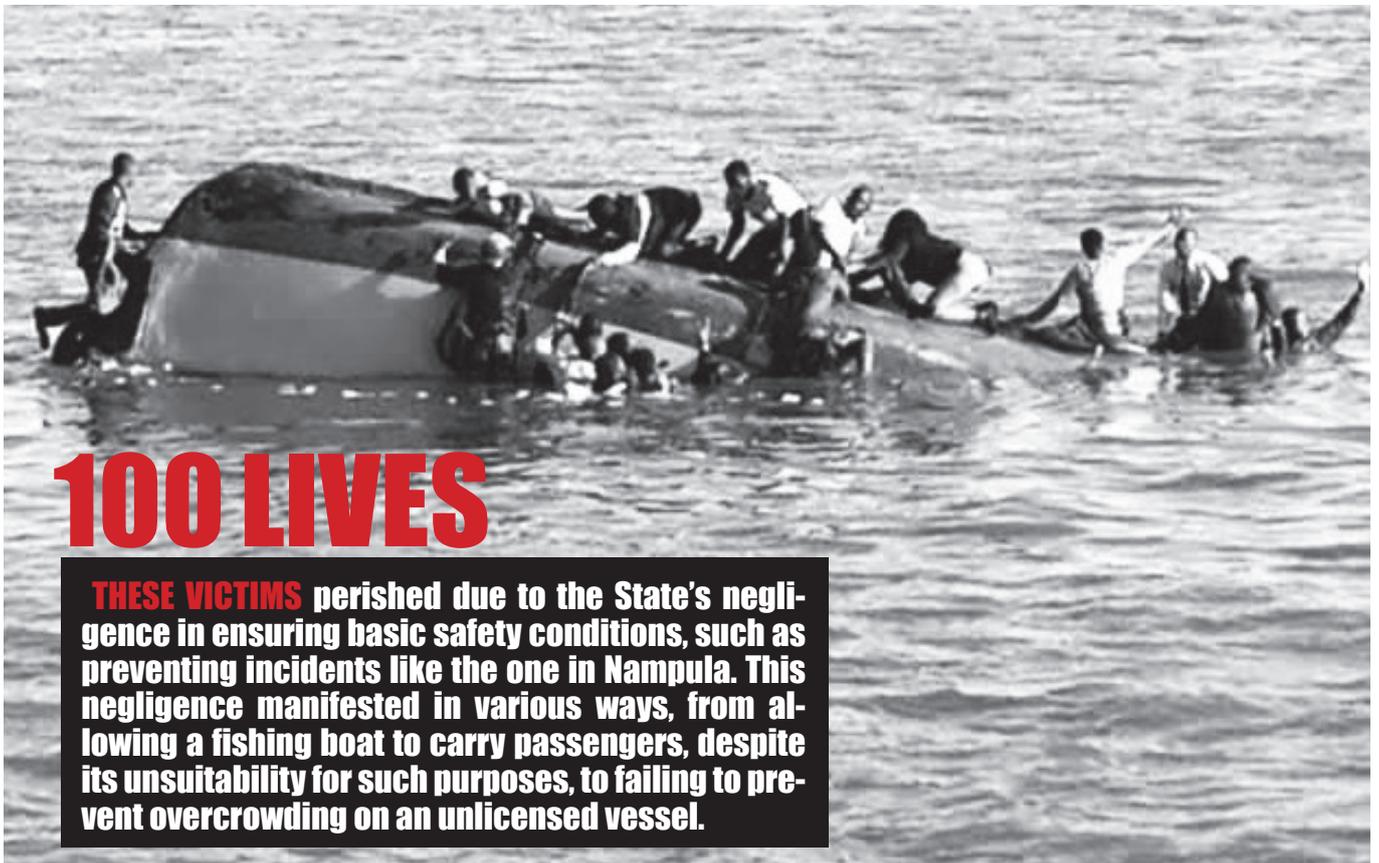




Government must compensate the victims of the shipwreck off the coast of Ilha de Moçambique

- The shipwreck off the coast of Ilha de Moçambique in the Nampula Province of northern Mozambique on April 7, 2024, not only marked a tragic loss of lives but also laid bare a systemic failure within the country's transportation infrastructure. This failure represents a direct violation of human rights, as it impacts the lives, safety, and dignity of Mozambican citizens.



