

Annexure Three

COVID-19 restrictions and the impact on criminal justice and human rights

Mozambique



By

T Lorizzo & V Petrovic

2022

Copyright statement

© Dullah Omar Institute, 2022

This publication was made possible with the financial assistance of the Open Society Foundations (Human Rights Initiative) and the Sigrid Rausing Trust. The content of this document is the sole responsibility of the Dullah Omar Institute and can under no circumstances be regarded as reflecting the position of the Open Society Foundations (Human Rights Initiative) or the Sigrid Rausing Trust. Copyright in this article is vested with the Dullah Omar Institute, University of Western Cape. No part of this article may be reproduced in whole or in part without the express permission, in writing, of the Dullah Omar Institute.

Africa Criminal Justice Reform
c/o Dullah Omar Institute
University of the Western Cape
Private Bag X17
Bellville
7535
SOUTH AFRICA

www.acjr.org.za

ACJR engages in high-quality research, teaching and advocacy on criminal justice reform and human rights in Africa. Our work supports targeted evidence-based advocacy and policy development promoting good governance and human rights in criminal justice systems. Our work is anchored in international, regional and domestic law. We promote policy, law and practice reform based on evidence. We have a particular focus on effective oversight over the criminal justice system, especially in relation to the deprivation of liberty.

Key aspects of our work include:

- Our explicit human rights focus. International and regional human rights law informs and guides all of our work and we partner with organisations with similar approaches. This distinguishes us from security-focused organisations.
- Our partnerships with local organisations. Partnerships ensure mutual learning and growth. Wherever possible we seek to support reform processes in partnership with government and civil society stakeholders across the continent, to ensure local ownership of reform processes and the transfer of skills.
- Our expertise in both social science research and legal research. We carry out empirical social science research to inform policy and processes, in addition to legal analysis and research.
- Our ability to engage in multiple languages. We have researchers fluent in English, French, Portuguese and Afrikaans, ensuring that we are able to engage with most countries in Africa.
- Our ability to translate law and research into plain language and multi-media. Where appropriate, our work is transformed for particular audiences.
- Our academic rigour.

We are based at the Dullah Omar Institute which is in turn part of the University of the Western Cape. We regularly publish in academic journals.

Contents

1.	INTRODUCTION	4
2.	GOVERNMENT’S COVID-19 MEASURES	4
3.	PROBLEMATIC COVID-19 MEASURES	5
4.	ENFORCEMENT OF COVID-19 MEASURES.....	8
5.	THE IMPACT OF COVID-19 ON THE CRIMINAL JUSTICE SYSTEM.....	10
5.1.	<i>Visits to places of detention</i>	10
5.2.	<i>Case Backlog</i>	10
5.3.	<i>Overcrowding</i>	11
6.	PENALTIES, SANCTIONS AND PROSECUTIONS FOR VIOLATIONS	11
7.	SOCIO-ECONOMIC IMPACT OF COVID-19 RESTRICTIONS.....	11
8.	THE OPERATION OF OVERSIGHT INSTITUTIONS DURING COVID-19 PANDEMIC.....	12
9.	ACCESS TO INFORMATION AND PUBLIC ENGAGEMENT	13
10.	GOOD PRACTICE FOR FUTURE USE IN THE CRIMINAL JUSTICE SECTOR	14
10.1.	<i>SERNAP</i>	14
10.2.	<i>Courts</i>	15
10.3.	<i>Attorney General’s Office</i>	15
10.4.	<i>Innovative, effective and efficient responses to COVID-19</i>	16
11.	CONCLUSION.....	17
	APPENDIX: STAKEHOLDER PARTICIPATION LIST	19
	BIBLIOGRAPHY	20

1. Introduction

On 8 February 2022, Africa Criminal Justice Reform (ACJR) together with Research for Mozambique (REFORMAR) hosted a stakeholder engagement workshop in Maputo, Mozambique to discuss the socio-economic impact of COVID-19 in Mozambique and its impact on criminal justice and human rights. The workshop formed part of a larger project by ACJR on State responses to COVID-19 with particular reference to the criminal justice system.¹

The workshop was attended by 11 relevant key stakeholders including civil society organisations and officials from oversight institutions.² The objectives of the workshop were three-fold. First, to discuss the State's response to the COVID-19 pandemic and documenting rights-limiting measure implemented during the COVID-19 period. Second, to document the socio-economic consequences of lockdowns with particular reference to detainees and their families and the impact of lockdown enforcement on the ability of people to exercise their socio-economic rights. Third, the workshop aimed at identifying good-practice examples in the criminal justice and human rights sectors for future use.

This report is a summary of workshop participant views supported by additional contextual information. It covers the following:

- Government measures for COVID-19
- Problematic COVID-19 measures
- Enforcement of COVID-19 measures
- Penalties, sanctions and prosecutions for violations
- The impact of COVID-19 on the criminal justice system
- Socio-economic impact of COVID-19 restrictions
- Operation of oversight institutions during COVID-19
- Access to information and public engagement
- Innovative, effective and efficient responses to COVID-19
- Good practice for future use.

2. Government's COVID-19 measures

As in other parts of the world, COVID-19 restrictions imposed by the government of Mozambique were meant to contain and minimise the spread of the virus. Restrictions mostly prohibited or limited the movement and gathering of people. This included the closure of schools and hospitality

¹ L Muntingh et al., "Criminal Justice, Human Rights and COVID-19 - a Comparative Study of Measures Taken in Five African Countries," Research Report (Cape Town, n.d.), <https://acjr.org.za/acjr-publications/combined-covid-19-report-13-10-2021-final.pdf>.

