

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Independent expert on the promotion of a democratic and equitable international order; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women and girls, its causes and consequences

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(Please use this reference in your reply)

14 November 2024

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Independent expert on the promotion of a democratic and equitable international order; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 54/14, 53/4, 52/9, 50/17, 52/4, 53/12, 57/7, 52/7 and 50/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning reports of **ongoing serious human rights violations following the general elections held in Mozambique on 9 October 2024, such as excessive and disproportionate use of force, including lethal force, by security forces against peaceful protesters, patterns of repression of demonstrations, including physical attacks, arbitrary arrests and detentions, as well as intimidation against journalists, lawyers and human rights defenders, and restrictions to access to information and freedom of media, including internet shutdowns. The described circumstances have reportedly led to the death of protesters and bystanders, including at least one child, and has left many injured.**

According to the information received:

On 9 October 2024, presidential, legislative and provincial elections were held in Mozambique. An estimated 17.2 million people registered to vote, of whom 53% were women and over 50% were young people between 18 and 35 years old. However, notwithstanding the peaceful atmosphere reported on voting day, allegations of irregularities and fraud were reported. The final adjudication of electoral claims and complaints by the Constitutional Council expected on 6 November 2024 was postponed. The period following the elections has reportedly been marked by violence and unrest.

On 8 October 2024, the day before elections, a political activist of the opposition was reportedly arrested in Beira, Sofala province, by the National

Criminal Investigation Service (SERNIC), on order of the Provincial Prosecutor's office. He is accused of inciting collective disobedience and attacking the honour of the President of the Republic. On the same day, protests in Morrumbene, Inhambane province, and in Nampula, were dispersed by police using tear gas.

On the night of 18 to 19 October 2024, two senior political opposition members were reported killed by unidentified gunmen, which prompted calls by the public for authorities to deliver justice including from the United Nations, European Union, several institutions and authorities in Mozambique condemning the killings. On 20 October 2024, the police and the National Criminal Investigations Service announced that an investigation had been opened.

On 21, 24, 25 and 26 October 2024, demonstrations were held in several provinces, including in Cabo Delgado, Maputo, Niassa, Nampula, Sofala, Tete, and Gaza both against the killings and alleged electoral fraud. As part of their responses to the protests, the *Polícia da República de Moçambique (PRM)* reportedly used excessive and disproportionate force to disperse peaceful protesters, including tear gas, sometimes shot at short distance and in a straight angle, and used live ammunition, against protestors. In one case, an arrested journalist reported being brutally beaten with batons and kicked by police officers.

On 21 October 2024, during the protests, the police reportedly fired tear gas at a group of journalists interviewing a presidential candidate. At least two journalists sustained injuries. Journalists also reported that their equipment had been confiscated, lost or damaged. Other cases of attacks and intimidation against journalists, both before and after the elections, have also been reported.

In declarations made to the press by the Government spokesperson (Vice-Minister of Justice) following the protests in Maputo on 21 October 2024, he confirmed the use of tear gas to disperse protestors and noted that journalists were not targeted. In addition, the PRM indicated that 371 people had been arrested in connection with the protests of 24 October 2024 alone. With cases of mass arrests, there are risks of enforced disappearance, especially when arrests are not registered systematically and persons deprived of their liberty are placed outside the protection of the law, even for short periods.

On the evening of 25 October 2024, mobile connectivity and internet service disruptions were reported across Mozambique. This reportedly stifled freedom of expression and prevented access to information and information-sharing at a time of dire need of credible and reliable information. Several other episodes of internet shutdowns were reported at times coinciding with announced live-broadcastings by opposition or with announced demonstrations and other marches.

On 27 October 2024, PODEMOS party lodged an appeal with the Constitutional Council challenging the election results, following which the latter requested the Electoral Commission to submit all tally sheets and records from the vote counting process from seven out of the country's 11 provinces. On 30 October 2024, opposition parties in Mozambique issued a joint

statement rejecting the results of the election, calling for an external audit of the entire electoral process and for accountability for electoral fraud, and urging citizens to participate in peaceful demonstrations. From 31 October to 7 November 2024, new protests have also been suppressed in Maputo and various provinces on a daily basis. In all these events, a total of 30 people reportedly killed. There have been at least 200 others injured, and in Maputo alone on 7 November 2024, 67 people have been confirmed as injured by the Maputo Central Hospital.

