

THE WORLD CELEBRATES DEMOCRACY DAY ON SEPTEMBER 15

Democratic regression and consolidation of the repressive state will mark the International Day of Democracy in Mozambique

- Next Thursday, September 15th, the world will commemorate the International Day of Democracy. This date was established by the United Nations General Assembly in December 2007 to celebrate democracy, as well as to remind us of the need to promote and protect it now and in the future. The institutionalization of that day also aims to uphold the principles of inclusion, freedom, equal treatment of individuals, peace, and sustainable development.



As defined in the Universal Declaration of Democracy approved by the 161st session of the Inter-Parliamentary Union Council held in September 1997 in Cairo (Egypt) - of which Mozambique was a member, democracy is a universally recognized ideal, a goal that is based on common values shared by the peoples of the world, regardless of cultural, political, social and economic differences. "It is, therefore, a basic right of citizenship, to be exercised in conditions of freedom, equality, transparency and responsibility, with due respect for the plurality of points of view, in the interest of the community"¹.

Democracy is, on the one hand, an ideal to be pursued and, on the other, a mode of government. As an ideal, democracy is essentially intended to preserve and promote the dignity and fundamental rights of the individual, to achieve social justice, and to foster the economic and social development of the community, strengthening the social cohesion and tranquility of the nation, providing internal balance, to create an environment conducive to international peace. As a form of government, democracy is the best way to achieve these goals, and also the only political system that has the ability to promote their correctness.

The Universal Declaration of Democracy emphasizes that a democratic state ensures that the processes by which power is ascended to, exercised, and transmitted arise out of free political competition, and are the result of the free, open, and non-discriminatory participation of the people, exercised in conformity with the rule of law (both in written and in spirit). "Democracy is founded on the rule of law, as well as the exercise of human rights. In a democratic state, no one is above the law and all are equal before it"².

The individual's participation in democratic processes and public life at all levels must be regulated in a fair and impartial manner and any kind of discrimination as well as the risk of intimidation by the state and non-state actors must be avoided. "The judiciary and independent, impartial and effective institutions are mechanisms for ensuring the rule of law upon which democracy is founded. For these institutions and mechanisms to fully ensure compliance with the laws, improve the fairness of proceedings, and correct injustices, there must be access to administrative and judicial remedies for all, on the basis of equality, as well as respect for administrative and judicial deci-



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sions, both by state bodies and by public authority representatives and all members of society"³.

In fact, the principles that shape the Universal Declaration of Democracy are, so to speak, reflected in the Constitution of the Republic of Mozambique (CRM). Indeed, Mozambique was part of the 128 states that participated in the Inter-Parliamentary Union Council meeting that approved the Universal Declaration of Democracy. However, in recent years Mozambique has registered a democratic regression, marked by

the closing of civic space, repression of fundamental freedoms and rights, increase in social inequalities, and deterioration in the living conditions of the majority of citizens.

For example, CIVICUS Monitor, a global research collaboration that assesses and tracks fundamental freedoms in 196 countries, finds in its most recent report that civic space in Mozambique has moved from "obstructed" to "repressive," the second worst rating a state can have. This classification reveals that fundamental freedoms, such as the freedoms of expression, assembly and

¹ <https://www2.senado.leg.br/bdsf/bitstream/handle/id/243080/000954851.pdf?sequence=1&isAllowed=y>

² <https://www2.senado.leg.br/bdsf/bitstream/handle/id/243080/000954851.pdf?sequence=1&isAllowed=y>

³ <https://www2.senado.leg.br/bdsf/bitstream/handle/id/243080/000954851.pdf?sequence=1&isAllowed=y>

association, are systematically violated in Mozambique. In fact, it is enough to mention that since Filipe Nyusi came to the Presidency of the Republic in January 2015, the Police of the Republic of Mozambique (PRM) has repressed all peaceful demonstrations called by civil society organizations and professional associations.

Demonstration against the assassination of the mayor of Nampula, Mahamudo Amurane⁴; demonstration of doctors against the wave of kidnappings in major Mozambican cities⁵; demonstration against the high cost of living⁶; demonstration of vendors of the old Maputo Fish Market⁷; demonstration against the end of violence against women⁸; Demonstration against the alleged kidnapping of two minors in Chimoio⁹; demonstration against the prohibition of the use of Kwacha (Malawi currency) in the district of Molumbo (Zambezia)¹⁰ – these are just examples of peaceful demonstrations that were made impossible and repressed by the police authorities. In some cases, police violence resulted in the murder of innocent civilians, as in Molumbo and Chimoio, and in the illegal detention of activists, as in the march against violence against women.

The repressions against peaceful demonstrations occur in a context in which there is no legal provision in the Mozambican legal framework that conditions the holding of the demonstration to any kind of authorization. In fact, the administrative conditioning imposed either by municipal authorities or by police authorities is clearly illegal. In the last eight years, the only peaceful demonstrations that were and are still allowed are those of social organizations affiliated to the Frelimo Party, namely OJM and OMM. These demonstrations serve to greet the President of the Republic and Frelimo, Filipe Nyusi.

The Universal Declaration of Democracy stresses that the judiciary and independent, impartial and effective public institutions are mechanisms to guarantee the rule of law on which democracy is based. However, in Mozambique there are many cases that reveal

the capture of the judiciary by the executive. For example, the decision of the Constitutional Council in Judgment no. 03/CC/2022, of 17 June, which resulted in the rejection of the declaration of unconstitutionality of the terms of preventive detention provided for in Article 256 of the CPP, as amended by Law no. 18/2020, of 23 December, has been considered an expedient of the Executive. That is, as politically motivated, to such an extent that it is the object of harsh criticism from various players, including institutions of justice, some of society's most respected lawyers, civil society organizations, especially those working in the area of justice, human rights and related areas, in addition to the indignation of the opposition political parties¹¹.