² Annexure 1: Stakeholder Participation List

establishments and a prohibition on gatherings of more than 20 people. Disobeying such measures resulted in the criminal offence of disobedience, punishable with imprisonment of up to six months. The measures were, in general, applied to the whole country, however, in February 2021, the President restricted the curfew to the area of Maputo city and province. This was because more than 90% of the new COVID–19 cases were from the capital and surrounding areas such as Matola, Marracuene and Boane.³

Subsequent to the proclamation of the State of Emergency (SoE), on 30 March 2020, and the first measures issued by the Council of Ministers, changes in measures were made on a monthly basis.⁴ Initially measures were much more restrictive, and included, among other things:

- Closure of educational and vocational education establishments
- Closure of all entertainment and cultural establishments
- Prohibition of recreational activities in public spaces
- Suspension of collective religious services and celebrations
- Limitation of attendance at funerals
- Reduction of workforce in public and private entities to one-third and compliance with prevention measures
- Limitation to one third of vehicle capacity for collective transport of people
- Reduction of hospital visits to a maximum of two persons per day for each patient
- Prohibition of visits to patients with COVID-19
- Suspension of the issuing of official documents, suspension and cancellation of visas closure of certain border crossings
- Ban on visits to prisons.

Over time these measures were gradually relaxed, as highlighted in a previous report.⁵

3. Problematic COVID-19 measures

All workshop participants agreed that the most problematic measures were the ones that affected the livelihoods of people and impacted on the poorest in society, particularly those operating in the informal economy. In 2016, the International Labour Organisation (ILO) stated that 86% of the labour

³ Africa World Health Organisation, “Em Moçambique Chefe de Estado Adopta Medidas Excepcionais Para Conter a Covid-19: Maputo, Matola, Marracuene e Boane Com Recolher Obrigatório Das 21 Às 4 Horas Da Manhã, Por Um Período de 30 Dias, a Contar de Hoje,” February 5, 2021, <https://www.afro.who.int/pt/news/em-mocambique-chefe-de-estado-adopta-medidas-excepcionais-para-conter-covid-19-maputo-matola>.

⁴ T Lorizzo et al., “Appendix Three - Country Survey: Mozambique,” Research Report (Dullah Omar Institute, n.d.), <https://acjr.org.za/acjr-publications/appendix-three-mozambique.pdf>.

⁵ Lorizzo et al. Lorizzo et al.

force in the country worked in the informal economy.⁶ The imposed measures which prohibited people from selling on the streets and in public markets before 6h00 and after 17h00, negatively affected people's daily lives.⁷

Other problematic measures were those related to businesses having to close and people consequently losing their jobs. The enforcement of the curfew and restrictions on public transport meant that people were not able to go to or return from work. For example, restaurants were required to close at 20h00 and workers had one hour to return to their homes, while many lived further away than an hour's travelling time. An already weak public transportation system meant many people were arrested for being on the street in violation of the curfew, while they were merely returning home.⁸ One respondent highlighted that most people live day-to-day, and the restriction of movement, and stay-at-home orders directly affected their access to their means of survival.

There was a general perception that the government's COVID-19 measures were "imported" from other countries, and were not mindful of the local context. For poor Mozambicans, many of whom live in informal settlements, stay-at-home meant the inability to continue working, the loss of income and the confinement to small spaces with limited sanitation and infrastructure.

A workshop participant from the Network of Young Women Leaders mentioned the mandatory use of masks as a problematic measure in the country. She noted that it was not easy to raise awareness with the population that they needed to wear masks and comply with social distancing. Similarly, the Women's Rights Observatory highlighted the problems around the use of masks for people with hearing impairments. Their lives, especially when accessing health care were highly impacted because of the inability to hear, lip read and communicate effectively.

The participant from the Health Observatory noted that it was particularly problematic that the movement of "community activists" were restricted in the whole country and they were thus not able to provide health assistance and care for the ill directly in the communities. This affected the quality of life and health of these people, since without their direct assistance many patients did not take the

⁶ International Labour, "The ILO in Mozambique," accessed March 14, 2022, https://www.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/---ilo-lusaka/documents/publication/wcms_499746.pdf.

⁷ Article 23(1) of Decree n. 26/2020 of 8 May 2020. Available at: https://reformatar.co.mz/documentos-diversos/br_874_i_serie_suplemento_2020-decreto-26_2020-de-8-de-maio-medidas-para-prevencao-de-covid-19.pdf

⁸ Moz Life, "Hora de Ponta Em Tempo de Covid-19," June 11, 2020, <https://www.moz.life/hora-de-ponta-em-tempo-de-covid-19/>.

necessary medication and appropriate therapy.⁹ There may thus be significant undocumented consequences in this regard.

The Women's Rights Observatory noted that confinement and stay at home orders accompanied by economic insecurities resulted in tensions in many households and led to an increase in domestic violence particularly against women and girls.¹⁰ To add insult to injury, it was reported to the same organisation that some women were arrested when found on the street on their way to a police station to lay a complaint.¹¹ It is, however, important to highlight that the National Institute of Statistics (Instituto Nacional de Estatísticas - INE) reported that domestic violence cases against women in the country decreased over the period 2018-2020, with 14 705 reported cases in 2018 against 11 086 in 2020.¹² This trend contrasts the information reported by national and international organisations. It has, however, been argued that there are many factors that discourage women from filing complaints, such as socio-cultural norms, financial dependence on the aggressor and lack of trust in the police and judiciary.¹³ Furthermore, it is important to stress that statistics on domestic violence in Mozambique are limited due to the lack of a consistent and comprehensive administrative data collection system, as well as the challenges to conduct dedicated surveys on a regular and timely basis.¹⁴

⁹ Observatorio de Saude, "'A Covid-19 Não Nos Permite Fazer Muita Coisa', Paulo Chimera Activista Comunitário," April 26, 2021, <https://www.observatoriodesaude.org/a-covid-19-nao-nos-permite-fazer-muita-coisa-paulo-chimera-activista-comunitario/>.

