



Investigation and Observation of Court Proceedings of the Trial of the 'Matavel Case', the HRD murdered in Xai-Xai, Gaza, on the 7th of October, 2019



Maputo, 6th of October, 2020

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The Editors, Adriano Nuvunga and Arnold Tsunga

INTRODUCTION

This report is a joint initiative between the Center for Democracy and Development (CDD) and the Southern Africa Human Rights Defenders Network (SAHRDN). It is an investigation and observation of court proceedings of the trial on the killing of Anastácio Matavele, the Human Rights Defender, murdered on the 07th October 2019, in Xai-Xai, Gaza province.

He was murdered seven days before the presidential, legislative, and provincial elections. Mozambique has a history of chequered election since the democracy founding election in 1994 but the October 2019 election was particularly problematic, and Gaza province was in the spotlight for electoral violence; intimidation against Human Rights Defenders, and the election registration that was clearly rigged as documented in several reports included of CDD. It was in this context that Anastácio Matavele was murdered.

CDD and SAHRDN have, since then, been working to investigate and unveil the context and actors of his murder and advocating for an urgent, reliable trial of the perpetrators and for justice to be served. CDD and SAHRDN have investigated and done thorough, fact-based observations of the proceedings of the court in the eight days of the trial, as well as the day of the reading of the verdict, after which CDD and SAHRDN decided to undertake a thorough analysis of the role of the Judicial Court of the Province of Gaza and the Public Prosecutor in the pursuit of public interest and justice for HRD Anastácio Matavele.

This report is fact-based, and it contains initial investigations undertaken by CDD and the SAHRDN in partnership with the key investigators of *Jornal Savana*. Moreover, some of these articles were published in CDD's Bulletin: Mozambique Network of Human Rights Defenders. The report is aimed at, on one hand, to give a full picture of what happened on the day of the murder of Human Rights Defender, Anastácio Matavele; the investigations, as well as the proceedings, and analysis on the outcome. So, it gives a full picture of what happened and, on the other hand, it serves as a key advocacy document for the Matavele case.

The report is an important instrument in the hands of Human Rights Defenders in the pursuit of justice for Matavele, as there has been an appeal in the Matavele case. The report can be used by the civil society organizations, journalists, and judicial authorities to have alternative perspectives on what happened and the shortcomings of the official investigation, the court proceedings, and the verdict.

Most importantly, the report is aimed at empowering and enhancing the self-confidence of human rights and the civics space defenders in Mozambique, and is really an instrument that can strengthen the resilience of Human Right Defenders to claim their rights to defend Human Rights, to fight injustice, push back on closing civic space and enhance their own protection and security. Therefore, this is really an instrument at the hand of HRDs but also it is aimed at celebrating Matavele as an HRD; pay tribute to this Human Right Defender, honor his legacy and contribution to an effective, inclusive network of HRDs.

This report did not follow the traditional procedures of observation of court proceedings. It was undertaken and written in a more journalistic style, and that is a peculiar aspect of the report. It is rich and has a piece of detailed information seen as a fundamental contribution to the full understanding of the Matavel case.

The report is divided into three parts: part one is on the killing, the investigation, and the call for a transparent and fair trial; the second part is on the observations of the court proceedings; and the last part is dedicated to the analysis of the role of the Judicial Court of the Province of Gaza and the Public Prosecutor in the pursuit of public interest in the achievement of justice in the case for Anastácio Matavele.

The Editors, Adriano Nuvunga and Arnold Tsunga

PART 1: BUILDING THE CASE FOR THE PROSECUTION OF THE POLICE OFFICERS INVOLVED IN THE ASSASSINATION OF THE ACTIVIST AND HUMAN RIGHTS DEFENDER ANASTÁCIO MATAVELE

Text 1: ASSASSINATION OF THE ACTIVIST AND HUMAN RIGHTS DEFENDER, ANASTÁCIO MATAVELE, BY AGENTS OF THE MOZAMBIQUE REPUBLIC POLICE

Text 2: TRANSPARENCY IS REQUIRED IN THE CASE OF PROMOTIONS OF POLICE OFFICERS

Text 3. COURT IGNORES REQUEST TO OBTAIN EXTRACTS OF THE PHONE CONVERSATIONS BETWEEN THE ACCUSED

Text 1: ASSASSINATION OF THE ACTIVIST AND HUMAN RIGHTS DEFENDER, ANASTÁCIO MATAVELE, BY AGENTS OF THE MOZAMBIQUE REPUBLIC POLICE¹ *

On 7 October, 2020, Mozambique will mark the passage of one year since the barbarous assassination, in broad daylight, of Anastácio Matavele, the Human Rights Defender in the electoral area of Gaza. The murder of this activist and human rights defender was carried out by five agents of the Mozambique Republic Police, namely Euclídio Mapulasse, Edson Silica, Agapito Matavele (now a fugitive), Nóbrega Chaúque and Martins Williamo. The last two died in the traffic accident that followed the heinous crime. The operation was coordinated by two commanders of police sub-units, namely Tudelo Guirruço, of the Special Operations Group (GOE), and Alfredo Macuácuá, of the Rapid Intervention Unit (UIR). The car used in the crime belongs to Henriques Machava, the current Mayor of Chibuto municipality and a senior member of the Frelimo Party.

In a statement issued the day after the assassination, the General Command of the Police recognized that “the first-degree murder was committed by 5 individuals, 4 of them agents of the Mozambique Republic Police, stationed at the Gaza Rapid Intervention sub-unit, at the service of the Special Operations Group, and a civilian, all duly identified in the records”. It ordered the immediate suspension from duty of the two commanders of those sub-units. It also set up a commission of inquiry with a deadline of 15 days to report back on the case. On 7 October, one year later, the results of the enquiry have still not been made public.

The statement from the General Command, omitted the name of Agapito Matavele, the commander of the squad which murdered the citizen Anastácio Matavele. The Command regarded Agapito Matavele as a civilian and not as a police agent, because it was attempting to explain the killing as a settling of accounts or a common crime involving policemen who were coordinated by a civilian. That is, they wanted to give the idea that this was not a state crime.

The decision to commit murder and those involved

The operation to assassinate Anastácio Matavele was prepared in detail, because it could not fail. The sharpshooters of the elite force were hand-picked, since the mission “was coming under pressure” from people not yet identified in the prosecution case (case file no. 78/19).

The decision was taken on 19 September 2019, in a meeting at which the five shooters and their respective commanders were present, plus a representative of the State in Gaza province, whose name is yet to be ascertained. This was the person who gave the police agents coupons to buy fuel to supply the car used in

¹ Text produced by a joint investigation of CDD and the Weekly SAVANA



the crime. On the same day, 19 September, the leader of the operation, Agapito Matavele, who is now on the run, gave instructions to Euclídio Mapulasse, Edson Silica, Nóbrega Chaúque and Martins Williamo “not to work shifts, because you have a mission”.

That mission was to assassinate Anastácio Matavele. As from that day, Euclídio Mapulasse and Edson Silica received the specific task to “follow the steps” of Anastácio Matavele, while waiting for the vehicle that would be used in the attack against the social activist and human rights defender. Their instructions were to check on the movements of Anastácio Matavele, to facilitate the operation, as soon as the vehicle, owned by Henriques Machava, mayor of Chibuto municipality, reached their hands.

According to the charge sheet from the Public Prosecutors’ Office, sent to court, several preparatory meetings were held before the crime was consummated. One of the meetings took place on 5 October, in the Xirico Bar, near the Xai-Xai Beach crossroads. The meeting, which Agapito Matavele called by telephone, was intended to draw up a strategy for the murder of Anastácio Matavele, after an attempt to kidnap him had failed on 23 September.

Attending the meeting in the Xirico Bar was the commander of the Special Operations Group, Tudelo Guirruogo, who informed the others of the “good news” that the vehicle that would be used in the mission was now available. The conditions had been established for the physical elimination of Anastácio Matavele. Nóbrega Chaúque and Edson Silica were sent to receive the car, near the Joaquim Chissano Secondary School. The people who delivered the keys to the assassins were not identified in the prosecution document.

On 6 October, Tudelo Guirruogo, Edson Silica, Agapito Matavele, Martins Williamo, Nóbrega Chaúque and Euclídio Mapulasse held their final meeting before the murder of the activist and human rights defender. The murder, took place 24 hours later. The first five members of the group went to the house of Euclídio Mapulasse for a meeting. However, he was not at home. The group left a message with a neighbour, informing him that he should join the group that day in the central market of Xai-Xai city. As soon as he received the message, Euclídio Mapulasse took public transport (known as a “chapa”) to the meeting place. When he arrived, he joined the group in the vehicle used as the getaway car during the crime. They drove towards the Xai-Xai beach crossroads.



At Xai-Xai beach crossroads before he left the vehicle, Tudelo Guirruogo, commander of the Special Operations Group, ordered Agapito Matavele, as head of the squad, to give instructions to the other members about the details of the mission, which consisted of opening fire against Anastácio Matavele. The agents had clear instructions “to shoot at the legs of the victim, to prevent him from walking”.

The group had been informed that Anastácio Matavele would travel to Maputo on 7 October. So, on that day, at 04:00 in the morning, Edson Silica, driving the vehicle used in the crime - a Toyota Mark X, with the number plate ADE 127 MC, owned by the mayor of Chibuto, Henriques Machava – and armed with a firearm, went to collect his colleagues, Euclídio Mapulasse, Agapito Matavele, Nóbrega Chaúque and Martins Williamo, from their homes.

The group went to the Concha Motel, an old and well-known tourist resort, located in the upper part of the city, on National Highway Number One, where they planned to mount an ambush, since Anastácio Matavele would pass by there when he went to Maputo. Because time was passing and the victim did not show up, the five drove towards the Xai-Xai beach. They found that Anastácio Matavele’s vehicle was parked at the “Salgadinhos da Mamã Argentina”, a building located on the road leading to the Xai-Xai beach. Anastácio Matavele was inside the building chairing the opening ceremony of a training session for Gaza election observers from civil society. The squad waited for their victim at a bus stop near the building.

