

## First ideas launched for the proposed beneficial ownership law in Mozambique

- On October 6th, the Center for Democracy and Development (CDD), in partnership with OXFAM, Tax Justice Network Africa (TJNA), Center for Research on Multinational Corporations (SOMO) and with the support of the Ministry of Foreign Affairs of Finland and in conjunction with the Ministry of Justice, Constitutional and Religious Affairs (MJACR), held a debate on expectations around the proposed law on the beneficial ownership in Mozambique.



The event was attended by several personalities, especially the Permanent Secretary of the MJACR, Manuel Didier Malunga, and the Director of OXFAM Mozambique, Romão Xavier, who was responsible for making the opening notes.

The debate panel was composed by Artur Manhica, representative of the MJACR, Paulo Munguambe, representative of the Financial Information Office of Mozambique (GIFiM), Arlindo Matavel, from the Registry of Legal Entities (CREL), Hermenegildo Chiure, representing the Committee on Constitutional Affairs, Human Rights and Legality of the Assembly of the Republic, Favou Ime, regional manager of Open Ownership, Francis Kairu, researcher at TJNA, and David Ferreira, researcher at CDD.

The main objective of the event was to generate inputs for the proposed law to be prepared by the MJACR, at a time when the beneficial ownership transparency is increasingly receiving attention from States due to the recognition of its contribution in the fight against corruption, money laundering, tax evasion, as well as in the improvement of actions to combat the financing of terrorism and the location and recovery of assets.

Indeed, several countries have been making efforts to identify and make publicly known the “real beneficiaries” or individuals who ultimately own, control or benefit from the different organizations and the income they generate.<sup>1</sup> The transparency of the beneficial ownership is not only seen as a tool to combat illicit financial flows, but also to prevent situations of conflict of interest and make companies and public officials responsible for their actions, such as through the discovery of links between violations of human or environmental rights and those who benefit from them<sup>2</sup>.

At the national level, despite the progress made in recent years, important challenges still prevail in terms of the subject<sup>3</sup>. Due to the lack of a con-

solidated legal and institutional framework, Mozambican companies continue to be used for illicit purposes, including money laundering, terrorist financing, corruption, tax fraud and other illegal activities that have undermined the process of mobilizing resources that could be used to finance the country’s development.

Mozambique has already signaled on several occasions its intention to be in line with good international practices and to fight the “secrecy” that characterizes the beneficiary ownership of companies in the country. The commitments made in 2016 under the Extractive Industry Transparency Initiative (EITI)<sup>4</sup>, in 2020 with the International Monetary Fund (as part of access to funds through the Rapid Finance Facility)<sup>5</sup> and, more recently, the inclusion of a chapter on beneficial ownership in the new commercial legislation<sup>6</sup>, are some examples of this trend of the country’s compliance with international standards.

However, the lack of a specific legal and institutional framework continues to constrain the identification and accountability of individuals involved in illicit activities and those who benefit from such unethical practices. Among the main existing shortcomings, the following stand out: i) absence of a centralized national register that allows the identification of partners and beneficial owners of commercial companies, mainly in the case of public limited companies; ii) the information on the Government Portal of the Bulletins of the Republic published does not allow the identification of the beneficial owners regarding companies held by other companies<sup>7</sup>.

Because the current situation has entailed major resource losses as a result of fraud, tax evasion and even illegal exploitation of natural resources, the Law approval process must be accelerated to bring Mozambique in line with global standards of beneficial ownership transparency.

<sup>1</sup> Launched the first ideas in relation to the Proposed Ownership Law in Mozambique Justice Network. Obtained from: <https://www.taxjustice.net/wp-content/uploads/2020/06/State-of-play-of-beneficial-ownership-Update-2020-Tax-Justice-Network.pdf>

<sup>2</sup> Lemaître, S. & Millán, L. (2022, 4 August). Who owns what? Three lessons for transparency in beneficial ownership. Obtained from: <https://www.u4.no/blog/who-owns-what-three-lessons-for-transparency-in-beneficial-ownership>

<sup>3</sup> Open ownership. (2021, September 17th). <https://www.openownership.org/en/map/country/mozambique/>

<sup>4</sup> Open ownership. (2021, September 17th). [https://www.openownership.org/en/map/country/mozambique/MFI\(2020,April17th\)](https://www.openownership.org/en/map/country/mozambique/MFI(2020,April17th)).