¹⁰ UNICEF, "Mozambique Responds to Gender-Based Violence in the Context of COVID-19," August 25, 2020, <https://www.unicef.org/mozambique/en/stories/mozambique-responds-gender-based-violence-context-covid-19>. Deutsche Welle, "Moçambicanas Enfrentam Mais Violência e Mais Barreiras Económicas Com a Pandemia," March 8, 2021, <https://www.dw.com/pt-002/mo%C3%A7ambicanas-enfrentam-mais-viol%C3%Aancia-e-mais-barreiras-econ%C3%B3micas-com-a-pandemia/a-56803878>.

¹¹ Voa portugues, "Maputo: Confinamento Realça Lacunas Na Prevenção Da Violência Contra a Mulher," February 9, 2021, <https://www.voaportugues.com/a/caso-de-mulher-retida-numa-esquadra-tentando-apresentar-a-queixa-real%C3%A7a-lacunas-na-preven%C3%A7%C3%A3o-da-viol%C3%Aancia-em-tempos-de-covid-19-em-maputo/5771827.html>.

¹² INE, "Estatísticas de Violência Doméstica 2021," 2021, <http://www.ine.gov.mz/estatisticas/estatisticas-sectoriais/accao-social/violencia-domestica-2020.pdf>.

¹³ Voa portugues, "Maputo: Confinamento Realça Lacunas Na Prevenção Da Violência Contra a Mulher."

¹⁴ Notícias, "INE Participa No Seminário Sobre Dados de Violência Sexual e Baseada No Género," Unknown date, <http://www.ine.gov.mz/noticias/ine-participa-no-seminario-sobre-dados-de-violencia-sexual-e-baseada-no-genero>.

4. Enforcement of COVID-19 measures

Participants were in agreement that the police's enforcement of COVID-19 restrictions was worse than their general enforcement of laws prior to the pandemic. Several participants noted that police often 'took advantage of the situation', and this was the case with the enforcement of COVID-19 measures.¹⁵

One participant highlighted that the police are generally unable to interpret and apply regulations and provisions correctly as they were not trained and advised appropriately. The participant was of the opinion that, for example, the police simply did not know what to do when they find a person without a mask. She said "He [the police officer] received the instruction and then just went running around looking for people [without masks] as if they were flies to catch."

After the proclamation of the measures, no specific procedures or policies were drafted and issued for the enforcement of COVID-19 restrictions. There was also no specific training provided to the police. When restrictions were amended, it appears that such changes were communicated verbally at police station level. This created the space for diverse interpretations of the measures and consequent variations in their enforcement.

Participants agreed that measures restricting performance of economic activities had the most severe effect on poor and marginalised people. People in the informal economy were particularly affected, as they were unable to operate their informal business, such as selling goods or services in public spaces. Many companies had to reduce staff and others closed. One participant said that these economic consequences also resulted in a rise in crime, especially in assault, theft and robberies. Such anecdotal evidence, however, is not corroborated by official statistics, that show that crimes against property decreased over the period 2019-2020 from 33,6% to 20,1% of the total reported crimes.¹⁶ Restrictions on movement may also have discouraged reporting.

One participant noted that the pandemic rendered orphaned children more vulnerable. As a result of the restrictions, orphanages were effectively closed and no visitors permitted. In addition, adoptions were suspended. The loss of income and financial impact of measures on people who depend on the

¹⁵ Deutsche Welle, "Moçambicanas Enfrentam Mais Violência e Mais Barreiras Económicas Com a Pandemia." Deutsche Welle, "'Covid-19: Cidadãos Moçambicanos Denunciam Abusos Da Polícia,'" May 5, 2020, <https://www.dw.com/pt-002/covid-19-cidad%C3%A3os-mo%C3%A7ambicanos-denunciam-abusos-da-pol%C3%ADcia/a-53343318>.

¹⁶ INE, "Estatísticas de Crime e Justiça, 2020," 2021, <http://www.ine.gov.mz/estatisticas/estatisticas-sectoriais/crime-e-justica/crime-e-justica-2020f.pdf/view>.

tourist sector was also noted as concern, since tourism came to a halt.¹⁷ As mentioned above, access to health care was seriously compromised, particularly for elderly and people with chronic conditions, partly because community activists were not able to provide health assistance in the communities,¹⁸ and partly because of the pressure hospitals were under due to the surge in COVID-19 cases.¹⁹

People working in the informal sector showed their defiance by continuing to perform their activities and selling goods on the streets across the country. They were often apprehended by police or had their goods confiscated, but they continued to return on the streets as the only way to feed their families as they had no alternative.²⁰

The representative from the Centre for Public Integrity added that, generally, in recent years people are not willing to protest and oppose the Government, due to retaliation by the police, but that there was a rise in so-called “silent protests”. On social media, people showed dissatisfaction with some measures imposed, but without any visible action as they feared reprisals by the state. The most prominent protests were in Dondo (Beira province) and Nampula about the payment of government subsidies. People were protesting about the fact that many vulnerable families without any income didn’t receive their payments.²¹