On 5 November 2024, the Minister of Defence stated in a press conference that if violence in the context of protests escalated, the armed forces could be deployed to contain the situation. On 6 November 2024, the Constitutional Council was scheduled to issue its final judgement regarding any appeals and communicate the outcome to the concerned parties; instead, it issued a ruling merging that process with the validation of the elections results, which is expected by the end of November.

While we do not wish to prejudge the accuracy of the above information or formulate a conclusion on the allegations, we express our serious concern at the alleged severe violations of several human rights of protesters, opposition party figures, journalists, lawyers and human rights defenders across cities and provinces in Mozambique. If confirmed, these allegations could represent violations of the International Covenant on Political and Civil Rights (ICCPR), acceded to by Mozambique on 21 July 1993, in particular of articles 2, 6, 7, 9, 10, 14, 16, 19, 21, 22 and 24. These articles guarantee the State's protection without discrimination, right to life, the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, freedom from arbitrary arrest and detention, inherent dignity of the human persons, right to liberty and security of person, the right to recognition as a person before the law, the rights to freedom of opinion and expression, the right to freedom of association and freedom of peaceful assembly, and the rights of the child to special protection, respectively. Furthermore, certain allegations could implicate provisions of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Mozambique became a State party on 14 September 1999. We note that the absolute and non-derogable prohibition of enforced disappearances and torture have attained the status of *jus cogens*.

We express our concern at the alleged use of excessive and lethal force by security forces to disperse protesters, including direct shots at close distances and indiscriminate use of live ammunition. We further express our shock and dismay at the alleged targeted killings of opposition party figures, protesters and targeting of journalists, including the death of at least one child. The use of force has resulted in considerable loss of life and hundreds of injuries, some of a serious nature. We also express our concern at the large number of alleged arbitrary arrests and detentions of protesters and civil society activists, in connection to the protests. Additional concern is expressed by reports that some individuals have been subjected to excessive physical force, including by being beaten by police. We are alarmed at the electoral violence, which has been characterised by instilling fear, silencing opposition and/or eliminating political dissent, and draw your Excellency Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which provides in article 7 that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances. In its report on

enforced disappearances and elections, the Working Group on Enforced or Involuntary Disappearances warned of the significant and far-reaching consequences of enforced disappearances in this context (A/HRC/57/54/Add.4). Furthermore, we would like to recall the Working Group's study on enforced disappearance and economic, social and cultural rights (A/HRC/30/38/Add.5), in particular paragraphs 33-37 which highlight the chilling effect of the disappearance of journalists and human rights defenders and States are called on to, "ensur[e] the existence of and respect for cultural diversity and the existence of space where multiple opinions, positions and interpretations of history can find their expression in the public sphere diminishes the level of vulnerability of those questioning in one way or another mainstream ideas and positions, and so prevents against targeting of human rights defender" (para. 49).

We remind your Excellency's Government that the right to life is a norm of *jus cogens* and customary international law applicable at all times and under all circumstances, including during public emergencies and social protests, and that any exceptional measure must be established by law and accompanied by effective institutional safeguards aimed at preventing arbitrary deprivation of life. We emphasize that, according to international law, any loss of life resulting from excessive use of force without strict adherence to the principles of necessity and proportionality constitutes an arbitrary deprivation of life and is therefore illegal. The right to life under article 6 of the ICCPR entails a duty to take "all necessary measures intended to prevent arbitrary deprivations of life by their law enforcement officials" (CCPR/C/GC/36, para. 13). In the policing of assemblies, the primary duty of law enforcement agencies is to facilitate peaceful assemblies and protect individuals from harm (CCPR/C/AGO/CO/1, para. 21 and A/HRC/31/66, para. 50). Where justified, the State is under a duty to adopt the minimum force necessary to achieve its protective aim (see Basic Principles on the Use of Firearms by Law Enforcement Officials, principle 4, see also CCPR/C/GC/36, para. 14). The Human Rights Committee's general comment No. 36 (2018) on the right to life provides that States should be "supplying forces responsible for crowd control with effective, less-lethal means and adequate protective equipment in order to obviate their need to resort to lethal force" (CCPR/C/GC/36, para. 13).

