civilians, often the poorest and most vulnerable, remain trapped in unaccessible conflict zones in Cabo Delgado where their lives are at risk and basic services have been severely disrupted due to destruction or insecurity.

Older persons, especially those with reduced mobility and with disabilities, were reportedly often left behind in the conflict area as their families and community members were not able to carry them to safety. As a result, they remained trapped and have been caught in the fighting between the non-state armed groups and state security forces and their affiliates. For instance, in May 2020 in Macomia district, several older persons allegedly died when their houses burned during fighting between the different forces.

#### *Humanitarian access*

Many parts of Cabo Delgado have been inaccessible to humanitarian actors due to the presence of non-state armed groups and ongoing military operations, leaving large numbers of internally displaced persons and other civilians cut-off from aid. The rainy season has also hampered humanitarian access. In other areas, internally displaced persons have been provided with essential items such as food, water, hygiene and vital relief items, primarily by humanitarian actors, but needs are significantly higher than available resources. In some locations, internally displaced persons who are registered are provided with food parcels but supplies are limited and insufficient for the numerous new arrivals.

#### *Response from the Government of Mozambique*

The Government of Mozambique has sent military and security forces to Cabo Delgado in an attempt to contain the violence. However, there have been allegations of human rights violations by such forces as described above.

The Government of Mozambique has carried out a number of relocations of internally displaced persons. In many instances, relocations were not conducted in accordance with human rights standards, and internally displaced persons were relocated to areas that did not offer appropriate infrastructure, access to basic services and livelihood opportunities, while humanitarian actors have faced challenges to reach remote relocation sites. Cases of family separation during relocations have also been reported. It is alleged that the Government of Mozambique plans to relocate another 100,000 internally displaced persons to 100 different sites.

The Government of Mozambique has reportedly failed to investigate the human rights violations committed by non-state armed actors, government military and security forces, private military and security contractors and/or advisors, and mercenaries, and to bring perpetrators to justice. The whereabouts of a number of abducted women and girls remain unknown.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the violence by non-state armed groups in Cabo Delgado, the resulting mass displacement and the situation of internally displaced persons. We are equally concerned about the lack of or insufficient assistance and protection to internally displaced persons, including in terms of ensuring adequate housing and their security of tenure and the alleged arbitrary arrests. We are also extremely concerned about the allegations of human rights violations committed by state military and security forces and their affiliates, including extrajudicial killings and indiscriminate attacks, and the lack of accountability and remedy to victims. We are deeply concerned about the civilians trapped in the conflict zone, including those older persons and persons with disabilities who are unable to flee the violence and take refuge in safer areas.

We acknowledge the efforts carried out so far by the Government of Mozambique, in collaboration with the international community, to respond to the internal displacement crisis. We also welcome the ratification of the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention) by Mozambique in December 2019, which now needs to be fully implemented. As recommended by the Independent Expert on the enjoyment of all human rights by older persons following her visit to Mozambique in 2019 (A/HRC/42/43/Add.2), we urge the Government of Mozambique to ratify the Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons which provides for the protection of older persons in conflict and disaster situations.

We wish to refer to the global study of national regulations of private military and security companies published by the Working Group (A/HRC/36/47) and the Working Group's report on the evolving forms, trends and manifestations of mercenaries and mercenary-related activities (A/75/259), which pointed to the difficulties in preventing and holding foreign private military personnel accountable for