Curiously, what most worsens the controversy surrounding Judgment no. 03/CC/2022 of June 17 is the fact that it is characterized by the declaration of two unsuccessful votes by notable Venerable Council Judges of the Constitutional Council who wrote the Judgment with the express statement of disagreement with the decision of the same Judgment concerning certain rules on the terms of pre-trial detention provided for in article 256 of the CPP in force.

Regarding the lawsuit against the illegality, social injustice and violation of freedom of movement and choice due to the installation of toll stations and setting the respective rates in the Costa do Sol, Zintava, Cumbeza and Matola Gare plazas on the Maputo Ring Road, the Administrative Court (TA), in a shameful manner and through a practice of unimaginable procedural speed, whose circumstances border on the integrity of the judiciary, decided to order the Government not to comply with the rule of provisional suspension, automatic, of the joint order of the Ministers of Public Works, Housing and Water Resources and of Economy and Finance¹².

The approval and enactment of the controversial proposed revisions to Law no. 14/2013, of August 12, concerning the Pre-

vention and Fight Against Money Laundering and Terrorist Financing, and Law no. 5/2018, of August 2, establishing the specific legal regime applicable to the Prevention, Suppression and Fight Against Terrorism and Related Actions, is another example of the sharp attack against democracy in Mozambique. Under the pretext of fighting and preventing money laundering and the financing of terrorism, the executive and legislative powers used the two laws to limit, in an unfounded way, human rights, civic space, and constitutionally consecrated democratic principles, such as public participation, property rights, freedom of association, right to information, speech freedom and of the press¹³.

In this week's session, the Council of Ministers approved the law proposal that establishes the legal regime for the Creation, Organization and Functioning of Associations. This is an instrument that applies to associations established in the national territory that do not aim at the economic profit of their members, including civil society organizations. The law proposal that establishes the legal regime for the Creation, Organization and Functioning of Associations is one more legal instrument through which the Government wants to limit the exercise of freedom of association.

In conclusion, it is imperative to state that this year the International Day of Democracy takes place in a context of democratic regression, characterized by the limitation and repression of fundamental rights and freedoms. This is an onslaught carried out by the three powers of the state, namely the Executive, Legislative, and Judiciary. Violent extremism in Cabo Delgado has also contributed to the unfounded limitation of citizens' fundamental rights and freedoms. In addition to murders and forced disappearances of human rights defenders, the Defense and Security authorities have always hindered the work of journalists assigned to report on the conflict and the humanitarian crisis that affects more than 800.000 people.

⁴ <https://observador.pt/2017/10/05/policia-mocambicana-proibe-manifestacoes-ilegais-contr-o-homicidio-de-autarca/>

⁵ <https://opais.co.mz/policia-impede-manifestacao-de-medicos-contr-raptos/>

⁶ <https://cartamoz.com/index.php/sociedade/item/10378-prm-bloqueia-tentativas-de-realizacao-de-manifestacoes-violentas-em-reivindicacao-ao-custo-de-vida>

⁷ <https://www.tvn.co.mz/index.php/noticias/nacional/item/9508-mercado-do-peixe-policia-inviabiliza-manifestacao-de-vendedores>

⁸ <https://opais.co.mz/policia-detem-dezanove-mulheres-em-maputo-durante-uma-manifestacao/>

⁹ <https://cddmoz.org/wp-content/uploads/2022/04/Policia-volta-a-usar-armas-de-guerra-para-dispersar-manifestantes-e-mata-a-tiro-um-menor-em-Chimoio.pdf?fbclid=IwAR3IIZ5YR5aXUJ8u-RPH1ADJhxiR0YsJuiKHGZr9tWGGQld8iKsR5zk5RrWE>

¹⁰ <https://cddmoz.org/cdd-condena-assassinato-a-tiro-e-exige-responsabilizacao-criminal-dos-agentes-envolvidos-e-demissao-dos-respectivos-comandantes-2/?fbclid=IwAR0UzhNHugX5Z0T-M77fkrX78nZWKEngl636lsZaGDFcXauuOogmP7i0xMvE>

¹¹ <https://cddmoz.org/evidencias-da-captura-do-judiciario-e-do-parlamento-pelo-governo-em-detrimento-dos-direitos-humanos-em-mocambique-2/?fbclid=IwAR0kxdB9sTTjRDwZ6R7KCxjW-3a6N3xUdqQu8zuoc45IKM67cioZ0ax-OQs>

¹² <https://cddmoz.org/evidencias-da-captura-do-judiciario-e-do-parlamento-pelo-governo-em-detrimento-dos-direitos-humanos-em-mocambique-2/?fbclid=IwAR0kxdB9sTTjRDwZ6R7KCxjW-3a6N3xUdqQu8zuoc45IKM67cioZ0ax-OQs>


¹³ <https://cddmoz.org/deficiente-salvaguarda-dos-direitos-humanos-no-processo-de-promulgacao-das-leis-sobre-combate-ao-branqueamento-de-capitais-e-ao-terrorismo-2/>



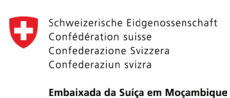
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