When it was 11.00, Anastácio Matavele left the building, entered his vehicle and drove towards Xai-Xai city. The group of five followed him. The shooters placed their vehicle, driven by Edson Silica, side by side with that of the victim. Immediately, the commander of the squad, Agapito Matavele, gave orders for the others to open fire. About ten shots were fired which struck the victim in various parts of his body. Anastácio Matavele was declared dead 30 minutes after the shooting, at around 11.30. The medical report showed that he died violently as a consequence of the lesions suffered from the projectiles fired. The body bore the signs of multiple traumatic lesions caused by projectiles shot from a firearm. From the parts of the body hit and the severity of the injuries, it was concluded that the intention was to kill. The lesions described were lethal, and the forensic medical conclusion is that this was murder.

The killers left the scene of the crime at high speed heading towards Chongoene, where their barracks was located. But Nóbrega Chaúque and Martins Williamo also died violently, because the getaway vehicle careened out of control, hit three other cars and overturned, less than a kilometer from where Anastácio Matavele had been murdered. Edson Silica was injured and arrested.

Agapito Matavele fled, taking with him two guns that he had withdrawn from the arsenal of the UIR command. Tudelo Guirruogo and Januário Rungo (Chief of Staff of the UIR) returned the guns to the barracks. For his part, Rungo ordered Justino Muchanga, who was in charge of the arsenal, to sign the register controlling the weaponry, as proof that the guns had entered the arsenal.

During his escape, Agapito Matavele was in telephone communication with Tudelo Guirruogo. Indeed, Guirruogo was always in communication with Nóbrega Chaúque, Agapito Matavele and Edson Silica about the Anastácio Matavele operation. It was Tudelo Guirruogo, under the guidance of Alfredo Macuácuá, the UIR commander (who has also been arrested) who selected the team to carry out the mission of assassinating Matavele.

Guns taken from the barracks

The guns for the operation were taken by the five agents, namely Euclídio Mapulasse, Nóbrega Chaúque, Agapito Matavele, Martins Williamo and Edson Silica. For example, on 19 September, the date when it was decided that Anastácio Matavele should be murdered, Euclídio Mapulasse, Nóbrega Chaúque and Agapito Matavele took three firearms, with the reference numbers: AO32550, AO36035 and AO37535. On 24 September, two more agents, namely Martins Williamo and Edson Silica, went to withdraw two more firearms. These were guns with the reference numbers AO36000 and AO36614. On the following day, 25 September, Agapito Matavele strengthened the group with another firearm, an AK47, with the registration number 3724571.

Promotion promises kept

The policemen who murdered Anastácio Matavele were not promised direct money payment for their mission. They were promised promotion in their careers. And indeed, two months and 20 days after the assassination, the promises were kept for three of the five police agents who killed Matavele. They were promoted on 27 December 2019.

Edson Silica, was promoted to the rank of Police Sub-Inspector while Euclídio Mapulasse and Agapito Matavele (who is still a fugitive) were promoted to the category of police sergeants, according to Dispatches no. 6412/GCG/2019 and no. 6447/ GCG/2019, both signed on 27 December by the General Commander of the police, Bernardino Rafael.

In the first dispatch, Bernardino Rafael granted “the rank of Sub-Inspector of Police, on the Medium Scale, with immediate effects to Edson Cassiano de Lacerda Silica”. He was number 5 on the list of names from Gaza province, with the code 09851485. Edson Silica was the driver of the vehicle used during the murder of Anastácio Matavele. In the second dispatch, the General Commander of the Police granted “the rank of Police Sergeant, on the Medium Scale, with immediate effect” to Agapito Alberto Matavele and Euclídio Eugénio Mapulasse, who are numbers 2 and 7 on the Gaza list of names for promotion with the codes 12862529 and 09861562, respectively.

Conclusion

It has been proved that the five agents murdered Anastácio Matavele in an operation coordinated within State institutions. It has also been proved that all the weapons used were taken from the police arsenal in Gaza. There were meetings to prepare the assassination, coordinated by the police commanders, and involving some people linked to the State, such as Henriques Machava and Ricardo Manganhe, the Mayor of Chibuto and his subordinate, the supposed owners of the vehicle.

Instead of immediately holding the agents involved responsible for their actions, they were promoted to higher ranks in the Mozambique Republic Police, three months after the murder. All these developments leave one with the inescapable conclusion that this act was indeed planned at higher levels of the State. Thus, it was a State crime.

One year after the crime, while the Mozambican justice system has been activated under the weight of pressure from civil society to try and to sentence some of the assassins, there sadly is no effort to compensate the victim's family. In this context, the murder of Anastácio Matavele is a matter that should be taken to international mechanisms in defense of human rights so that the Mozambican State may be held responsible for the acts of its agents and offer real and effective remedies to the family of the victim for proper closure.

Text 2: TRANSPARENCY IS REQUIRED IN THE CASE OF PROMOTIONS OF POLICE OFFICERS INVOLVED IN THE KILLING OF ACTIVIST ANASTÁCIO MATAVELE

Based on joint investigation with the weekly SAVANA, CDD made a publication on 26 January 2020 in which it stated that the murder of the executive director of the Forum of Non-Governmental Organizations in Gaza (FONGA), Anastácio Matavele, was a state crime because it was planned and coordinated within state institutions and executed by police officers who appeared to have been acting within the parameters of state instructions.

The publication also concluded that the General Police Command, Comando Geral da Policia, had promoted three of the five officers who shot the human rights activist and defender, consistent with the promise made before the heinous crime was carried out. Edson Silica, who was subsequently tried for the murder of the HRD, was promoted to the rank of Deputy Inspector of the Police, on the Medium Scale; while Euclídio Mapulasse (another accused to stand trial in the murder of the HRD) and Agapito Matavele, (a fugitive from justice), were promoted to the rank of Police Sergeant, on the Medium Scale, after carrying out the extra-judicial execution, as per Dispatch no. 6412/ GCG/ 2019 and no. 6447/ GCG/ 2019, all signed on 27 December 2019 by the General Police Commander, Bernardino Rafael.

Faced with unprecedented public outcry for rewarding murderers after the CDD publication, the General Police Command reacted to the publication by stating that the two dispatches promoting the officers involved in the murder of Anastácio Matavele were revoked. The General Police Command also said that the names of Edson Silica, Euclídio Mapulasse and Agapito Matavele were on the list for promotions before 7 October, the day on which the three officers participated in the execution of the crime in the city of Xai-Xai.

However, the General Police Command did not present the orders that revoke the promotions of the three officers, which raises doubts about the veracity of the authorities' version. Even at the insistence of the press, the spokesman for the General Police Command, Orlando Mudumane, refused to show the revocation orders, arguing that it was internal information. However, this argument is not justified, since promotions in the Police are acts in the public domain and the respective patenting ceremonies of promoted officers are witnessed by the press, at the invitation of the General Police Command itself.

To the press, Orlando Mudumane presented three versions about the moment when the orders would have been revoked: to SAVANA he said that the revocation of the orders happened between three and four hours after their publication; in a second moment, he stated that the revocation had happened between three and four days after the promotion; to the weekly Canal de Moçambique, he indicated that promotional orders were revoked in less than 24 hours. These contradictions and inconsistencies created serious doubt about the truthfulness and validity of the General Police Command's version of the existence of revocation orders.

In addition, the only revocation order to which the press had access to dates back to December 31, 2019, and it was signed by the then Minister of the Interior, Basílio Monteiro. In that order, under number 518/GM/h.5.R/2019, Basílio Monteiro revoked order no. 380/GMI-5th/ 023.42/2019, which promoted PRM officers, 11 of whom did not meet the requirements required for that purpose. The list consulted by SAVANA does not contain any names of the officers involved in the murder of Anastácio Matavele.

For the sake of transparency and institutional credibility, the General Police Command should publicize the supposed orders that revoke the promotions of Edson Silica, Euclídio Mapulasse and Agapito Matavele. In fact, the publication of the revocation orders is the only way that the General Police Command has to prove that it has backed down on its decision to promote officers accused of committing a heinous crime.

Without the revocation orders published or shown to the press, the reasonable doubt remains that they do not exist; that the General Police Command maintained the promotion of the officers involved in the murder of activist Anastácio Matavele and it is only buying time, hoping that the pressure from the press and civil society on the matter will soon elapse. In fact, institutional practice in Mozambique shows that some decisions are verbally announced just to manage public expectations and calm pressure from more demanding segments of society. But in fact, such decisions never existed, because at no time were they taken according to the rules of public administration. The announcement of the revocations of the promotions in this case could be just a public relations management exercise.

It happened in Parliament, Assembleia da República, when in June 2019, the then President of the highest legislative body announced that the then MP and Finance Minister Manuel Chang, arrested in South Africa for his direct involvement in corruption, money laundering and illegal debts, would also be arrested if he were extradited to Mozambique. Verónica Macamo said that the immunity of the former Finance Minister had been “relaxed”, a figure that does not exist in the Mozambican legal system. Later, it was discovered that the announcement of the then President of Mozambique's Parliament, Assembleia da República, was part of a scheme through which the State intended to manipulate and “relax” national public opinion and deceive the South African authorities.

The General Police Command must present the revocation orders duly signed by the competent authority and clarify the question of the exact date on which they would have been issued. This is the only way in which the suspicious public can be assured that the revocations of the promotions indeed happened genuinely.

The brazen extra-judicial execution of HRD Matavele in broad day light, by state security agents, seemingly executing a state plan, the subsequent promotion of the assailants within the Mozambique police force, the inability or unwillingness of the judiciary to offer remedies to the surviving family of the deceased and the impunity enjoyed by the planners and financiers of the crime all point to a failure of effective local remedies, and a general climate of impunity for the murder of Anastácio Matavele. This recommends that the matter must be brought to international mechanisms for the defense of human rights so that the Mozambican State is held responsible for the acts of its officers.