100 LIVES

THESE VICTIMS perished due to the State's negligence in ensuring basic safety conditions, such as preventing incidents like the one in Nampula. This negligence manifested in various ways, from allowing a fishing boat to carry passengers, despite its unsuitability for such purposes, to failing to prevent overcrowding on an unlicensed vessel.

The incident off the coast of Ilha de Moçambique underscores how inadequate transportation and communication infrastructure not only imperils lives but also undermines fundamental rights, including economic, social, and cultural rights.

Beyond the broader issue of infrastructure deficiencies, which directly interfere with the enjoyment of human rights, there's also an operational aspect to the State's actions in this tragedy, which resulted in the loss of approximately 100 lives. These victims perished due to the State's negligence in ensuring basic safety conditions, such as preventing incidents like the one in Nampula. This negligence manifested in various ways, from allowing a fishing boat to carry passengers, despite its unsuitability for such purposes, to failing to prevent overcrowding on an unlicensed vessel.

Concerning the authorization for passenger transport on a fishing vessel: the State erred in permitting a fishing boat, originally intended for fishing activities, to carry passengers. This oversight underscores a deficiency in regulation and control by maritime authorities, who are tasked with ensuring the use of only suitable and safe vessels for passenger transportation.

The absence of effective oversight and control by authorities further compounded the tragedy. Authorities should have prevented overcrowding on the boat, especially considering its lack of licensing for passenger transport. This failure to act represents a serious omission of duty in safeguarding people's lives.

Furthermore, there's evident non-compliance with safety standards: as overcrowding of vessels constitutes a blatant violation of maritime safety standards, endangering the lives of all individuals onboard when passenger capacity is exceeded. The State is obligated to enforce these standards through inspections and preventive measures to avert accidents of this nature.

In this context, the Government of Mozambique needs to acknowledge its responsibility and take steps to compensate the victims and their families. It should be noted that the Mozambican legal framework is replete with various legal instruments on Human Rights that support this need for

civil accountability of the Mozambican state, such as:

I. **Right to Life:** The right to life is one of the most fundamental and inalienable human rights (Article 40, paragraph 1, of the Constitution of the Republic of Mozambique; Article 6, paragraph 1, of the International Covenant on Civil and Political Rights of 1966, ratified through Resolution no. 5/91, of December 12, and Article 3 of the Universal Declaration of Human Rights); the lack of a safe and efficient transportation system exposes people to unnecessary risks, such as the shipwreck that occurred off the coast of Ilha de Moçambique, resulting in loss of human lives. This fundamental right to life is violated when adequate measures are not taken to ensure people's safety during travels. The shipwreck resulted in the loss of human lives, which represents a direct violation of this right. The Government must protect and preserve the lives of its citizens, and when it fails in this obligation, it must assume responsibility for the consequences that may ensue. This right is also upheld by the International Covenant on Civil and Political Rights (ICCPR), which Mozambique ratified through Resolution no. 5/95, dated December 12. This convention enshrines the right to life (Article 6) and the right to personal security (Article 9), both of which were infringed upon in the shipwreck incident. Consequently, the Government is obligated to safeguard these rights. Having failed to do so, it must therefore provide compensation to the victims and their families for the damages incurred.