their actions, including in situations of armed conflict. In this regard, we are concerned about the lack of clarity regarding those responsible for the recruitment, financing and deployment and regarding the extent to which the private military and security personnel was integrated within operational and tactical chains of command within national military forces.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the measures taken or envisaged to provide assistance and protection to internally displaced persons, and to support durable solutions for them, including by ensuring their right to adequate housing.
3. Please provide information on the measures taken or envisaged to ensure that relocations of internally displaced persons are carried out in line with international human rights standards and with the objective of supporting durable solutions for displaced persons, including by ensuring their right to adequate housing and taking into account their specific needs, for example concerning women, children, older persons and persons with disabilities.
4. Please provide information on any measures taken or envisaged to ensure the participation of internally displaced persons in any decisions affecting them, including in the design of programmes for assistance, protection and durable solutions for internally displaced persons and in the context of relocations of internally displaced persons.
5. Please provide information on any measures envisaged to enable civilians, including older persons and persons with disabilities, currently trapped in conflict zones in Cabo Delgado to reach safer locations.
6. Please provide any information regarding measures taken or envisaged to prevent rape and all forms of sexual violence, including by non-state actors, private military and security contractors and/or advisors, and mercenaries inside or outside the displacement camps/routes.
7. Please provide information on the alleged practice of cancelling the duat of persons who fled violence in Cabo Delgado and how it meets the requirements of the human rights to life with dignity and adequate housing.

8. Please provide information on any specific measures to ensure that internally displaced people are free from hunger and malnutrition, including through international cooperation and in ensuring smooth operations of humanitarian actors, especially in Cabo Delgado.
9. Please provide information about the arrests carried out, their factual and legal basis and whether legal assistance has been afforded. Please include specific information about the case of journalist Amade Abubacar.
10. Please provide information on any measures taken to investigate human rights violations allegedly committed in the context of the violence and military and security operations in Cabo Delgado and in areas where internally displaced persons have taken refuge. Please include information on measures and procedures applied by state security forces and their private military and security contractors and/or advisors to distinguish and protect civilians during combat operations as well as information on specific alleged incidents and how they have been independently and impartially investigated, including the video from September 2020 alleged to show an extrajudicial killing by members of the armed forces. Please also provide information on any measures taken to bring perpetrators to justice and provide remedies to victims.
11. Please provide information on the contractual relationships between the government and private military and security contractors and/or advisors. Please provide details on the legal and regulatory structures applicable to such entities and actors, such as registration, certification, vetting, and training. Please include information on accountability mechanisms and oversight of such actors.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted this letter of allegations to the Government, the Working Group on Arbitrary Detention may transmit any case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. This communication in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to this letter of allegations and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

Cecilia Jimenez-Damary  
Special Rapporteur on the human rights of internally displaced persons

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Gerard Quinn  
Special Rapporteur on the rights of persons with disabilities

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Michael Fakhri  
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Jelena Aparac  
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Claudia Mahler  
Independent Expert on the enjoyment of all human rights by older persons

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to refer to Article 6 (1) of the International Covenant on Civil and Political Rights, which Mozambique acceded to on 21 July 1993, which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. In its General Comment No. 31, the Human Rights Committee recalls the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non-state actors as well as by their own security services (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). The Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. A failure to investigate violations of the Covenant and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR (CCPR/C/21/Rev.1/Add.13, paras. 15).

Article 9 of the International Covenant on Civil and Political Rights prohibits arbitrary detention and protects the right to liberty of the person. Accordingly, no one shall be deprived of his liberty except on precise legal grounds and following adequate legal procedures. In this context, we would like to recall that the prohibition of arbitrary detention is absolute, and shall not be subject to derogation (CCPR/C/21/Rev.1/Add.11, par. 11-16). Moreover, anyone arrested or detained shall be granted the right to challenge the legality of such deprivation of liberty before judicial authorities (A/HRC/30/37), which requires effective access to legal assistance (A/HRC/45/16). In addition, the arrest or detention of individuals is considered arbitrary when it constitutes punishment for the legitimate exercise of human rights, such as freedom of opinion and expression, as well as assembly and association and participation in public affairs, as protected by articles 19, 21, 22 and 25 of the Covenant (CCPR/C/GC/35, par. 17).

We would also like to draw the attention of your Excellency's Government to General Comment 36 on the right to life adopted by the Human Rights Committee, which specifies that the duty to protect the right to life requires States parties to, *inter alia*:

- take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. These include [...] displaced persons [...].
- take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include [...] homelessness.