Text 3: COURT IGNORES REQUEST TO OBTAIN EXTRACTS OF THE PHONE

CONVERSATIONS BETWEEN THE ACCUSED

On 6 February, the Gaza Provincial Law Court concluded the adversarial investigation of the case of the murder, on 7 October 2019, of the social activist Anastácio Matavele. After submitting the provisional charge sheet in November 2019, the Public Prosecutor's Office requested the opening of the adversarial investigation, which is the phase that seeks to explain and complete the circumstantial evidence through a broader investigation.

In this phase, the Public Prosecutor's Office was interested in obtaining a clarification about who ordered the guns from the arsenal and who returned them to the same place. The Public Prosecutor was also interested in ascertaining the circumstances under which the vehicle used in the crime was sold and was then later lent out to the men who shot Anastácio Matavele dead. To this end, a confrontation was requested between the legal owner of the vehicle (Henriques Machava, mayor of Chibuto) and the supposed buyer. The court accepted all the measures requested by the Public Prosecutor's Office.

Also during the adversarial investigation, the lawyer for the victim's family asked the Gaza Provincial Law Court to take measures to obtain extracts of the telephone conversations between the accused on 5, 6 and 7 October 2019. This is a measure regarded as essential, since there is a strong chance that the recordings of the conversations between the accused on the eve of the murder and the day of the crime itself may reveal facts that would be important for the definitive charge sheet.

However, the court announced no decision with regard to this request by the family's lawyer. It did not order

the mobile phone companies to provide extracts from the conversations between the accused, nor did it reject the request. Under the law, the judge may reject measures requested, if he regards them as irrelevant for the discovery of the truth. But this rejection should take the form of a dispatch giving reasons. Mere silence is not adequate and may amount such is in this case to a critical failure by the judiciary to safeguard evidence necessary to ensure a fair trial and an effective remedy.

Faced with the Court's silence, the family's lawyer may advance with an insistence to obtain extracts from the calls between the accused. But there is a problem here: The Court may, if faced with an insistence, authorize the measure and, in response, the phone companies may say they do not have available the extracts of phone calls made many months ago (on 5, 6 and 7 October 2019). Hence, there is a fear that the Court's silence towards a request made by the lawyer for the victim's family in November 2019 may be deliberate, precisely in order to make access to the conversation difficult. This would deprive the surviving family access to the truth and to an effective remedy and reparations.

The strategy of the accused – blame those who are absent

The CDD has observed that during their trial the accused adopted the strategy of blaming their “colleagues” Nóbrega Chaúque and Martins Williamo – who died in the traffic accident that happened immediately after the crime, and the only one of the accused who is on the run, Agapito Matavele.

For example, Euclídio Mapulasse, as an awaiting trial prisoner, claimed, in his first interrogation, that the order was “to shoot at the victim's legs to prevent him from walking”, and not necessarily to shoot to kill, as happened. But, after receiving instructions, Mapulasse gave another version, claiming that he did not even know what the mission was to which he had been called by Agapito Matavele, now a fugitive. Furthermore, he said that those who requisitioned the guns from the barracks and fired on the social activist were the fugitive Agapito Matavele and the late Nóbrega Chaúque and Martins Williamo.

As for the Frelimo campaign T-shirts and caps which the death squad received, Mapulasse admitted that he had picked up the propaganda material from the premises of the ruling party in Xai-Xai, but said he did so on the instructions of Agapito. A Frelimo representative heard by the Court said that the propaganda material picked up by Mapulasse had been requested from the party by Agapito Matavele, for himself and his family.

Another of the accused who blamed colleagues absent from the trial is Edson Silica, the driver of the vehicle used in the crime. He said it was the late Nóbrega Chaúque who delivered the car to him on the morning of 7 October, and that he only became aware of the mission at that moment from the fugitive Agapito.

For their part, the two commanders of police sub-units, namely Tudelo Guirruço, of the Special Operations Group, and Alfredo Macuácuá, of the Rapid Intervention Unit, also deny giving orders for the murder of Anastácio Matavele. They say that at no time did Agapito Matavele, regarded as the head of the death squad, tell them anything about the mission.

Agapito Matavele: on the run or protected?

The strategy of blaming people who are absent during the trial was thought up in order to make it difficult to explain in full the crime which silenced one of the most non-conformist voices of civil society in Gaza. With the accused pointing fingers at people who are dead and one who is a fugitive from justice, it will be difficult for the trial, to determine who really ordered and carried out this heinous crime.

In Xai-Xai, it is speculated that Agapito Matavele may have taken refuge in the house of a relative in Tembisa, in South Africa. But nobody can say whether the Mozambican police are still working to locate him or have already closed their investigations. The assassination of Anastácio Matavele is a state crime (it was coordinated and executed by agents of authority and with guns belonging to the State). It is not credible that the police are mobilising all their resources to locate and arrest Agapito Matavele, the suspect whom today everyone else is blaming.

This fear gains further support from the fact that the General Command of the Police promoted three agents involved in the crime, just as promised. Although the police later said that the promotions had been revoked, the fact is that the General Command has not yet publicly presented the dispatches showing that the promotions were indeed revoked.

Without the arrest of the key figure for clearing up the crime, the autonomous case opened against Agapito Matavele will never have any material evidence to go forward. Since there are no such things in Mozambique as private detectives, the location and capture of Agapito depends solely and exclusively on the Police of Mozambique and cooperation with the South Africa Police Service if indeed it is true that he escaped to South Africa after the killing.

A further aspect of this case worthy of attention is the speed of the “investigations”, in a country where cases normally move at a snail’s pace. For example, the National Criminal Investigation Service (SERNIC) concluded the preparatory investigation in less than two months, a national record for cases as complex as the Matavele murder.

Those who have been in contact with the case file speak of gaps in the “speedy” investigation by SERNIC, and this situation could weaken the definitive charge sheet. Whether they were premeditated or not, these gaps will be exploited by the defence during the trial to minimise the involvement of the accused persons in the crime. Speaking of the defence, it should be mentioned that one of the lawyers for the accused is Elísio de Sousa, a jurist who is an outspoken supporter of Frelimo. His latest analyses read like official narratives by those holding political power.

Accused do all to clear the State of responsibility

The CDD has always argued that the assassination of Anastácio Matavele is a state crime. All those involved are agents of the police, some of them in positions of responsibility. The guns used were requisitioned from and returned to State arsenals. The agents acted during normal working hours, and three of those involved were promoted by the General Command of the Police. But Euclídio Mapulasse and Edson Silica say they became aware of the mission on the day of its execution and acted on their own account. That is, they deny receiving orders from their superiors to assassinate Anastácio Matavele, although one of them at one point let it escape that they were promised promotions in their careers as a reward.

The strategy is to convince the Court and society to believe that the murder of the social activist was a common crime committed by simple criminals. In this case, the State would not be called upon to bear civil responsibility – that is to pay compensation and reparations for the damage done by its agents to the family of Anastácio Matavele.

Hence the CDD has always argued, and continues to argue that the “Matavele Case” should be taken to the international mechanisms that defend human rights so that the Mozambican state may be held responsible for the acts of its agent.

PART 2: THE TRIAL OF THE POLICE OFFICERS INVOLVED IN THE ASSASSINATION OF THE ACTIVIST AND HUMAN RIGHTS DEFENDER ANASTÁCIO MATAVELE

DAY ONE: THE LONG STRUGGLE TO HOLD THE STATE ACCOUNTABLE HAS BEGUN

DAY TWO: THE ELÍSIO DE SOUSA PHENOMENON, THE REVELATIONS OF THE PLATOON DRIVER AND THE GOE COMMANDER

DAY THREE: STATEMENTS BY THE UIR COMMANDER SHAKE THE NARRATIVE OF GOE OFFICERS

DAY FOUR: THE TOYOTA MARK X OWNER SAYS HE LENT THE CAR TO A FRIEND AND “BROTHER IN CHRIST”, NÓBREGA

DAY FIVE: MATAVELE’S SON SUSPECTS THE EXISTENCE OF POLITICAL MOTIVATIONS IN THE CRIME AND SAYS THAT SERNIC DID NOT RETURN HIS FATHER’S CELL PHONE

DAY SIX: CHICHONGUE, THE DEPONENT, AGENTS’ CONTRADICTIONS AND ORDERS FROM THE UIR, ARMY CHIEF OF STAFF

DAY SEVEN: “COMRADE” MACHAVA: A DEPONENT WHO SHOULD BE SEATING ON THE DOCK

DAY EIGHT: THE DAY THE JUDGE PULLED OUT THE HAMMER TO PREVENT THE COURTROOM FROM BECOMING A CIRCUS



DAY ONE: THE LONG STRUGGLE TO HOLD THE STATE ACCOUNTABLE HAS BEGUN

Confined in a modest courtroom in Gaza Province Judicial Court, three judges from the fourth criminal section, two prosecutors, two lawyers for the Matavele family, five defense lawyers, deponents, bailiffs, and prison guards witnessed the start of the trial of the seven defendants accused of shooting the social activist, Anastácio Matavele.

COVID-19 reduced the audience's attendance in the courtroom and helped to mask the defendants' facial appearance, but not their identity. They are Euclídio Mapulasse, 33 years of age, 1st corporal of the Police assigned to the Rapid Intervention Unit (UIR), in the Special Operations Group (GOE); Edson Silica, 34 years of age, deputy police inspector at GOE; Tudelo Guirruogo, 46 years of age, GOE commander in Gaza; Alfredo Macuácuá, 46 years of age, PRM member and commander of the Rapid Intervention Unit (UIR) in Gaza; Justino Muchanga, 53 years of age, member of PRM and responsible for UIR arms depot in Gaza; Januário Rungo, 51 years of age, member of PRM and chief of the UIR staff in Gaza, Ricardo Manganhe, 41 years of age, a teacher.

