

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 and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: AL
MOZ 3/2016:

5 August 2016

Excellency,

We have the honour to address you in our capacities 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 and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 27/1, 26/12, 25/2 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged ill-treatment, torture and execution of civilians by security forces during operations against the Mozambique National Resistance (RENAMO) and the unearthing of a suspected mass grave near Gorongossa, where the bodies of 100-120 children, men and women might rest, as well as attacks reportedly conducted by RENAMO against civilians.**

Concerns regarding the assassination and assassination attempts against members of RENAMO were raised in a previous communication to your Excellency's Government on 17 March 2016 (case no. MOZ 1/2016). We regret that no reply has been received to date.

According to the new information received:

Reports have emerged about a consistent pattern of torture, killings and targeting of innocent civilians including men, women and children by government troops across Sofala, Tete, Manica and Zambezia provinces between February and June 2016. These incidents have taken place in the context of the ongoing operations of Security forces against RENAMO in those provinces. The operations involve government troops or special police units entering villages and burning down houses. Independent satellite imagery provides supportive evidence of the burning of villages and homes in at least 22 locations. During the operations, civilians are separated in small groups and forced to pull down pants or partly undress. They are subsequently interrogated and ill-treated and/or tortured; or have family members (including children and women) ill-treated, tortured and/or executed. Finally, individuals or groups of people are taken aside and executed. The reports contain photographic evidence of some of the actions described.

Armed forces have been preventing access to mass graves or areas with several casualties during what could be clean-up operations.

The consistent pattern of human rights violations suggest that they are the result of a deliberate tactic of targeting civilians, rather than the uncontrolled behavior of individual platoons or companies. The scale and incidence of killings of civilians across provinces suggests that the attacks might be carried out by an estimated 2,000 government troops.

The local population and journalists are under significant threat from government troops and/or police.

A mass grave containing the bodies of 100-120 men, women and children found in the vicinity of a gold mine site on the east side of Gorongosa was reported on 9 May 2016.

Attacks conducted by RENAMO have also resulted in many civilian casualties and the disruption of the education and health sectors.

We express serious concern at allegations of ill-treatment, torture and execution of civilians by security forces during operations against RENAMO and the unearthing of a suspected mass grave near Gorongossa. We express further concern at allegations of attacks conducted by RENAMO against civilians, which include several casualties. The abuses appear to target persons on the basis of their perceived position in the conflict, which also seriously violates their right to freedom of opinion and expression.

While we do not wish to prejudge the accuracy of these allegations, they indicate a prima facie violation of the right of every individual to life, security, not to be arbitrarily deprived of his or her life, not to be subjected to torture or to cruel inhuman or degrading treatment, and not to be subjected to enforced disappearances as set forth in articles 3 and 5 of the Universal Declaration of Human Rights (UDHR), 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR), and 1 of the United Nations Declaration on the Protection of All Persons from Enforced Disappearances.

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.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to the allegations of torture and killings of civilians in the context of military operations carried out in the above mentioned provinces during February and June 2016. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide the full details of any prosecutions which have been undertaken in this case.

3. Please indicate what measures have been taken to preserve the mass grave found near Gorongossa and please provide the details, and where available the results, of any forensic and criminal investigations carried out in relation to this mass grave.
4. Please provide information of any military or security operations that may have been carried out in the above mentioned provinces between February and June 2016. Please inform the objective, duration and commands guiding the use of force during such operations.
5. Please provide information about measures taken to ensure the safety of journalists in accordance with Mozambique's obligations under international human rights law.

We would appreciate receiving a response within 60 days.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Houria Es-Slami
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Juan Ernesto Mendez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw your attention to the following human rights standards:

The above mentioned allegations appear to be in contravention of articles 3 of the Universal Declaration of Human Rights and 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), acceded by Mozambique on 21 July 1993, which respectively guarantee the right of every individual to life and security and not to be arbitrarily deprived of life.

The Human Rights Committee in its General Comment 6, para. 3, has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces. In addition, in its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by its agents and by private entities or persons. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR. These obligations arise notably in respect of criminal acts under international law, such as torture and similar cruel, inhuman and degrading treatment, summary and arbitrary killing and enforced disappearance. When committed as part of a widespread or systematic attack on a civilian population, these violations of the Covenant are crimes against humanity (CCPR / C / 21 / Rev.1 / Add.13, paras. 8 and 18)

We would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

There is also a clear obligation on States to investigate, prosecute and punish human rights violations arising from Article 2 (3) (a) of the International Covenant on Civil and Political Rights, which provides that "Each State Party to the present Covenant undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR. With regard to the allegations of threats against journalists, we refer to Human Rights Council resolution 21/12 (HRC/RES/21/12), which "condemns in the strongest term all attacks and violence

against journalists, such as torture, extrajudicial killings, enforced disappearances and arbitrary detention, as well as intimidation and harassment”.

We are further drawing your Excellency’s Government’s attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which establishes that no State shall practice, permit or tolerate enforced disappearances (art.2). The article 13 (1) of the Declaration also proclaims that whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

We wish to recall that, according to the article 13 (6) of the Declaration, an investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.