The measures called for addressing adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health-care, electricity and sanitation [...].

Furthermore, we would like to draw the attention of your Excellency's Government to Article 25.1 of the Universal Declaration of Human Rights, as well as to Article 11 (1) of the International Covenant on Economic Social and Cultural Rights (ICESCR), recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." In its General Comment No. 4, the Committee on Economic, Social and Cultural Rights (CESCR) stated that the right to housing "should be seen as the right to live somewhere in security, peace and dignity" (para.7) and set out that the concept of "adequate housing" includes the following elements: a) security of tenure, b) availability of services, c) affordability, d) habitability, e) accessibility, f) location, and g) cultural adequacy (Para.8).

In interpreting Article 11(1) of ICESCR, the CESCR stressed in its General Comment No. 12 that the core content of the right to adequate food implies, inter alia, both economic and physical accessibility of food (para. 7). The Committee considers that the core content of the right to adequate food implies, inter alia, availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand, and accessibility of food which encompasses both economic and physical accessibility.

The obligation to respect access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly.

While Article 11 (1) is subjected to progressive realization to the maximum of States available resources, article 11 (2), which provides "the fundamental right to freedom from hunger and malnutrition", is of immediate application.

We would also like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement, which establish that all authorities shall respect their obligations under international law, including human rights and humanitarian law, to prevent and avoid conditions that might lead to the displacement of persons. In particular, certain groups of internally displaced persons, including children, persons with disabilities and those of older age, shall be entitled to protection and assistance required by their condition and to treatment taking into account their special needs (Principle 4). We moreover stress that according to the Guiding Principles, every human

being shall have the right to be protected against being arbitrarily displaced from his or her home including due to gross human rights violations, discrimination and fear of persecution (Principle 6). Authorities also have the obligation to protect internally displaced persons, including their protection from human rights violations (Principles 10 to 13). We would also like to refer your Excellency's Government to Principle 18, which sets out that internally displaced persons shall have an adequate standard of living that includes essential foods and potable water, basic shelter and housing, and essential medical services and medication. Internally displaced persons also have the right to liberty of movement and to seek safety in another part of the country (Principles 14 and 15).

We would like to remind your Excellency's Government of its primary duty and responsibility to support durable solutions for internally displaced persons, including assistance to recover their property and possessions which they left behind (Principles 28-30). Where recovery of such property is not possible, internally displaced persons should receive appropriate compensation or another form of just reparation (Principle 29(2)). Principle 28 provides that special effort should be made to ensure the full participation of internally displaced persons in the planning and management of their return, resettlement and reintegration. In regard to the requirement to ensure durable solutions for internally displaced persons, we furthermore refer your Excellency's Government to the IASC Framework on Durable Solutions for Internally Displaced Persons and the Principles on Housing and Property Restitution for Refugees and Displaced Persons (E/CN.4/Sub.2/2005/17, Annex), in particular its Principle 10 on the right to voluntary return in safety and dignity, which specifies that "displaced persons shall not be forced, or otherwise coerced, either directly or indirectly, to return to their former homes, lands and places of habitual residence" and that "displaced persons should be able to pursue durable solutions to displacement other than return, if they wish so, without prejudicing the right to restitution of housing, land or property."

We would also like to refer your Excellency's Government to the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention), which was ratified by Mozambique in December 2019. Article V (1) provides that States Parties bear the primary duty and responsibility for providing protection and humanitarian assistance to internally displaced persons. States Parties shall refrain from and prevent arbitrary killing, summary execution, arbitrary detention, abduction and sexual violence in all of its forms, among other violations (Article IX(1)(c)). Article IX (2)(a) sets out the obligation of States Parties to provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities. Special protection and assistance should be provided to those with special needs, including the elderly and persons with disabilities (Article IX (2)(c)). States Parties shall consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance (Article IX (2) (k)). States Parties shall seek lasting solutions to the problem of displacement by promoting and creating satisfactory conditions for voluntary return, local integration or relocation on a sustainable basis and in circumstances of safety and dignity (Article XI (1)). The Convention also sets out the obligation of States Parties to ensure individual responsibility for acts of arbitrary displacement and the accountability of non-State actors for acts of arbitrary

displacement (Article III (g), (h) and (i), and to provide persons affected by displacement with effective remedies and reparation (Article XII).