The following respond in freedom: Ricardo Manganhe, the teacher who brought the Toyota Mark X to the snipers and used in the murder, accused of material authorship of the crime of association for delinquency and complicity in qualified homicide; Justino Muchanga, accused in the crimes of covering up the qualified homicide and forgery practiced by a public servant; and Januário Rungo, also accused of covering up the homicide and complicit in the crime of counterfeiting. The defendants Edson Silica, Euclídio Mapulasse, and Tudelo Guirruogo are held in preventive detention for the material authorship and consummated crime of qualified homicide, and the crime of association to commit a crime. Also in preventive detention, commander Alfredo Macuácuá is responsible for the crime of moral authorship, in the consummated crime of qualified homicide, and the crime of association to commit a crime.

FRELIMO member Henriques Machava, Chibuto's mayor, had a resounding and overwhelming luck to escape the accusation, although he was the owner of the vehicle used in the crime. In the indictment, the Public Prosecutor's Office says that Machava gave up his Toyota Mark X to his colleague and education technician in Chibuto municipality, Ricardo Manganhe. The latter, in turn, handed over the vehicle to Nóbrega Muchanga for the crime, which took place 48 hours later. The proximity between him handing over the car and its use in the commission of the greasy murder leaves more questions than answers about his role in the murder.

Mapulasse: the special agent who participated in the mission without knowing anything about it

After reading the final indictment and the order for pronouncement, Judge Ana Liquidão started the hearing of the defendants, calling to the front seat Euclídio Mapulasse. 1st Police Corporal with 11 years in the corporation. Mapulasse confirmed that he was part of the platoon that took Anastácio Matavele's life, but he denies having shot the victim. "I was sitting in the middle. There was no way", he said in response to the question if he would have shot Anastácio Matavele. Even if he was sitting at the door of the car, he said that he "couldn't" shoot. But why? "I don't know; I don't have an answer."

Basically, Mapulasse gave the impression that he was an accused who knew nothing about the mission: he said that the one who knew everything, the victim to be killed, and the reasons for the killing is Agapito Matavele, the platoon commander who is on the run since October 7.

It was Agapito who informed him, on September 19, that he had a mission to carry out and that had to interrupt working or, better, interrupt his "shift", in police language. On the same day, he went to the UIR's arms depot to pick up the Chinese 9mm Norinco handgun for the mission. He left the gun in a case in the barracks and did not pick it up until October 6, the day before the crime. But he never fired it: "It was Agapito

and Martins Williamo who fired (Williamo died in the accident in which the defendants' car was involved after Matavele's murder). There were 13 bullet holes counted on the driver's side.

He confirmed that he had participated in the meetings on October 4, 5, and 6, but yesterday he denied that they had been summoned to discuss the mission and the distribution of tasks. Commander Agapito did not speak about the mission. "He just invited us and when he got there he started paying for beer". First, it was in the social center at Centro de Recrutamento in the city of Xai-Xai and later at the Xirico bar.

However, at the first interrogation, he said that these meetings were to discuss the mission and that the UIR commander, Tudelo Guirruogo, who coordinated the preparatory acts, participated in them. In addition to being the location for the preparation of the mission, and the drinking of beer, the Xirico bar is mentioned as the place where the platoon received t-shirts, capulanas, and caps during Frelimo's campaign, from Alfredo Augusto Chichongue.

Even at the first interrogation, Mapulasse said that Matavele's murder should have been committed before October 7, but this did not happen due to the presence of Filipe Nyusi in Gaza province. In fact, Frelimo candidate campaigned in that province between October 1 and 3, 2019, and four days after leaving Gaza, Matavele's voice was silenced.

In addition to the strategy of "assigning" the blame to the colleague who died in the accident and the fugitive Agapito Matavele, yesterday, Mapulasse said that he was still traumatized by the accident when he was subjected to the first interrogation, consequently he made revelations that he does not subscribe to today.

In the accident on October 7, Mapulasse suffered minor injuries, in so much that he left the accident scene and walked to a sister's home, whom he asked to call Januário Rungo, the UIR chief of staff in Gaza. But he ended up being rounded and detained at the 2nd Police Station.

Flávio Menete reinforces the assistant of Matavele's family in the struggle to hold the State accountable

Scheduled to start at 9:00 am, the first session of the trial did not begin until 10:30 am. The delay was because the lawyer for the Matavele family's assistant requested the court to include another lawyer, namely Flávio Menete, the former president of the Bar Association.

The request was accepted, and it is with two lawyers that the Matavele family fights to hold the State accountable for the crime committed by its agents, some of whom hold leadership positions in the police hierarchy. On the other hand, the Public Prosecutor's Office insists that the murder of Matavele was of particular interest to the defendants, which is why it argues that the State cannot be jointly and morally obliged to pay a compensation of 35 million meticaís in favor of the victim's heirs.

It is a legal battle that promises heated debates at this stage of the hearings of the trial, and the kick-off was given yesterday, when Matavele's family lawyers protested, next to the court, against some questions posed by the Public Prosecutor's Office



Flávio Menete

to the defendant Mapulasse. In an attempt to demonstrate that Matavele's murder was not a state crime, the Public Prosecutor's Office insistently asked whether the accused knew how to distinguish a state mission from a particular interest.

And whether the mission that took Matavele's life was state-owned or not. The lawyers for the Matavele family understood that these questions were biased and forced the defendant to pass judgment. Even so, the court authorized Mapulasse to respond, and he said that from the moment he was arrested he began to believe that it was not a state crime. However, he said he did not derive any personal benefit from participating in the mission that he claims to be unaware of its true motivations.

The defendants continue to receive their salaries even as they were going through the trial for murder, but Mapulasse said he did not know whether the salary increased or decreased after the crime was committed. And he said he did not remember the bank through which the state pays his salary.

When asked whether he was subject to disciplinary action by the police, Mapulasse responded positively but said there was still no decision. "The instructor of the disciplinary process is Albino Xavier Nhanombe, the chief inspector of the Police".

The zealous officials of the Court of Gaza were responsible for screening those who may have access to the court session room. All of this was done in the name of COVID-19 even though suspicion abound that it was to minimise scrutiny of the proceedings in the important case of potential state impunity for egregious human rights violations

DAY TWO: THE ELÍSIO DE SOUSA PHENOMENON, THE REVELATIONS OF THE PLATOON DRIVER AND THE GOE COMMANDER

The second day of the trial of Anastácio Matavele's "murderers" had a tense start. Elísio de Sousa, who was absent in the first session, was present for the hearing of his client Edson Silica, the Toyota Mark X driver used by the platoon on the fateful October 7. His notorious and controversial style on social media came to the fore in the room when he immediately questioned the fact that the Matavele family assistant was represented by two lawyers.

Félix Mucache and Flávio Menete argued that the law does not prevent an assistant from being represented by two lawyers, but Elísio de Sousa insisted that only one should be in the room. Basically, the defense scheme of Matavele's murderers was "shaken" by the presence of the former president of the Bar Association, called to reinforce the legal assistant team of the victim's family. However, because Judge Ana Laquidão had already authorized the presence of Flávio Menete at the beginning of the trial, an agreement was reached: the two lawyers will continue to work side by side in the courtroom, but only one can intervene in each session.

When the judge was preparing to start the hearing of Edson Silica, Elísio de Sousa raised yet another "previous issue" that bothered him: the presence of two magistrates representing the Public Prosecutor's Office (MP). Leonardo Cumbe and Luís Vianheque responded by stating that nothing prevents the Public Prosecutor's Office from being represented by two magistrates. "We are here because we were appointed by the Superior Council for the Judiciary of the Public Prosecutor's Office. You are raising previous questions that should have been raised on the first day of the trial", said one of the magistrates. Elísio de Sousa referred to his past as a public prosecutor to say that he had never witnessed a similar situation. Time was passing by and the judge had to intervene to restore order and start the hearing of the defendants.

Edson Silica: from a Counter-Terrorism Unit member to the terror squad driver

According to the defendant questioned by the court, Edson Silica has been in the police force for 13 years, with the rank of sub-inspector and, at the time of the murder, he was a patrolman of the Special Operations Group (GOE), assigned to the Terrorism Combat and Hostage Rescue Unit. But on October 5, 6, and 7, the GOE patrolman assumed the role of the driver of the platoon that terrorized the city of Xai-Xai and put Gaza on the script of the crimes committed by the “death squads”. Dressed in the unmistakable orange prison suit and slippers, he answered part of the questions seated, for he has not yet fully recovered from the October accident.

Unlike Agapito Matavele and Euclídio Mapulasse who left the accident site on their own, Edson Silica was rescued to the hospital where he regained consciousness. “I just remember that, when trying to overtake, I noticed that the car was going to hit headlong against an incoming vehicle. I tried to swerve, but I lost control of the vehicle”, he told the court.

At some points during the hearing, Edson repeated Mapulasse’s testimony exactly, such as, for example, assuming a neutral role in the crime; naming the fugitive Agapito Matavele as the “mastermind” of the murder and one of the snipers; the self-portrait of a police officer who goes on a mission without knowing what it is about; the redefinition of the meetings at the Centro de Recrutamento Militar and “Xirico” bar as simple meetings for beer; and assigning blame at those who cannot defend themselves in court (the dead) and the fugitives.

Even so, there were contradictions: Edson said that Tudelo Guirruogo (the GOE commander) participated in the meetings of October 4, 5, and 6, however, on Tuesday Mapulasse had said that he only saw Commander Tudelo at the bar; Edson said that when he put the Toyota Mark X in parallel with the victim’s vehicle, the order to fire came from the back seat



Edson Silica

and Agapito and Martins Williamo lowered the windows and started shooting at point-blank. Yesterday, Mapulasse said that the shots started to sound after Agapito gave the order: “Shoot!”.

Asked if he knew who the victim was, Edson replied that Nóbrega Chaúque (who died in the accident) had said, minutes before the crime, that they were going to “assault an old man with a lot of money”. But he did not know or ask why the “old man with a lot of money” was not assaulted but riddled with bullets. About the origin of the Toyota Mark X, Edson Silica gave his version stating that it was Nóbrega who asked him to keep the car for a few days. “He didn’t have a license, so he asked me to drive. We went to where we had parked the car and he handed me the keys, but he didn’t give me any documents”. This was on October 5. But orders to collect the squad mates on October 6 and 7 came from Agapito.