Initially, people found violating restrictions could be convicted of the crime of disobedience. The crime of disobedience is punishable with up to three months of imprisonment,²² or in the case of qualified or aggravated disobedience up to six months of imprisonment.²³ On 1 July 2020, the Minister of Justice, Constitutional and Religious Affairs announced substantial changes with regard to punishing acts of disobedience.²⁴ The prison sentence for violating State of Emergency restriction was changed

¹⁷ Deutsche Welle, “Covid-19: Moçambique Suspendeu 30 Mil Contratos de Trabalho,” August 13, 2020, <https://www.dw.com/pt-002/covid-19-mo%C3%A7ambique-suspendeu-30-mil-contratos-de-trabalho/a-54558693>.

¹⁸ Observatorio de Saude, “‘A Covid-19 Não Nos Permite Fazer Muita Coisa’, Paulo Chimera Ativista Comunitário.”

¹⁹ UN News, “Covid-19 é Desafio Perante Limitações Do Sistema de Saúde Em Moçambique,” March 13, 2020, <https://news.un.org/pt/story/2020/03/1707321>.

²⁰ Plataforma, “Vendedores de Maputo Desafiam o Coronavírus Para Fugir à Fome,” August 22, 2020, <https://www.plataformamedia.com/2020/08/22/vendedores-de-maputo-desafiam-o-coronavirus-para-fugir-a-fome/>.

²¹ Deutsche Welle, “Covid-19: População No Centro de Moçambique Reclama Subsídios,” September 11, 2021, <https://www.dw.com/pt-002/covid-19-popula%C3%A7%C3%A3o-no-centro-de-mo%C3%A7ambique-reclama-subs%C3%ADdios/a-59154919>.

²² Article 412 of the Penal Code.

²³ Article 413 of the Penal Code.

²⁴ In May 2020, REFORMAR submitted an open letter on the impact of the SoE to the President, recommending the decriminalisation of acts of disobedience to the SoE, and proposing administrative responses as alternative. On 30 June 2020, the government declassified the crime of disobedience and it is now only subject to a fine.

to between three and 15 days, which in practice was always replaced by a fine or a community service order.

5. The impact of COVID-19 on the criminal justice system

The COVID-19 pandemic as well as the measures imposed by government created a number of challenges in the criminal justice system which directly impacted the rights of arrested and detained persons.

5.1. Visits to places of detention

All visits to prisons were immediately suspended on 2 April 2020, with the exception of lawyers. This remained the situation until March 2021. Subsequently, prisoners were permitted to receive a visit from one person per month.²⁵ Access to prison visits as it was prior to COVID-19, was restored in February 2022.²⁶

Visits by family and friends are not only vital for inmates' psycho-social well-being, but they are important providers of some basic goods, such as food and medication. With regard to visits from lawyers, government institutions including the Legal Aid Institute (Instituto de Patrocínio e Assistência Jurídica, IPAJ) worked with reduced capacity. It can be concluded that the right to legal assistance was seriously compromised as far as it relates to sentenced and unsentenced prisoners, as well as police detainees.

5.2. Case Backlog

From 30 March 2020 until the end of July 2020, procedural deadlines in courts were suspended, and only cases involving an arrest were dealt with. This resulted in a backlog of cases and delays. From August 2020, the courts resumed their work activities without any limitations.²⁷

²⁵ Article 29 of Decree n. 7/2021 of 5 March.
<https://www.ta.gov.mz/Legislacao/Decretos/Decreto%20n.%C2%BA%207%20-%202021%20de%205%20de%20Mar%C3%A7o.pdf> Accessed 14 March 2022.

²⁶ Article 30 of Decree 4/2022 of February 2022.

²⁷ Decree n. 23/2020 of 5 August.

5.3. Overcrowding

At the start of the pandemic, government recognised the devastating effect that COVID-19 could have in already overcrowded prisons with poor sanitary conditions. As such, the government promulgated the Amnesty and Pardon Law,²⁸ aimed at decongesting prisons. In addition, on 1 April 2020, the Supreme Court released a directive,²⁹ to accelerate parole applications. Consequently, around 5 600 prisoners, mostly petty offenders, were freed, reducing the occupancy rate from around 230% to 190%.

6. Penalties, Sanctions and Prosecutions for violations

Several cases of rights violations implicating police officers were reported. Most of the cases happened in the first months of the COVID-19 restrictions. The cases mostly alleged excessive use of force, and unlawful and arbitrary detention.³⁰ However, cases of fatal interactions with the police were also reported. On 22 April 2020, in the city of Beira, a 44-year-old man lost his life at the hands of the police.³¹ On 27 May 2020 two people died on the hands of the police in the city of Lichinga. The police were trying to disperse a crowd of Muslim people celebrating the end of Ramadan. This was in violation of the SoE, which prohibited gatherings of more than 20 people.³² It is unknown if the implicated police officials have been held accountable.

7. Socio-economic impact of COVID-19 restrictions

There was a significant impact on the socio-economic situation in Mozambique as a result of COVID-19 restrictions. The hardest hit were the poor and marginalised, and especially those seeking a livelihood in the informal economy. Participants shared the opinion that government did not take into account the realities of the situation when enacting the measures. The restrictions and measures were

²⁸ Law 2/2020 of 6 of April.

²⁹ Directive 03/TS/GP/2020.