<sup>5</sup> IMF (2020, February 17th). How the IMF is Promoting Transparent and Accountable Use of COVID-19 Financial Assistance. Obtained from: <https://www.imf.org/en/About/Facets/Sheets/Sheets/2020/04/30/how-imf-covid19-financial-help-is-used>

<sup>6</sup> Chapter VI of Decree-Law no. 1/2022, of 25 May, which approves the commercial code.

<sup>7</sup> GIFiM. (2022). Report on the National Risk Assessment of Money Laundering and Terrorism Financing. Mozambique Financial Information Office. Obtained from: <http://www.gifim.gov.mz/documents/138.pdf>

The approval of this legal instrument will place Mozambique on the global map as an emerging economy that progressively responds to the growing needs of domestic resource mobilization.

Therefore, it is urgent to move towards promoting public consultations, developing the draft law and submitting it to Parliament for debate and approval.

## **“Beneficiary Ownership Law will allow revealing politically exposed persons involved in large, often illicit, business”, Prof. Adriano Nuvunga**



Mozambique is undergoing a series of legal reforms, some of which are considered by civil society to be exaggerated and to some extent undemocratic. Obviously, this is not the case with the beneficial ownership law, which is of the utmost importance and urgency.

The passage of a beneficial ownership law will also allow the identification of people who actually circulate money in the country, as well as politically

exposed people who engage in big business using intermediaries.

Politically exposed figures, that is, those who hold public positions of a political nature, have access to a set of powers and privileged information that allows them to make decisions about the process of a legislative and governance nature. The involvement of these figures compromises competition in the business sector, preventing inclusive growth.

**“The enormous extractive potential reaffirms the urgency in the design and implementation of the beneficial ownership law”, Romão Xavier, representative of OXFAM Mozambique**



Mozambique has joined the restricted group of countries with enormous potential to produce wealth through the exploitation of natural resources. But the country needs to improve its institutional and legal framework so that it can guarantee transparency and reap greater benefits.

“When we talk about property, we often think of the legal beneficiary, the person who holds the legal title in your name. But this alone is not enough to follow the money trail, to know where the money comes from and where it goes. Hence the urgency in the elaboration of this beneficial ownership law to identify the person who actually enjoys the property benefits, even if the title is in another name”, explained Romão Xavier.

The elaboration of a law is often a long and complex process, and it becomes even more time consuming when there is no political will. “This is where the various actors from different quarters must enter so that the proposal can quickly advance to public discussion and be approved”.

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**“Government embraced the initiative in order to allow the country to fit into the international financial structure”, Manuel Malunga, Permanent Secretary of the Ministry of Justice Constitutional and Religious Affairs**



Two decades ago, obstacles to setting up companies were discussed. The Government developed significant reforms in the business area that allowed the approval of a legal framework that facilitates the creation of new companies. “But today the context has changed, and it is necessary to implement new reforms to accompany the current needs of the country”.

As part of Mozambique’s participation in the International Financial Action Task Force (FATF), the country received several recommendations and one of them is the creation of conditions for the approval of the legal framework of beneficial ownership, explained Manuel Malunga, Permanent Secretary of the Ministry of Justice Affairs Constitutional and Religious.

In this sense, the Ministry of Justice, Constitutional and Religious Affairs has been working on this matter, involving various actors, such as the Mozambique Financial Information Office (GIFIM), the Registry of Legal Entities (CREL), and the Commission for Constitutional Affairs, Human Rights and Legality of the Assembly of the Republic.

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EM MOÇAMBIQUE.**

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