Elísio de Sousa: the “one-man show” that disturbed the session

After the invective against the pair of state magistrates and against lawyers from the Matavele family, Elísio de Sousa returned to the scene when the judge passed the floor to others. Repeatedly and even tiringly, Elísio de Sousa questioned the state magistrates, interrupted them, protested their questions, judging them to be biased, sometimes subjective and suggestive, giving free law lectures.

Because of the judge’s leniency, there was real confusion in the room. However, the state magistrates did not give up and reminded Elísio that the court, not he, was in charge of the trial. “Doctor Elísio de Sousa is not the president of this session. If you want to be the protagonist, it won’t be here”, they warned. The judge gave the floor to the lawyer for the Matavele family.

Félix Mucache was still asking Edson Silica the third question when he was interrupted by Elísio de Sousa, who already assumed the role of correcting questions. He protested the question about the name of the bank through which the defendant received his salaries, repeating that it was confidential and private information; he repudiated the question about the number of elements that make up a platoon and a company, stating that it was a sensitive issue and it was a state secret.

In the midst of several interruptions, the lawyer for the Matavele family had to appeal for the intervention of the court, which was tolerant of indiscipline in



Elísio de Sousa

the room. But the most hilarious moment was when Judge Ana Liquidão gave the floor to the defense. Elísio de Sousa warned his defense colleagues that he would be the only lawyer to question his client. And he used the Penal Procedure Code to support his innovative thesis according to which the defendant can only be questioned by his lawyer and not by other members of the defense. He was opposed and all the lawyers asked Edson Silica questions.

Tudelo: the GOE commander who collected the AK 47 used in the crime

A police officer for 27 years, Tudelo Guirrujo holds the rank of chief inspector and at the time of the crime, he commanded GOE in Gaza. On October 7, Tudelo was not with the snipers in the vehicle and complained that he was unaware of the mission that his direct subordinates had that day. But that does not minimize the level of his involvement in the crime. According to the case file, Tudelo said that it was he who selected the five special agents who were part of the platoon and that he did so at the

behest of Alfredo Macuácuá, the Rapid Intervention Unit (UIR) commander in Gaza. Later, he presented a new version, saying that after receiving the order from his superior, he commissioned Agapito Matavele to form the platoon to carry out the mission. However, yesterday, he denied his statements and said that he involved the name of his superior (Alfredo Macuácuá) because he was desperate and thought that by so doing, he could escape. But he did not escape, because after he was suspended,

he was accused and detained later, and today he is in prison clothes.

He confirmed that he was present at the meetings on October 4, 5 and 6, but repeated his colleagues' version that nothing related to the mission was discussed. They were just meeting for a glass of beer. Despite insisting that he knew nothing about the mission of his subordinates, Tudelo was the person with whom Agapito Matavele spoke over his cell phone on three occasions and they exchanged 21 messages when Agapito was on the run. In other words, Agapito left for an unauthorized and unknown mission by his commander, but it is this superior who called and told him to go get the weapon hidden in the cemetery in Xai-Xai.

At the court, he confirmed that he went to the cemetery alone to fetch the weapon and at that time (17:00) he already knew that the AK 47 had been used by Agapito and other colleagues in the murder of Anastácio Matavele. However, he did not share the information with his colleagues and went alone to the cemetery to collect the weapon used in the crime and took it back to the arms depot without checking anything.

The only thing he did together with the security at the arms depot was to count the bullets in the AK 47. "There were 29", he answered inconclusively, as he said he did not check how many bullets were in the weapon when it was checked out the day before. The lawyers of the Matavele family asked, and rightly so, whether he even considered it normal for a commander to take a weapon from the cemetery and return it to the arms depot without checking whether it was used.

Once again, Elísio de Sousa protested the question because he considered the word "normal" subjective. But when his turn to make questions came, he repeatedly used the same word and the judge did not spare him. When he returned the gun, Tudelo forged his signature to evade investigations, but he revealed that he has two signatures. He does not know whether they continue to pay his salaries. He says that no disciplinary proceedings have been opened against him, despite his inappropriate and reprehensible conduct.

DAY THREE: STATEMENTS BY THE UIR COMMANDER SHAKE THE NARRATIVE OF GOE OFFICERS

When it was 12:45 pm, on day three of the trial, Judge Ana Laquidão announced a short recess, a kind of transition between the last hearing of the four detained defendants and the first of the three who are out of custody. In the morning, the court questioned Alfredo Macuácuá, 46 years of age, Commander of the sub-unit of Gaza Rapid Intervention Unit (UIR) who was suspended a day after the murder of Anastácio Matavele and later imprisoned.

He was the Head of UIR Barracks, the place where both the weapons and the men who shot the social activist, in the middle of the election period, came from. In the afternoon, the first defendant, who responds in freedom, was heard: Deputy Superintendent Januário Rungo, 51 years of age, UIR Army Chief of Staff in Gaza province.

He is the second in command for this subunit of the special police forces. At the hearing of the detained defendants, Judge Ana Laquidão defined a hierarchical criterion and started from the bottom up: she heard, first, GOE patrolman, Euclídio Mapulasse, the 1st Corporal in the police ranks; then she inquired Deputy Inspector Edson Silica, also GOE patrolman; then it was the turn of the Chief Inspector, Tudelo Guirruço, GOE Commander; and finally, the Superintendent Alfredo Macuácuá, the UIR Commander.

A police officer for 28 years, Alfredo Macuácuá made a statement that goes against the narrative of GOE officers. Mapulasse, Silica, and Tudelo threw responsibility to Agapito Matavele, a fugitive, and his colleagues Williamo Martins and Nóbrega Chaúque who died in the accident that made impossible creating an alibi for the murder of Anastácio Matavele.

The UIR Commander told the court that a Platoon Commander has no autonomy to define a mission and that missions are never confidentially communicated to officers, even in emergencies. "The UIR sub-unit Commander receives missions from PRM Provincial Commander, who passes the order to his Deputy, the UIR Army Chief of Staff. The latter, in turn, coordinates the mission with the operational technical team



made up of the operations division, two Company Commanders (from UIR and GOE), and the Chief of Reconnaissance.

The Army Chief of Staff coordinates with the Company Commander about the selection of officers who will integrate the mission. And they are informed at the police parade”. With these words, Alfredo Macuácuá deconstructed the version of GOE officers, in which Agapito, a fugitive, as a Commander of GOE Platoon, was the one who defined the mission to murder the social activist and made the screening of the officers that integrated the squad.

The UIR Commander countered the version according to which GOE officers are allowed to leave their weapons in Barracks, even when they are outside (the Barracks). Commander Macuácuá was adamant: “Agents are not allowed to leave their weapons in Barracks and go outside. When agents enter the Barracks, they collect the weapons in the arms depot and sign the register where the number of the weapon and the quantity of ammunition are recorded.

When the work schedule or mission ends, they return their weapons to the arms depot”. Remember that Euclídio Mapulasse told the court that he collected his Norinco handgun on September 29 and Edson Silica on September 24, and both left their weapons in the Barracks. Only on October 6, that is, on the eve of Matavele’s murder, that they took the handguns. Apart from the security officer and the arms depot, arms control is carried out by the Chief of ordnance, Chief of Internal Information and Army Chief of Staff, and all report to the UIR Commander. However, Alfredo Macuácuá said that from 19 September to 6 October, last year, he was not informed of any problems in the arms depot and he admits that there were failures in weapons control.

When asked about the circumstances in which a Commander can return a weapon collected by his subordinate to the arms depot, the UIR Commander pointed out two examples: when an officer dies on a mission or is seriously injured. But even in these circumstances, “the Commander should verify if the weapon has been used and check the quantity of bullets with that recorded quantity when the weapon was checked out”.

However, on October 7, Tudelo Guirruogo, GOE Commander, returned an AK 47 from his subordinate (Agapito) to UIR arms depot without examining whether it had been used and without comparing the number of bullets in the weapon with the amount re-

corded when the weapon was checked out. It is the weapon used in the murder of Matavele and which was later hidden in a cemetery by Agapito, in Xai-Xai, when he was on the run after surviving the accident that followed the crime.

“I don’t know why Tudelo did this to me”, says Alfredo Macuácu

On the fateful of October 7, the UIR Commander said that he was in the office when he received a call from the PRM Provincial Commander informing him of an accident involving armed men. Alfredo Macuácu instructed the UIR Army Chief of Staff, Januário Rungo, to send a group of officers to the accident site. Minutes later, he was informed that those involved in the accident were colleagues from GOE.

“I sent for the GOE Commander (Tudelo) to find out if he was aware of a mission by armed men from his company. He said he didn’t know any men were out on a mission”, Macuácu said, recalling that the number of GOE officers is controlled by the respective Commander. “Then, I instructed back the Army Chief of Staff to go to the arms depot and see if colleagues from GOE would have collected weapons. He found that some weapons had been checked out and I remember mentioning that, at least, one AK 47 was missing”.

With this information, the number one UIR member picked up his cellphone and called to update the PRM Provincial Commander about what happened. “I also informed the Provincial Commander that I still did not have a clear explanation of what happened, since the colleagues sent to the crime scenes were still on the ground.”

He said he did not know who was part of the team assigned to the accident site and did not mention the name of Tudelo, who on day two of the trial claimed to have been one of the officers involved. However, Alfredo Macuácu said that he spoke to the GOE Commander at the UIR Headquarters, moments after being informed that those involved in the road accident were officers from Tudelo’s company. I learned about Matavele’s murder hours later, but before that, I had received calls from people who said that “your men had an accident because they were fleeing after shooting on someone and took his money”.

When he was heard in October, the GOE Commander said he was the one who selected the five special officers who made up the killing squad led by Agapito Matavele. Tudelo said that he did this work at the behest of Alfredo Macuácu, the UIR Commander. On another occasion, he made a different statement, saying that, after receiving the order from his superior, he assigned Agapito Matavele to form the squad to execute a mission. But, on the second day of trial, he justified that he involved the name of Alfredo Macuácu because he was desperate with the suspension and thought that, by doing so, he could escape. When confronted by the court with these statements from his subordinate, the UIR Commander was brief in his reaction: “I don’t know why Tudelo did this to me”.