³⁰ Deutsche Welle, "Moçambique: Detido Polícia Que Baleou Jovem Por Não Usar Máscara Facial," July 19, 2021, <https://www.dw.com/pt-002/moçambique-detido-pol%C3%ADcia-que-baleou-jovem-por-não-usar-máscara-facial/a-58318500>. Deutsche Welle, "Moçambique: Dois Cidadãos Fatalmente Baleados Pela Polícia Na Zambézia," September 3, 2020, <https://www.dw.com/pt-002/moçambique-dois-cidadãos-fatalmente-baleados-pela-pol%C3%ADcia-na-zambézia/a-54805950>.

³¹ O País, "Polícia Espanca Cidadão Até à Morte Na Beira," April 21, 2020, <https://www.opais.co.mz/policia-espanca-cidadao-ate-a-morte-na-beira/>.

³² e-Global, "Mozambique: Polícia Mata Cidadãos Por Viloarem Estado de Emergência," May 27, 2020, <https://e-global.pt/noticias/lusofonia/mocambique/mocambique-policia-mata-cidadaos-por-violarem-estado-de-emergencia/>.

“imported from other countries” according to workshop participants who felt that there should have been a better plan to respond to the pandemic within the Mozambican context. Civil society should have been involved from the beginning in the planning and conceptualisation of measures. Participants agreed that the best decision by government was not to enforce a hard lockdown as was the case in South Africa.

While the government put in place some measures to support the poorest, these were not enough, and many people suffered and continue to suffer tremendously. In order to mitigate the burden of the pandemic, the government provided subsidies for poor people, however, not everyone benefited, and many irregularities were found in the distribution of funds. The subsidy consisted of a total payment of 9 000 Mt (approximately US\$ 140) for each beneficiary. The payments would be made in two instalments over a period of six months.³³ Moreover, from the second half of 2020 to the first half of 2021, government approved VAT exemption for some basic products, such as soap, oil and some reductions in electricity and water rates.³⁴ As people were losing their jobs and left without income, economic pressure caused much frustration and desperation. According to the participant from the Centre for Public Integrity, the total number of people who were to benefit from the COVID-19 subsidy was nearly 1 million. In 2021, however, it was estimated that 60% of the population in Mozambique lived in extreme poverty, with the poverty threshold at US\$ 1.90 a day; which corresponds to over 19.5 million people.³⁵ This means that a substantial number of people were left without any financial support at the beginning of the pandemic.

8. The operation of oversight institutions during COVID-19 pandemic

Participants agreed that at the start of the pandemic, the National Human Rights Commission (NHRC) was active on some issues related to arbitrary arrests for the crime of disobedience. However, participants felt that the NHRC could have done more as it did not meet the expectations of the public and civil society organisations. Their specific role in a time of a crisis, such as the COVID-19 pandemic,

³³ UNICEF, “PLANO DE RESPOSTA À COVID-19 EM MOÇAMBIQUE - PROTECÇÃO SOCIAL,” accessed March 19, 2022, <https://www.unicef.org/mozambique/media/2886/file/PLANO%20DE%20RESPOSTA%20%C3%80%20COVID-19%20EM%20MO%20C3%87AMBIQUE%20-%20PROTEC%20C3%87%20C3%83O%20SOCIAL.pdf>.

³⁴ Portal do Governo, “Governo Isenta Do Imposto Sobre o IVA No Açúcar, Óleos e Sabão,” May 19, 2020, <https://www.portaldogoverno.gov.mz/por/Imprensa/Noticias/Governo-isenta-do-imposto-sobre-o-IVA-no-acucar-oleos-e-sabao>.

³⁵ Statista, “Share of Population in Extreme Poverty in Mozambique from 2016 to 2025,” accessed March 9, 2022, <https://www.statista.com/statistics/1243825/extreme-poverty-rate-in-mozambique/#:~:text=In%202021%2C%2060%20percent%20of,to%20decrease%20to%2048%20percent>.

was not really visible or clear. On the other hand, the Mozambican Bar Association (Ordem dos Advogados de Moçambique, OAM), was much more visible, vocal and active. One of the important roles of OAM was to provide assistance to people who were arrested for disobedience, and to give immediate legal support. They published a contact list of lawyers at provincial level that could assist people in need. There was also a hotline and lawyers on-call to assist people who had problems and required legal assistance.

Only two organisations confirmed receiving complaints from their constituencies. These complaints were, however, connected to the consequences of measures imposed, rather than their particular enforcement. Firstly, Mozambican Association for Sexual Minorities' Rights (LAMBDA), received several complaints and reports of domestic violence, including rape. LAMBDA now has a group of paralegals that they are training to assist complainants and follow up on such cases. However, as the LAMBDA representative said, their beneficiaries are generally reluctant to report cases to police. Secondly, the Children's Network reported that they received complaints from professionals who felt they could not perform their duties and give appropriate assistance to children, especially in children's homes that were closed to all visitors.

9. Access to information and public engagement

In general, workshop participants agreed that government and civil society organisations made a significant effort to accurately and consistently disseminate COVID-19 related data and information on COVID-19 measures and restrictions.

The primary means of communication about restrictions and related matters were through conventional platforms, such as TV, radio, and newspapers. However, not all Mozambicans have equal access to these media outlets, and the information they provided mostly reached people in urban areas. In peri-urban areas, for example, many myths and misinformation about COVID-19 were circulating. There was a need to engage more effectively in poorer communities, especially in the centre and north of the country who find themselves far from the capital. Moreover, community radio stations played an important role, as well as civil society organisations who engaged with their constituencies in disseminating relevant information.