We further remind your Excellency's Government that the Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary, and Summary Executions, adopted by Economic and Social Council resolution 1989/65, establish the obligation of States to thoroughly, promptly, and impartially investigate all suspected cases of extrajudicial, arbitrary, or summary executions (principle 9). These investigations must be carried out in strict compliance with the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths (2016). The Minnesota Protocol stipulates that investigations must, at a minimum, take all reasonable steps to determine the individuals involved in the death and their individual responsibility, and that the investigation must determine whether there was a violation of the right to life. The investigations should aim to identify not only the direct perpetrators but also all others responsible for the death, including, for example, officials in the chain of command who were complicit in the death.

We also remind your Excellency's Government that any restrictions to the exercise of the right of freedom of assembly must be provided by law and be necessary and proportionate to the aim pursued (ICCPR, arts. 19(3) and 21). Authorities must be able to show that any restrictions meet the requirement of legality

and are also both necessary for and proportionate to at least one of the permissible grounds for restrictions enumerated in article 21 (CCPR/C/GC/37, para. 36). Such restrictions must be appropriate responses to a pressing social need, relating to one of the permissible grounds listed in article 21. They must also be the least intrusive among the measures that might serve the relevant protective function (CCPR/C/GC/37, para. 40).

The Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests indicates that at all times, law enforcement officials must follow the principle of precaution, which requires that all feasible steps are taken and all possible alternatives are considered, including all non-violent means, to prevent and avoid the use of force in the context of protests. Any decision to use force must comply with the principles of legality, necessity, proportionality, precaution, non-discrimination and accountability and be in line with the relevant provisions of international human rights standards, including the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (A/HRC/55/60, para. 78). Besides, tear gas may only be used in response to widespread violence in a protest when it is not possible to contain the violence by more targeted measures against the violent individuals (A/HRC/55/60, para. 79 f).

Law enforcement officials must make every effort to facilitate peaceful protests in ways that respect the objectives and preferences of protest organizers and leaders by acting at all times in accordance with their obligation to respect and protect human dignity and maintain and uphold the human rights of all involved in a protest. Law enforcement officials must remain neutral and impartial throughout any protest, prevent harm and protect the right to life, liberty and security of person of those involved, while also fulfilling their duty to maintain public safety and social peace. The deployed officers should adhere to the cross-cutting principles of participation, accountability, non-discrimination, differentiation and attention to vulnerability and equality (A/HRC/55/60, paras. 68).

Besides, States have an “obligation not only to refrain from violating the rights of individuals involved in an assembly, but to ensure the rights of those who participate or are affected by them, and to facilitate an enabling environment” (A/HRC/31/66 para. 13).

We would like to call the attention of your Excellency’s Government to the joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions, which affirms that even if participants in an assembly are not peaceful and as a result forfeit their right to peaceful assembly, they retain all the other rights protected under the ICCPR, subject to the normal limitations. No assembly should thus be considered unprotected (A/ HRC/31/66, paras. 8-9). Furthermore, the report of the Special Rapporteur on Torture (A/72/178) states that, “any extra-custodial use of force that does not pursue a lawful purpose (legality), or that is unnecessary for the achievement of a lawful purpose (necessity), or that inflicts excessive harm compared to the purpose pursued (proportionality) contradicts established international legal principles governing the use of force by law enforcement officials and amounts to cruel, inhuman or degrading treatment or punishment.” A separate report of the Special Rapporteur (A/78/324) recognizes that the use of such weapons as water

cannons and multiple kinetic impact weapons require regulation and close supervision, because they can cause significant injuries, including to sensitive parts of the body such as the head or eyes. They can also provoke panic and dangerous stampedes.

We also express serious concern at the imposed restrictions on media freedoms, including the physical attacks, intimidation and harassment of journalists and alleged internet service shutdown. We would also like to remind your Excellency's Government that attacks against a person because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, are incompatible with article 19 of the ICCPR, (CCPR/C/GC/34, para. 23). Furthermore, internet shutdowns affect the capacity of journalists to report and of human rights defenders to carry out their work and document human rights abuses. The limitation of access to the Internet – or its complete shutdown – entails a grave curtailment of the right to access information, essential during the electoral and post-electoral periods. These shutdowns have also been found to be instrumental to the concealment of gross human rights violations, including enforced disappearance, as they prevent human rights monitoring and the documentation and rapid report of the crimes at stake and hinder investigations and search activities, ultimately jeopardising the right to know the truth and favouring impunity. States are recommended to refrain from imposing internet shutdowns and restrictions to the access to communications (A/HRC/54/22/Add.5, para 9, 10, 57 and 67). Shutdowns fail to meet the established test for restrictions on the right to freedom of expression under article 19(3) ICCPR, and of peaceful assembly under article 21 of the ICCPR. In most cases, network shutdown orders lack a legal basis. Where a legal basis does exist, shutdown orders are often coupled with broad and vague provisions and lack adequate independent oversight. While these measures are typically justified on grounds of national security and public order, they are a disproportionate – and generally ineffective – means of achieving those legitimate aims (A/HRC/41/41, paras. 51-52).