“GOE is not accountable to the UIR Army Chief of Staff”, says Januário Rungo

A police officer for 32 years, Januário Rungo did not bring “great news”, despite being one of the chiefs responsible for weapons control. When the first weapons used in the crime were collected on September 19, he had been on a mission in Niassa, since July 19. He returned to Xai-Xai on September 10 but had to interrupt his 15-days rest and returned to work on the 18th. Due to the number of “typical activities during the electoral period”, the UIR Army Chief of Staff said that, since his return, until October 7, he did not carry out any supervision of the weapons.

He cannot say why and under what circumstances the GOE officers involved in the murder of Matavele re-



mained with their weapons for so long. “GOE is not accountable to the Army Chief of Staff. GOE Commander reports directly to the UIR Commander. With the Army Chief of Staff, there is only work coordination. But we have no intervention in GOE missions”.

Because GOE is one of the companies that compose the sub-unit of UIR Province, its Commander is, in terms of hierarchy, inferior to the Army Chief of Staff, who is a kind of Assistant Commander of the UIR. But Januário Rungo insisted that the best he could do is to cooperate with GOE. Perhaps that’s why he learned that it was the GOE Commander who returned the AK 47 used in the murder to the arms depot. After Alfredo Macuácuá’s suspension from the duties of UIR Commander, Januário became responsible for the Barracks. And it was under his watch that two handguns, which had been used in the crime and were lost, were recovered. He says he informed the PRM Provincial Commander about the recovery of the weapons and instructed Justino Muchanga to sign their return in the control register. He confirmed that he was the one who sent a group of officers to the accident site and instructed them to detain Euclídio Mapulasse, who was hiding in his sister’s house, after abandoning the car involved in the crime.

Judge loses patience and shouts: “Doctor Elísio, control your tongue!”

Day two of the trial was a quiet day in the courtroom of Gaza Province Judicial Court. The hearing of the two defendants took place without those unnecessary inquiries that occurred on Wednesday. The reason for the quietness was Elísio de Sousa’s silence. He did not take the “previous questions” to the room and, during the hearings, avoided at most evaluating and correcting the questions of the other procedural subjects.

But when he was given the floor, the man spoke up and justified the reason for the atypical silence: “Today I avoided asking my colleagues to avoid being seen as a judicial troublemaker. However, I feel that my colleagues are always asking questions to feed newspaper headlines”. The judge did not like it and said: “Doctor Elísio, control your tongue! Nobody is here to be in the press, we are doing our job and we are not concerned with the things that appear in the newspapers”.

After the Brooklyn (New York) mission, the showy lawyer is now in Xai-Xai defending the officers involved in the murder of Anastácio Matavele. As he revealed on his Facebook account, Elísio de Sousa has been the Lawyer of PRM General Command for two years and is in this capacity that he is defending the suspects in preventive detention.

It is by law that a member of PRM is entitled to legal assistance and sponsorship in all criminal proceedings in which he is accused or offended in his honor and

dignity, due to facts related to the work. Thus, after dispatching his lawyer to Xai-Xai, to defend the accused officers in “Matavele Case”, the PRM General Command is explicitly assuming that the accident platoon commanded by Agapito, a fugitive, was on a work mission the day that they shot the social activist at point-blank. This gives merit to the lawyers of the Matavele family who insist that the State should be held accountable for the damages caused by its officers by paying a solitary compensation to the victim’s heirs.

DAY FOUR: THE TOYOTA MARK X OWNER SAYS HE LENT THE CAR TO A FRIEND AND “BROTHER IN CHRIST”, NÓBREGA

On the fourth day, the Gaza Judicial Court concluded the hearings of the defendants accused of murdering Anastácio Matavele, questioning Inspector Justino Muchanga, Chief of Armaments at the sub-unit of the Rapid Intervention Unit (UIR), and Teacher Ricardo Manganhe, Toyota Mark X owner used in the attack.

In the place of Manganhe, it could have been the Mayor of Chibuto, Herinques Machava, the actual owner of the car, to answer before the jury. When his name was associated with the homicide, “comrade Machava” replied by stating that he had already sold Mark X to Ricardo Manganhe, his subordinate in the municipality of Chibuto, awaiting only the exchange of ownership. And so, he escaped the prosecution from the Public Prosecutor’s Office and completed another chapter of the long script designed to rule out any political motivation in the heinous crime committed a week before the 2019 general elections.

In fact, the story behind the purchase of the car is *sui generis*. On day four of the trial, Manganhe said that, in April last year, he went to Millennium BIM to request for a consumer credit to purchase construction material and a car. However, it was only on August 29 that he paid Henriques Machava, 200 thousand meticais, for the Toyota Mark X, remaining 50 thousand meticais to be paid. When asked by Judge Ana Liquidão why he took almost four months with the money in his account to buy the car, Manganhe replied that the plan was to buy the car in South Africa, so it took him a long time to exchange meticais for rands.



Even with the rands, he no longer traveled to South Africa and preferred to buy the car in Chibuto, the city where he lives and works. The court did not ask him why he gave up on the South African market and under what circumstances he got to know that the Mayor was selling his car. When asked about the type of payment, he replied that it was through a deposit in the account of Machava, at Millennium BIM. “Why didn’t you transfer the amount, if you both have accounts in the same bank,” questioned the court. “I had already bought the rands, but the car owner wanted the money in meticais. Thus, I had to exchange the rands for meticais and deposit it in his account”, he justified.

36 days after buying the Toyota Mark X, Manganhe lent it to his friend and “brother in Christ”, Nóbrega Chaúque, one of the police officers killed in a road accident that followed Matavele’s murder. He told the court that that was not the first time that Nóbrega asked for the car to take care of family issues

and, being a “brother in Christ”, he never bothered to know what it was all about. When the narrative script seemed faultless, here comes the first contradiction with the testimonies of the police officers Edson Silica and Euclídio Mapulasse: Manganhe said that he gave the car to Nóbrega, on October 5, in the city of Chibuto, in a private act not witnessed by others. And that it was Nóbrega himself who took the Toyota Mark X because he had a driving license.

However, Silica (the Platoon driver) had already advanced that, on October 5, he was invited by his colleague Nóbrega to pick up the car which was parked near a school in the city of Xai-Xai. “When we arrived, nobody was there and I don’t know who had left the car. Nóbrega handed me the keys, we got in the car and went to meet the other colleagues”, said Edson Silica, on day two of the hearing.

When asked why Nóbrega was not the one driving the car, Edson Silica replied that his colleague did not have a driving license. And also: both Edson and Mapulasse said that they spent almost the entire

day, October 5, with Nóbrega in the city of Xai-Xai, and did not mention a trip by their colleague to Chibuto. Manganhe told the court that he heard that his car had been used for murder and was afterward involved in an accident, through his colleagues who saw the information on social media. “They saw images of the accident and recognized my car through the license plate.”

Moments after learning about the facts, Manganhe switched off his cellphones because “he was receiving many calls from people who wanted to know what had happened”. After an insistent question, he replied that he switched off his cellphones because “he was traumatized”. However, it was not because of the trauma that Manganhe did not seek to know the circumstances in which his car was used in the crime and afterward involved in a fatal accident: “I took no action because I knew I would be called by the authorities. The police had been at the accident scene and, through the owner of the car, would reach me”.

Inspector Justino, the last to know of the events

He has been working as police for 32 years and is responsible for the UIR arsenal in Gaza. His testimony revealed weaknesses concerning the weapons control system in that special forces sub-unit. The control is done through a register where the exits and entrances of the weapons are recorded. The gunsmith on duty records, in the register, the number of both requested or returned weapons and the respective hours, the agent signs the register while picking up and returning it. “Who knows where the weapons are headed is the Platoon Commander. We only register the stocktaking and collection of weapons and are not involved in operational issues”.

In the records, it is registered that on the night of 6 October, Agapito Matavele and Euclídio Mapulasse went to the arsenal to try to collect different weapons from those assigned to them. “Who was on duty was Daniel Carlos Maússe, a colleague. He called me to inform that two colleagues from GOE were requesting the weapons used by on-call officers. I said I shouldn’t give it”, he said, denying, however, that the episode had happened on the eve of Matavele’s murder.

Despite being a strange request, Inspector Justino assumed that he did nothing to get clarification: he did not try to find out why the “GOE colleagues” wanted different weapons, neither with them nor their respective Commander; and he did not report the case to his superiors.

About Matavele’s murder, he said he learned about it 24 hours later, since he was on his day off, on October 7. And it was on October 8 that he signed the return of two Norinco pistols. “I received instructions from the Army Chief of Staff to sign the register to confirm that the weapons were brought in. When I arrived, the weapons were already in the arsenal and I didn’t know they had been used in the crime”. The two weapons had been requested by Euclídio Mapulasse and Edson Silica in September, but no one from the arsenal noticed the delay concerning their returning.



By signing the return of the weapons, Justino Muchanga knows that he violated the internal regulations that, however, do not exist in the written version. “When the agents who took the weapons are unable to return them, it is the Platoon or Company Commander who must do so. Agapito was not there and Tudelo could not sign because he was suspended”, he explained, without specifying the time when the GOE Commander was suspended.

It was only on October 10 that he did know that the weapons had been used in the murder of Mataleve, when he was called to Gaza Province Prosecutor’s Office. “What did you do next? Did you speak to your superior? Did you ask him to inform SERNIC? Did you ask to open an investigation to clarify when and under what circumstances those weapons were collected?”, asked Flávio Menete, one of the lawyers for the Mataleve family’s assistant.

Inspector Justino did neither. The questions of the former President of the Bar Association forced Elísio de Sousa to break the silence: “I don’t want to intervene; he is not my constituent. But he is being mistreated and the court is being passive. I think there is injustice”, said the defender of police officers who are in custody.