On 25 March 2020, the government created a consultative body – the Technical Scientific Commission for the Prevention and Response to COVID-19 pandemic (Comissão Técnico Científica para Prevenção e Resposta à Pandemia da Covid-19) which, according to the participants, was highly centralised, with government determining who would serve on it. The Commission had 13 members, including the

current Minister of Health, two former Ministers of Health, medical doctors (specialists), a biologist, an economist and a lawyer. There was only one member from the University Eduardo Mondlane (Centre for African Studies).³⁶ According to the Resolution on the Establishment of the Commission, its purpose was to act as a consultative and technical advisory body to the government, working within the Ministry of Health. The Commission convened once a week, or more frequently if required, and other experts could be invited for specific meetings. Civil society organisations were, however, never invited. The exclusion of civil society may have added to the less-than-satisfactory communication on COVID-19. All participants stated that the public was not consulted in the development of measures and restrictions. There were also no official consultations with civil society organisations. However, civil society organisations mobilised to inform the government and give some input *post facto*.

One participant noted that government probably felt that it did not need extensive consultations, as they were mostly following WHO recommendations as well as measures taken by other countries. Participants shared that the creation of the Commission was a good initiative but it was a mistake that civil society organisations had not been invited as they could have assisted and added to its legitimacy. The inclusion of civil society may also have added a more realistic assessment of the situation and, in particular, the socio-economic impact of restrictions.

10. Good practice for future use in the criminal justice sector

On 30 March 2021, commemorating one-year since the beginning of COVID-19 pandemic, REFORMAR hosted a hybrid event: “One year with COVID-19: lessons for criminal justice”. The event gathered the main stakeholders from the country’s criminal justice system, including representatives from the judiciary, National Prison Authority (Serviço Nacional Penitenciário, SERNAP), prosecution, and police. Stakeholders shared examples of measures they implemented at the institutional level to prevent the spread of the virus.

10.1. SERNAP

The SERNAP introduced a variety of measures, including the following:

- Raising awareness of the prison population and staff of the Directorate General in complying with COVID-19 prevention measures

³⁶ Resolution n. 20/2020. https://covid19.ins.gov.mz/wp-content/uploads/2020/03/Resolucao_que_Cria_a_Comissao_Tecn.-Cientif.-COVID-19.pdf Accessed 14 March 2022.

- Reduction in the number of staff, employee turnover, reduction of meetings and the shift to virtual meetings where possible
- Services were rendered with a reduced number of employees (e.g., rehabilitation activities)
- When visits to prisons resumed, visiting time was reduced to between 30 and 45 minutes for family members per inmate (previously it was at least three hours)
- Limit visits to one person per month per inmate³⁷
- Visits were done outside or at well-ventilated places
- Prohibition of any physical contact between visitors and prisoners
- Maximizing hygiene, with several sanitising stations at facilities.

Challenges in the prison system were more pronounced during COVID-19 than they usually are. Despite the early release of some inmates which resulted in a reduction in overcrowding, the occupancy rate was still 190%. Poor infrastructure and overcrowding resulted in a lack of space to comply with social distancing measures, quarantining new admissions or treat sick inmates. Other challenges were in the implementation of alternative sanctions, and implementation of rehabilitation activities.

10.2. Courts

In March 2020 the President of the Supreme Court issued a set of individual and collective containment measures against the pandemic applicable to the courts:³⁸

- Hearings only to be held in the presence of the parties, lawyers, witnesses and deponents or other essential procedural actors
- Only the relevant people to a particular case admitted to a court room
- Avoid, as far as possible, the entry of people (e.g., legal representatives) into the registry offices
- Reduction of face-to-face workforce and employee turnover every 15 days (mandatory 14-day home quarantine measures for Judicial Magistrates)
- Suspension of judicial mediation services
- Placement of alcohol gel and/or soap and water at the entrances of buildings and in places with large circulation of people and the reinforcement of cleaning and sanitizing actions.

10.3. Attorney General's Office

The Attorney General's Office introduced a variety of measures, including the following:

- Prioritisation of urgent cases, namely the instruction and judgment of cases with arrested defendants
- The prioritisation of requests for parole

³⁷ Article 29 of Decree n. 7/2021 of 5 March.

³⁸ Directive No. 01/TS/GP/2020.

- Increased number of prosecutors to monitor police detentions to respond to the increased demand
- The use of information and communication technologies to avoid face-to-face meetings, events, or training
- At an institutional level, a memorandum of understanding was signed with the National Human Rights Commission aimed at exchanging information on the violation of human rights in order to allow the MP to exercise its role effectively
- Engagement with SERNAP regarding the treatment of prisoners.

Overall, government institutions had a reactive role and from the onset of the pandemic implemented a number of measures aimed at containment and prevention of the spread of the virus.

10.4. Innovative, effective and efficient responses to COVID-19

All civil society organisations in attendance at the workshop had some initiatives to help and support their constituencies. Most of them provided face-masks, and distributed basic food and sanitary kits to those most in need. The role of civil society organisations was also prominent in disseminating relevant information in the communities. Some specific activities and initiatives included:

- Women, Law and Development opened a hotline in Maputo and Manica for reporting cases of domestic violence and forced marriages. Prior to the establishment of the hotline such cases could only be reported in person.
- The Civil Society Forum for the Rights of the Child did a Solidarity Campaign for Cabo Delgado during which they raised funds and sent eight tons of different goods to the province.
- National Forum of Community Radios identified rural areas as vulnerable and not receiving adequate information. They supported access to information through mobile radios.
- Digital platforms and the use of IT were identified as crucial for the present and future. With international support, the Children’s Network distributed iPads and facilitated online lessons for three schools in Maputo (Khambukuana District). It was challenging, but in their words they “managed to prove that it was possible, but what is needed is the equipment.” The project was implemented for four months and the project and reached more than 10 000 children. Children’s Network also produced child-friendly information material on COVID-19 for children and families.