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee states that article 19 also covers the right of a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion and a corresponding right of the public to receive media output.

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing

a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35).

Besides, we wish to remind to your Excellency Government that accountability is a core principle for the effective exercise of the right to freedom of peaceful assembly, which should underpin all stages of any law enforcement operation. Therefore, victim-centred accountability measures and prompt, impartial and effective remedies should be available for all who have suffered human rights violations by law enforcement officials or other actors in the context of peaceful protests and should meet the differentiated needs of victims. Accountability, including command accountability, applies at all stages of a protest. Superior officials should be held accountable for their decisions or if they did not take all measures in their power to prevent, suppress or report the unlawful use of force or firearms and if they knew or should have known that law enforcement officials under their command had engaged in such abuses (A/HRC/55/60, paras. 36, 37 and 49).

We also express our concerns about the reported threats against and intimidation of protesters and human rights defenders, and wish to remind your Excellency’s Government of the provisions of the UN Declaration on Human Rights Defenders (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, A/RES/53/144), in particular article 12.2 of the Declaration, which states that ‘the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration’.

We further wish to remind your Excellency’s Government of the need to ensure that Mozambique’s women and girls participate fully and equally in the political and peaceful transition processes in line with United Nations Security Council resolution 1325.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response as soon as possible on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 also be grateful for your observations 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 measures taken by your Excellency’s Government to carry out a prompt, impartial, independent and effective investigation into the alleged use of excessive and lethal force which has resulted in deaths or injuries, and alleged targeted killings of

protesters. If no investigations have yet been undertaken, or if they have been inconclusive, please provide information as to the reasons thereof. Please provide detailed information on the application of standards applicable to such investigations, particularly the Minnesota Protocol on the Investigation of Potentially Unlawful Deaths and the outcomes of its use.

3. Please provide information on the factual and legal basis for the arrest and detention of protesters. Please include information on how many detained protesters have since been released, and whether those still detained have been charged with a recognizable criminal offence, have been granted access to a lawyer of their choice, and have been promptly brought before a judge to determine the validity of their detention. Please provide also detained information on the measures taken to ensure that information on persons deprived of their liberty is promptly registered in official up-to-date registers and made available to their family members, their counsel or to any other person having a legitimate interest.
4. Please provide information on which urgent measures have the State taken to ensure the protection of journalists and media professionals, to guarantee that any restrictions on journalist's work have been lifted, and to investigate the attacks against journalists and other media covering the protests.
5. Please indicate the factual and legal grounds for the internet shutdowns and under which conditions are they being carried out. Please further indicate whether and how are these restrictions compatible with international human rights law and standards regarding freedom of expression and access to information.
6. Please indicate what measures have been taken to ensure that human rights defenders in Mozambique are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.
7. Please provide information on which measures the State has taken to ensure the right to freedom of peaceful assembly during the electoral period.

While awaiting a reply, we urge that all necessary interim measures be taken urgently to halt the alleged violations and to 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 responsible of the alleged violations.

The reports in the case of the crackdown on protesters raise serious concern on alleged grave violations of international human rights law that may cause irreparable damage to the life and personal integrity of those involved, which we believe warrants prompt attention. In this regard, we are considering to publicly express our concerns in this case in the near future, believing that the wider public should be informed about the implications of these allegations for the enjoyment and exercise of human rights in Mozambique. Any public expression of concern in this regard will indicate

that we have been in contact with your Excellency's Government to clarify the issues in question.

We would like to inform you that after having transmitted the information contained in this communication, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The recipient is required to respond separately to this letter and the regular procedure.

We would like to bring to the attention of your Excellency's Government that, should sources submit the allegations concerning individual cases of enforced disappearances for the consideration of the Working Group on Enforced or Involuntary Disappearances under its humanitarian procedure, the case will be examined by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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

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

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