Additionally, we wish to draw Your Government's attention to the provisions of the Convention on the Rights of Persons with Disabilities (CRPD), ratified by Mozambique on 30 January 2012. In particular, article 11 of the CRPD contains the obligation for States to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters, in accordance with their obligations under international law, including international humanitarian law and international human rights law<sup>3</sup>.

We further wish to draw your attention to the United Nations Principles for Older Persons, adopted by General Assembly resolution 46/91 of 16 December 1991, which provide guidance in the areas of independence, participation, care, self-fulfillment and dignity. In line with the Principles, older persons should be able to live in dignity and security and should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help. Moreover, in her 2019 report (A/HRC/42/43), the Independent Expert on the enjoyment of all human rights by older persons noted that older persons are disproportionately affected in emergency situations. She emphasized the need to take into account in planning, response and recovery phases of emergency management the fact that older persons are often the last to leave their places of origin, and when they are displaced, they risk remaining in a situation of protracted displacement. Appropriate resources should therefore be allocated, and the rights of older persons in such situations should be recognized and upheld, all the while recognizing the diverse situations and important roles, abilities and resources of older persons in forced displacement.

We would also like to highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, are relevant to the impact of business activities on human rights. These Guiding Principles are grounded in recognition of:

- a. "States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached. "

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises.

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<sup>3</sup> See also the thematic study by the Office of the High Commissioner for Human Rights on the rights of persons with disabilities under article 11 of the Convention on the Rights of Persons with Disabilities, on situations of risk and humanitarian emergencies (A/HRC/31/30).

In this regard, Mozambique has a duty to ensure that private companies operating within its territory, respect human rights by taking steps to prevent as well as investigate, punish, and redress abuses through legislation, regulations, policies, and adjudication.

Furthermore, Mozambique has an obligation to ensure access to effective remedial mechanisms for persons whose rights have been violated by business activities within its territory. States are required to take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication" (Guiding Principle 1). This requires States to "state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities" (Guiding Principle 2). In addition, States should "enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights. . ." (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships [. . .] meaningful consultation with potentially affected groups and other relevant stakeholders (Guiding Principle 18).

We would also like to bring to the attention of your Excellency's Government the following provisions of international humanitarian law. Article 3, common to the four Geneva Conventions, which is applicable to situations of non-international armed conflicts and establishes fundamental rules from which no derogation is permitted, including, inter alia, the absolute prohibition of "violence to life and person" of persons taking no active part in the hostilities. Moreover, under common Article 1, States have an obligation to respect and ensure respect for the Geneva Conventions. To this end, States are required to adopt all measures necessary to ensure respect for the Geneva Conventions not only by their organs but also by private individuals within their jurisdictions as well as by other States and non-State parties. The 'Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict' recalls certain existing international legal obligations of States regarding private military and security companies. Applicable provisions of international law articulated therein are therefore relevant to all States regardless of whether they have pronounced their support for the Document. In this regard, we wish to highlight that 'territorial States' have an obligation, within their power, to ensure respect for international humanitarian law by private military and security companies on their territory. Territorial States have an obligation to enact any legislation necessary to provide effective penal 7 sanctions for persons committing, or ordering to be committed, grave breaches of the Geneva Conventions, and have an obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches. They must also bring such persons, regardless of their nationality, before their own courts, or hand such persons over for trial to another State concerned, provided such State has made out a prima facie case, or to an international criminal tribunal. 'Territorial States' have an obligation to investigate and, as required by international law, or otherwise as appropriate,

prosecute, extradite or surrender persons suspected of having committed other crimes under international law, in accordance with their obligations under international law.