Civil society organisations worked hard to adapt to a “new normal” and provided the necessary support and assistance to their constituencies. Overall, organisations agreed that there was a general sense of solidarity amongst people and civil society organisations. Participants agreed that this level of solidarity should be nurtured and used beyond the times of crisis. Civil society organisations should use these synergies in the future and focus on strengthening partnerships and collaboration between different stakeholders.

With regard to the international donor support, the representative from *Centre for Public Integrity* stated that international partners supported the country well during this period. She stated her belief that in many of the government interventions, if it weren't for the international support, there would have been many more problems or failures. She shared that the international support amounted to around US\$ 700 million, mainly for sectors such as health, infrastructure and social protection. Children's Network stated that the international community was supportive to civil society and supported some important *ad hoc* initiatives (like those described above).

11. Conclusion

On 24 August 2020 the government promulgated the Disaster Risk Management and Reduction Law (Lei de Gestão e Redução do Risco de Desastres) which introduces the term 'pandemic' to the legislative framework for the first time, making it as comprehensive as possible and designed to respond to any type of disaster that may occur.³⁹ While this is commendable and provides a framework for future pandemics and emergencies, ultimately, it is imperative that, irrespective of the context of future pandemics, the upholding, promoting and advancing of human rights should be a central focus of all government endeavours.

The Stakeholder Engagement Workshop held in Mozambique offered a platform for members of civil society and oversight institutions to discuss the socio-economic impact of COVID-19 and its impact on criminal justice sector. It is clear from the discussions that the COVID-19 pandemic and the accompanied restrictions negatively impacted an already ailing economy and brought about even greater economic hardship for the poor to earn a livelihood.

A few lessons and recommendations can be considered for the country and government in general. Firstly, there is a need for Mozambicans to be proactive, resilient, adaptable and open-minded. Secondly, there must be the promotion of the use of technology which was a big challenge for all groups during the pandemic; yet some people were resistant to change as it pushed them out of their comfort zone. Thirdly; the need to establish strong partnerships and enhance cooperation amongst all relevant stakeholders because government cannot and should not work alone. Fourth, it is important that broader civil society are included in the decision-making processes and implementation of activities. This is especially true since the pandemic put in the spotlight the most vulnerable sectors and infrastructure of the country, and government should invest, for example, in transport, sanitation of schools (many schools lack proper ablution facilities), and health care. Finally,

³⁹ Law no. 10/2020 of 24 August, which amends Law no. 15/2014.

the vulnerability of the informal sector was clearly illustrated and there needs to be much more consideration and support by the government for this sector.

Appendix: Stakeholder Participation List

The Stakeholder Engagement Workshop was attended by 11 representatives from the following organisations:

1. Centro de Integridade Publica (CIP) - Centre for Public Integrity
2. Forum Nacional de Rádios Comunitárias (FORCOM) - National Forum of Community Radios
3. Justica Ambiental - Environmental Justice
4. LAMBDA - Mozambican Association for Sexual Minorities' Rights
5. Mulher Lei e Desenvolvimento (MULEIDE) - Women, Law and Development
6. Observatório De Saude - Health Observatory
7. Observatório Das Mulheres - Women's Observatory
8. Rede De Mulheres Jovens Lideres - Network Of Young Women Leaders
9. Rede Da Criança - Children's Network
10. Reformar - Research for Mozambique
11. Fórum da Sociedade Civil para os Direitos da Criança (ROSC) - Civil Society Forum for the Rights of the Child