After ending the interrogation of the defendants, the trial resumed the following week with the hearing of the deponents. In the following week of the trial Tuesday was reserved for the victim’s family members; Wednesday was for UIR agents and Zacarias Chichongue, the man who distributed Frelimo capulanas, T-shirts and caps to those involved in the murder; on Thursday was for the turn of the relatives of the two agents who died in the accident and, finally, on Friday, was set aside for “other deponents”, in the words of Judge Ana Liquidão.

DAY FIVE: MATAVELE’S SON SUSPECTS THE EXISTENCE OF POLITICAL MOTIVATIONS IN THE CRIME AND SAYS THAT SERNIC DID NOT RETURN HIS FATHER’S CELL PHONE

On the first day of hearing of deponents, the Judicial Court of Gaza Province inquired the family of Anastácio Mataleve and two employees of the Forum of Non-Governmental Organizations in Gaza (FONGA), the institution where the victim was the Executive Director. Licínio Mataleve, the third to testify, entered the courtroom with confidence: “I know who killed Dad. It was these gentlemen sitting here at the back, the police officers”, he said,

pointing to the defendants. Worried by the surprise statement by Anastácio Matavele's son, the defendants did not hide their discomfort and were agitated in the silent proceedings of the trial sessions.

When asked by Judge Ana Liquidão if he knew the motivations for his father's murder, Licínio did not hesitate to reply: "I don't know what the motivations were. Better than anyone, only they can tell", he said, turning back to the defendants who were already shriveled with the first statement at point-blank. While the judge was taking note, Matavele's son threw a suspicion: "I think Dad's death was politically motivated. He was a social activist and a member of the civil society. My father knew the reality of this province and as the Executive Director of FONGA, he placed people's concerns in the appropriate forums. It is likely that there are people who did not like the way he addressed society's concerns", he said, stressing that he didn't know anyone specifically. Confronted with the defendants' version (Edson Silica) that the mission was "to steal from an old man with a lot of money", Licínio was adamant: "This is blasphemy". And he justified: "My father knew of the needs I was going through and if he had a lot of money, I would be the first person he would help".

Matavele's son was not the only deponent to undervalue the version of "an old man with a lot of money", a last-minute attempt by the defendants to make up a politically motivated murder using brushstrokes from a simple armed robbery. In fact, Sónia Tembe, the secretary of FONGA's board, said that on the fateful October 7, Anastácio Matavele didn't even have money to buy fuel for his car. "After directing the opening of the election observer training, the Director left the room and said that he needed to fill up his car, but he had no money. A colleague gave him a thousand meticaís, and he said goodbye and left". Actually, the only money that "the old man with a lot of money" - in the defendants' version - brought when he was riddled with bullets was a thousand meticaís that he had just received at "Salgadinho da Mamã Argentina", the salon where the training took place, located on the road leading to Xai-Xai beach.

"A mason called saying that I should get a car to help the Director because he had just been shot in the Mocita area. When our colleagues went to the scene, he had already been rescued", said Sónia Tembe, Matavele's Secretary. She was the person who called Matavele early in the morning and said that the Director of FONGA had no trip scheduled for that day: "We were waiting for him to deliver the welcoming address to the training participants. He came and directed the opening ceremony. He left with a promise to return for the closing" - a promise that Matavele never fulfilled, because he was riddled with bullets minutes after leaving the "Salgadinho da Mamã Argentina", she said.

SERNIC has not yet returned the Samsung cell phone from Matavele

Ironically, Abílio Matavele was at "Mahumane bust stop", the place where the Toyota Mark X that transported the sinister platoon of officers of the Special Operations Group (GOE) overturned. He was waiting for his car to be repaired at the garage that operates near the site when he saw a car coming at a high speed and suddenly it overturned. "We all approached to help the victims. The accident had caused a lot of dust, but we could see people injured under the car". And it was amid the dust that "a man with a big gun" appeared running towards the cemetery.

It was Agapito Matavele who was on the run with the AK 47 used in the crime which was later retrieved in the cemetery by defendant Tudelo Guirruço, GOE Commander. "Then we saw more guns in the car and we all left the place out of fear. We realized that the people in the car were not just casual people". But the confirmation that the victims of the accident were not casual people came 10 minutes later when Abílio Matavele learnt that they had shot his brother.

He ran to the scene, but the victim had already been taken to the hospital. He found the car with the broken rear and right-side windows and counted, at least, 10 bullet holes in the driver's door. When he was asked about the goods in the car, he replied that he managed to recover some, including his brother's four cell



phones.

However, agents from the National Criminal Investigation Service (SERNIC) requested the cell phone that the victim used frequently to collect more information and they never returned it. “I don’t remember the name of the agent who got the cell phone and we have not yet recovered it to this

day, and we don’t even know what kind of information they managed to find out.” Matavele’s son added that he went to the police station to get back his father’s Samsung cell phone, but was informed that the device was at SERNIC. “I went to SERNIC and there they said the cell phone was at the Prosecutor’s Office in Maputo”.

Matavele’s son gets emotional when talking about the emptiness that his father left in the family

When the family lawyer asked Licínio to talk about the damage that Matavele’s murder brought to the family, he summed it up by saying that “Dad was the pillar of the family”. It was Matavele who took care of his sick mother, he took care of his sick wife, gave assistance to the family, paid for the children’s school fees, including Licínio’s.

“Dad wanted to build a house that would serve as a base for the family, but with his death, all the projects stopped. And these police officers, who continue to receive visits and food from their families every day, are responsible for that”, he exploded, covered with a lot of emotion. The judge appealed for silence and said he was not the only one who was concerned about what had happened. “The State is also concerned, that is why we are all here. Even if there had been no private complaint from the family, these gentlemen would still be here. This is a sign that the State is looking for the truth to apply justice”, explained Ana Liquidão.

However, the judge’s call for attention exacerbated Licínio’s emotions. “Your Honor, I understand your call for attention. But when you say that the State is concerned, are you talking about this State which cannot locate an individual who is said to be a fugitive. What State is this that cannot locate an individual in its territory? Is he really on the run?”, he asked. In addition to economic losses, Matavele’s son said that his father’s murder is causing psychological problems in the family, especially for the victim’s grandchildren. “I have a niece who keeps asking about her grandfather. And a nephew who is terrified of policemen. He doesn’t want to hear about the police. He’s traumatized”.

FONGA governing board wanted to dismiss Matavele

The deponents (family members and Matavele's colleagues) who were heard yesterday never knew of any death threat against the Matavele. But almost all of them heard from the "press reports" that "FONGA corporate board" was calling for the dismissal of Matavele from the position of Executive Director. The reports were announced in May 2019 and the deponents cited the names of Leovigildo, Chairman of the Supervisory Board, and Manuel Muchabje, Chairman of the Board of Directors, as the faces of the contest. Meanwhile, Anastácio Matavele was killed at a time when preparations were being made for the General Assembly to discuss the differences and, probably, elect new governing bodies.

Eldina Nhantave, a FONGA employee, and Stélio Manjate, the victim's nephew, were also heard, yesterday, as deponents. Nhantave recounted that it was she who took the car that was with Matavele on October 7 to "Dona Arminda's" home. "Matavele's son called to say he wanted to leave the car that was with his father at FONGA. As we don't have enough parking space, I asked Arminda to leave the car at her home. Arminda is the owner of that car, but it was often ridden by the Director and she used FONGA's car, which could no longer drive long distances", she explained.

DAY SIX: CHICHONGUE, THE DEPONENT, AGENTS' CONTRADICTIONS AND ORDERS FROM THE UIR, ARMY CHIEF OF STAFF

The 20th May, 2020, session was the longest day since the trial of Anastácio Matavele's murder began. 12 deponents were heard, including seven police officers assigned to the Rapid Intervention Unit (UIR), a member from the Armed Forces of Defense of Mozambique (FADM), and four civilians. First, the court heard the UIR arms depot officer, Daniel Maússe, and closed the session by hearing Adelino Chaúque, the brother of Nóbrega Chaúque, one of the officers who died in the car accident that exposed the squad of the Special Operations Group (GOE) that silenced the social activist. In the middle, there was a short 15-minute break to stretch, breathe the natural air outside, and hydrate.

In the second part of the day, and when everyone was already tired and psychologically worn out, here comes a striking character: his name is Alfredo Chichongue, a member of the FADM assigned to the Recruitment Center, whose social center hosted, at least, a meeting of the operatives of the sinister GOE squad.

The eleventh deponent of the day, Chichongue, of short stature, arrived into the courtroom with his green balalaika matching the color of his trousers, brown sandals, plus a white mask covering half of his face. He sank into the office chair reserved for deponents and began to unravel the denial script. When asked if he knew the people involved in Matavele's death, he hurried to say that he recognized only Tudelo Guirruogo, "a brother in the church", and Nóbrega Chaúque, his grandfather according to his "tradition", in his own words.

During the preparatory instruction, his name was mentioned by the defendants as one of the people who participated in the meeting on October 4, at the social center on the premises of the Recruitment Center. Yet, he denied that he participated in this meeting or any other meeting with the defendants in the "Matavele case". And, consequently, he denied that he ever distributed T-shirts, capulanas, and caps to GOE officers during Frelimo's campaign. Judge Ana Liquidão insisted on the question and Chichongue, unsuspecting, exaggerated the story: "Your Honor, on October 4, I didn't see anyone at the social center, because when I arrived for work (at the Recruitment Center), I went straight to my office to work. I didn't go through the social center and when I left, around 3 pm, I went straight home".

The lie fell apart when the Public Prosecutor (MP) reminded him that the 4th October is a National Holiday. "How do you say you were working on October 4", asked one of the Prosecutors. "It was a mistake", he corrected himself, without however clarifying to the Court where he was on that day.

When asked why the defendants would quote his name if he did not participate in the meeting, Chichongue replied: “I don’t know, I don’t know. The last time I was with Nóbrega was in 2017, and with Tudelo, it was in 2018”. Nevertheless, when he was heard during the preparatory instruction, he said that he spent the 4th of October holiday in Chibuto, his home community, and that he had attended a funeral with Nóbrega, on September 28, 2019. At that hearing, he also said he knew Edson Silica (the platoon driver).