II. **Right to Security** (Article 3, Universal Declaration of Human Rights): Means of transportation must ensure passengers' security. The absence of adequate transportation infrastructure puts passengers at imminent risk of accidents, thus compromising their right to security. In this specific scenario, the victims of the shipwreck held an essential entitlement to safety while utilizing maritime transportation services. It's crucial to acknowledge the Government's duty to ensure that transportation services are secure and adhere to established safety standards. Failing to provide a secure environment for

passengers constitutes a breach of this fundamental right. Moreover, this entitlement finds support in the International Covenant on Economic, Social, and Cultural Rights (ICESCR): the ICESCR upholds everyone's right to an adequate standard of living (Article 11). The loss of lives and livelihoods in the shipwreck directly impacts this right, thereby necessitating compensation for the victims by the State.

III. **Right to Mobility** (Article 13, International Covenant on Economic, Social and Cultural Rights): Access to adequate means of transportation is essential to ensure the right to mobility, which is intrinsically linked to other rights, such as access to work, education, health, and participation in social and economic life. The lack of transportation infrastructure hinders the exercise of this right, especially for remote and marginalized communities. In the case of the shipwreck victims off the coast of Ilha de Moçambique, the importance of the right to mobility is even more prominent. This right extends beyond mere physical movement; it encompasses access to safe and efficient transportation, essential for ensuring a myriad of other fundamental rights, including access to employment, education, healthcare, and participation in social and economic activities. Consequently, this tragedy starkly exposes the historical exclusion and marginalization faced by these communities, emphasizing not only the imperative for compensation but also the urgency of addressing these injustices.

IV. **Right to Assistance in Case of Disaster** (Article 25, Universal Declaration of Human Rights): In case of disasters, such as the shipwreck off the coast of Ilha de Moçambique, authorities have the responsibility to provide immediate and adequate assistance to the victims. The lack of transportation infrastructure prevented the rapid provision of relief and assistance, thus compromising the victims' right to receive help in times of need. Therefore, not only did the lack of transportation infrastructure endanger their right to life, but also, in the face of the tragedy, the lack of infrastructure affected the realization of another important right: the right to assis-

tance in case of disaster, as envisaged in Article 25 of the Universal Declaration of Human Rights. Therefore, to operationalize the right to assistance in the event of a disaster, paragraph 1 of Article 354 of the Penal Code stipulates penalties of up to 1-year imprisonment and a corresponding fine for individuals who refuse or neglect to provide the necessary services or assistance during a shipwreck. However, it's essential to acknowledge that the primary responsibility ultimately rests with the State.

V. **Right to Compensation and State Responsibility** (Article 58 of the Constitution of the Republic of Mozambique). The right to compensation for citizens is constitutionally guaranteed, as outlined in paragraph 2 of Article 58 of the Fundamental Law, which holds the State responsible for damages resulting from unlawful actions by its agents in the discharge of their duties. In this instance, the officials neglected their duties to prevent the tragedy through omission, thereby constituting illegality on the part of the State's agents.

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Based on the foregoing, it can be concluded that:

- I. The lack of transportation infrastructure is not just a matter of convenience or efficiency, but rather a matter of human rights. It became clear that not only did the lack of transportation infrastructure jeopardize the right to life of the communities on Ilha de Moçambique, but it also affected the realization of another important right: the right to assistance in case of disaster, as outlined in Article 25 of the Universal Declaration of Human Rights.
- II. The victims lost their lives due to the negligence of the State, which failed to ensure the safety and protection of its citizens. This negligence manifested in various ways, including allowing a fishing boat to carry passengers and failing to oversee to prevent overcrowding of a vessel without a license for such activity.

Regarding the Right to Compensation: victims of violations have the right to compensation for the damages suffered, as per paragraph 2 of Article

58 of the Constitution of the Republic of Mozambique. This includes compensation for material losses, emotional damages, loss of livelihood, and other consequences resulting from the shipwreck.

The Government has the legal and moral respon-

sibility to provide this compensation to the victims and their families. Therefore, the Government of Mozambique must act promptly to ensure that the victims and their families receive adequate compensation and that measures are taken to prevent similar tragedies in the future.



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