Bibliography

- Africa World Health Organisation. "Em Moçambique Chefe de Estado Adota Medidas Excepcionais Para Conter a Covid-19: Maputo, Matola, Marracuene e Boane Com Recolher Obrigatório Das 21 Às 4 Horas Da Manhã, Por Um Período de 30 Dias, a Contar de Hoje," February 5, 2021. <https://www.afro.who.int/pt/news/em-mocambique-chefe-de-estado-adopta-medidas-excepcionais-para-conter-covid-19-maputo-matola>.
- Deutsche Welle. "'Covid-19: Cidadãos Moçambicanos Denunciam Abusos Da Polícia,'" May 5, 2020. <https://www.dw.com/pt-002/covid-19-cidad%C3%A3os-mo%C3%A7ambicanos-denunciam-abusos-da-pol%C3%ADcia/a-53343318>.
- . "Covid-19: Moçambique Suspendeu 30 Mil Contratos de Trabalho," August 13, 2020. <https://www.dw.com/pt-002/covid-19-mo%C3%A7ambique-suspendeu-30-mil-contratos-de-trabalho/a-54558693>.
- . "Covid-19: População No Centro de Moçambique Reclama Subsídios," September 11, 2021. <https://www.dw.com/pt-002/covid-19-popula%C3%A7%C3%A3o-no-centro-de-mo%C3%A7ambique-reclama-subs%C3%ADdios/a-59154919>.
- . "Moçambicanas Enfrentam Mais Violência e Mais Barreiras Económicas Com a Pandemia," March 8, 2021. <https://www.dw.com/pt-002/mo%C3%A7ambicanas-enfrentam-mais-viol%C3%Aancia-e-mais-barreiras-econ%C3%B3micas-com-a-pandemia/a-56803878>.
- . "Moçambique: Detido Polícia Que Baleou Jovem Por Não Usar Máscara Facial," July 19, 2021. <https://www.dw.com/pt-002/moçambique-detido-pol%C3%ADcia-que-baleou-jovem-por-não-usar-máscara-facial/a-58318500>.
- . "Moçambique: Dois Cidadãos Fatalmente Baleados Pela Polícia Na Zambézia," September 3, 2020. <https://www.dw.com/pt-002/moçambique-dois-cidadãos-fatalmente-baleados-pela-pol%C3%ADcia-na-zambézia/a-54805950>.
- e-Global. "Mozambique: Polícia Mata Cidadãos Por Viloarem Estado de Emergência," May 27, 2020. <https://e-global.pt/noticias/lusofonia/mocambique/mocambique-policia-mata-cidadaos-por-violarem-estado-de-emergencia/>.
- INE. "Estatísticas de Crime e Justiça, 2020," 2021. <http://www.ine.gov.mz/estatisticas/estatisticas-sectoriais/crime-e-justica/crime-e-justica-2020f.pdf/view>.
- . "Estatísticas de Violência Doméstica 2021," 2021. <http://www.ine.gov.mz/estatisticas/estatisticas-sectoriais/accao-social/violencia-domestica-2020.pdf>.
- International Labour. "The ILO in Mozambique." Accessed March 14, 2022. https://www.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/---ilo-lusaka/documents/publication/wcms_499746.pdf.
- Lorizzo, T, V Petrovic, L Muntingh, J Redpath, K Petersen, and J Mangwanda. "Appendix Three - Country Survey: Mozambique." Research Report. Dullah Omar Institute, n.d. <https://acjr.org.za/acjr-publications/appendix-three-mozambique.pdf>.
- Moz Life. "Hora de Ponta Em Tempo de Covid-19," June 11, 2020. <https://www.moz.life/hora-de-ponta-em-tempo-de-covid-19/>.
- Muntingh, L, J Mangwanda, K Petersen, and J Redpath. "Criminal Justice, Human Rights and COVID-19 - a Comparative Study of Measures Taken in Five African Countries." Research Report. Cape Town, n.d. <https://acjr.org.za/acjr-publications/combined-covid-19-report-13-10-2021-final.pdf>.
- Notícias. "INE Participa No Seminário Sobre Dados de Violência Sexual e Baseada No Género," Unknown date. <http://www.ine.gov.mz/noticias/ine-participa-no-seminario-sobre-dados-de-violencia-sexual-e-baseada-no-genero>.
- O País. "Polícia Espanca Cidadão Até à Morte Na Beira," April 21, 2020. <https://www.opais.co.mz/policia-espanca-cidadao-ate-a-morte-na-beira/>.

- Observatorio de Saude. “‘A Covid-19 Não Nos Permite Fazer Muita Coisa’, Paulo Chimera Activista Comunitário,” April 26, 2021. <https://www.observatoriodesaude.org/a-covid-19-nao-nos-permite-fazer-muita-coisa-paulo-chimera-activista-comunitario/>.
- Plataforma. “Vendedores de Maputo Desafiam o Coronavírus Para Fugir à Fome,” August 22, 2020. <https://www.plataformamedia.com/2020/08/22/vendedores-de-maputo-desafiam-o-coronavirus-para-fugir-a-fome/>.
- Portal do Governo. “Governo Isenta Do Imposto Sobre o IVA No Açúcar, Óleos e Sabão’,” May 19, 2020. <https://www.portaldogoverno.gov.mz/por/Imprensa/Noticias/Governo-isenta-do-imposto-sobre-o-IVA-no-acucar-oleos-e-sabao>.
- Statista. “Share of Population in Extreme Poverty in Mozambique from 2016 to 2025.” Accessed March 9, 2022. <https://www.statista.com/statistics/1243825/extreme-poverty-rate-in-mozambique/#:~:text=In%202021%2C%2060%20percent%20of,to%20decrease%20to%2048%20percent>.
- UN News. “Covid-19 é Desafio Perante Limitações Do Sistema de Saúde Em Moçambique,” March 13, 2020. <https://news.un.org/pt/story/2020/03/1707321>.
- UNICEF. “Mozambique Responds to Gender-Based Violence in the Context of COVID-19,” August 25, 2020. <https://www.unicef.org/mozambique/en/stories/mozambique-responds-gender-based-violence-context-covid-19>.
- . “PLANO DE RESPOSTA À COVID-19 EM MOÇAMBIQUE - PROTECÇÃO SOCIAL.” Accessed March 19, 2022. <https://www.unicef.org/mozambique/media/2886/file/PLANO%20DE%20RESPOSTA%20C3%80%20COVID-19%20EM%20MO%3%87AMBIQUE%20-%20PROTEC%3%87%3%83O%20SOCIAL.pdf>.
- Voa portugues. “Maputo: Confinamento Realça Lacunas Na Prevenção Da Violência Contra a Mulher,” February 9, 2021. <https://www.voaportugues.com/a/caso-de-mulher-retida-numa-esquadra-tentando-apresentar-a-queixa-real%3%A7a-lacunas-na-preven%3%A7%3%A3o-da-viol%3%Aancia-em-tempos-de-covid-19-em-maputo/5771827.html>.