After all, who is the deponent Alfredo Chichongue?

The image of a “poor man”, whose name was dragged into the file by malicious defendants that Chichongue tried to portray, does not match the description that is made of him outside the Court. If in the process he appears only as one of the person who distributed Frelimo propaganda material to GOE platoon, in low-voice conversations he is described as being the liaison man between the mentors of the crime based in Chibuto and the Xai-Xai operatives.

This claim may also explain why the name Chibuto is repeated in this trial: the deponent Chichongue has his roots in Chibuto; officer Nóbrega was born in Chibuto and his remains “rest” in that district; defendant Ricardo Manganhe was born and works in the municipality of Chibuto; “comrade” Herinques Machava, the only one who was dismissed in this process, is the mayor of Chibuto; the young man, Armando Maússe, traveled to Chibuto before delivering two handguns that were used in the crime that he and his friends found hidden in a house in Xai-Xai; the Toyota Mark X used in the Matavele murder left Chibuto for Xai-Xai.

However, the investigation did not establish any connection between the various names that have a linking with Chibuto and a precious thread that could help the justice to hold accountable those responsible for the murder of Matavele has been lost. The discussion in the trial revolves around the facts that occurred downstream, specifically in the “operational center” of Xai-Xai.

Mapulasse’s cousin reinforces the thesis that the platoon was on a mission

On the day that 12 deponents were heard, Esperança Laura was the only woman to testify in Court. She is a cousin to Euclídio Mapulasse and it was at her home where the defendant went to hide after escaping from the car accident. “I was scared, when I got home and saw Euclídio bleeding. I wanted to take him to the hospital, but he said he wanted to be treated at the Barracks’ hospital because he had an accident while on duty”, she said without hesitating or stuttering. Following instructions from her cousin, Esperança called his neighbor Januário Rungo, the UIR Army Chief of Staff in Gaza, to report the incident. In response, Rungo promised to send a “force” to take Mapulasse to the Barracks. The car arrived in less than 10 minutes and Esperança was startled again. “They were armed police officers and two of them stood at the door.”

Afonso Alberto, the man from the UIR who was part of the “force” that went to take Mapulasse, followed the rest of the operation. “When we arrived at the Barracks, we were again instructed by the Army Chief of Staff to take Mapulasse to the 2nd Police Station”, he said, adding that the only thing he knew was that his colleague had been in a car accident. When asked if he was not surprised that he had to take a wounded colleague to the police station and not to the hospital, Afonso Alberto replied that he was following orders from his superior, and said nothing more.

The Public Prosecutor insisted on the questions, and in the absence of answers, he questioned the importance of Célio’s presence in the Court. The deponent outlined an answer that made Leonardo Cumbe more nervous: “I heard on the bus that they are suspected of committing a crime”. What crime? “I do not know.” And the Public Prosecutor’s warning came: “This is not a threat, but a warning. Per-

haps you should be sitting next to your colleagues (a reference to the defendants). Maybe we made a mistake listing you as a deponent.” In an attempt to justify himself, Célio said that he fumbled in the answers. “So, here we have a clumsy arms depot

officer. And you came here to confuse us too”, concluded Cumbe, an Attorney. As if to prove his clumsiness, when asked about his age, Célio replied that he was 43, and later he corrected himself saying that he was 33.

The tedious plot about the weapons and the disorganized arms depot officer

The arms control debate dominated much of the 20th May, 2020, session. The arms depot officer, Daniel Maússe, opened the session confirming that he was on duty on September 19, when “Commander Agapito, Chief Nóbrega and Chief Euclídio” went to collect their weapons. On the same day, the group tried, later on, to collect different weapons from those assigned to them, a request refused by the Maússe. “I communicated the request to the Head of the arms depot, Justino Muchanga, and he said that I should not hand the weapons over to them”, he declared. When Tudelo returned the AK 47 that had been hidden in the cemetery by his subordinate Agapito, he went to find Maússe in the arms depot. “Commander Tudelo came in and said: Keep this gun, it belongs to Martins, he had an accident.

After that, he signed the register”. Until that time, the arms depot officer says that he did not know that there had been a murder in Xai-Xai that day, much less that the AK 47 had been used in the crime. On October 8, Célio Vasco was the arms depot officer on duty and he was the one who received two guns that had also been used in the murder of Matavele.

They were returned by the Head of Property, Sidónio Mabunda, at around 4:00 PM, but it was the Chief of the arms depot who later signed for the return of the guns. The two of them had not been the ones who collected the guns, but the arms depot officer on duty did not question their involvement returning the guns. In fact, this was the deponent who did little to cooperate with the Court. For example, he said that until yesterday he did not know that the two guns he received had been used in the crime; he didn’t know why his fellow police officers were on trial.

Orders from the UIR, Army Chief of Staff

When questioned in the first week of trial, defendant Januário Rungo gave the impression that he was a Chief without authority, insisting that GOE is not accountable to the Army General, “it reports directly to the Commander of the UIR sub-unit in Gaza”. However, yesterday, his name was mentioned several times as the Chief issuer of the orders fulfilled after the events that occurred on October 7. In addition to the “Mapulasse operation”, Januário Rungo ordered Sebastião Massingue, Fabião Zetas Júnior, and other men to recover the two guns that were in the hands of civilians on October 8. When Massingue asked if they should also arrest the people who had kept the guns, Januário replied with a veiled order: “the most important thing, at this moment, is to collect the guns.”

With the Norinco handguns in hand, the Army Chief of Staff handed them over to the Head of Finance and Logistics Division, Zacarias Chongo, with the mission of returning them to the arms depot. Knowing that the guns had been used in the crime, Chongo “lowered the order” and charged the Chief of Patrimony, Sidónio Mabunda, to return them to the arms depot.

“When he handed over the weapons to me, the Army Chief of Staff did not say under what circumstances they had been recovered. We returned them to the arms depot because the guns had been removed from there”, said Chongo, without explaining why he did not seek to know who had checked the guns out. When Sidónio received the guns, he asked his superiors if he had to return them to the arsenal without any document or explanation.

“Go and collect the guns from the arsenal. It’s an order!”, ordered the Army Chief of Staff. At the arsenal, the Chief of Patrimony discovered that, after all, the guns had been checked out from that place. He dropped the guns, but he left the Head of Armament, Justino Muchanga, to sign for their return. “On October 9, after learning that those weapons had been used in the crime, I went back to the arms depot to see when they had been checked out. Through the Chief of Armament, I learned that the weapons were checked out on September 19 and 24”.

The young men who went after money and returned with guns

At the time of the accident, two friends, Henriques Cumaio and Armando Maússe were together at the “Mahumane” area, the place where the Toyota Mark X overturned. When they approached the site, they heard that a man had gotten out of the accident car running with a bag in his hand. Convinced that the person was carrying money in the bag and that “at any moment he could fall”, the two followed the footsteps. “On the way, a lady indicated that she had seen two men running, one with a bag in his hand and the other with a gun. They entered the cemetery”. This description shows that Euclídio was running away with Agapito, but the injury he suffered in the accident will have led him to give up and went to hide in his cousin’s house. The guns remained with Agapito, who hid the AK 47 in the cemetery and continued with the bag containing two handguns.

The young men continued to follow the footprints until they got to the place where the bag was hidden, in the kitchen of a house at “Zona de Meteorologia”. Instead of money, they found guns, and there a discussion about the fate of the trophy began. “There were two more young men and they wanted to sell the guns, but I didn’t agree. Armando was responsible for delivering the weapons to the police”, said Cumaio, the barber. But he did not do it: he took the guns’ home and on the following day, October 8, he traveled to Chibuto, supposedly for a part time job.

Early in the morning, Cumaio receives a call from his mother informing him of the presence of police officers in his house. “They wanted guns.” Apart from his mother, he receives another call from a gentleman identified by the unique name of “Big”, who asked Cumaio to go to the salon as soon as possible. Worried, he calls his friend Armando and he confirms that he did not hand over the guns to the Police, and, at that moment, he was in Chibuto. And he says he had also received a call from “Big” demanding the guns.

“I called my neighbor Fabião Zita, from the Police, asking him to get the guns from my friend’s house. I was scared”, said Cumaio. Then, he coordinated with Armando concerning the delivery of the weapons: “I was far from home and he sent his cousin to leave the weapons in my room”. And it was in the barber’s room (Cumaio) where the weapons were recovered by Fabião Zita and other UIR officer, after the authorization from the Army Chief of Staff.

His friend, Armando, who postponed the delivery of the guns to the Police and traveled to Chibuto, is in jail and was wearing orange trousers when he testified, on the “Matavele Case” process. At the end of the hearings, the Public Prosecutor’s Office asked the Court to extract copies of the statements of the deponents, justifying that there were many contradictions with the statements made during the preparatory instruction.

DAY SEVEN: “COMRADE” MACHAVA: A DEPONENT WHO SHOULD BE SEATING ON THE DOCK

Seven months after the murder of Anastácio Matavele, the car used in the crime remains registered in the name of Henriques Albino Machava, Mayor of Chibuto. The guarantee was given by him when heard as a deponent in a case in which he was already a defendant. This means that, legally, “Comrade Machava” remains the owner of the Toyota Mark X that was carrying the GOE platoon who killed the social activist Anastácio Matavele at point-blank, one week before the 2019 General Elections. In fact, being the owner of the car used in the murder, Henriques Machava’s name was on the list of defendants during the provisional indictment. However, after the contradictory instruction was finished, the Public Prosecutor decided to set aside “comrade Machava” and kept the name of Ricardo Manganhe, the so-called buyer of the car, in the final indictment.

Manganhe is the supposed buyer because no document proves that he bought the car from the Chibuto Mayor: the title deed is in the name of Henriques Machava; there is no declaration of purchase and sale (public deed) signed by both; and, as it seems, even the proof of payment was not submitted. Machava told the court that on August 29 or 30, he received the deposit slip of 200 thousand Meticaís related to the payment of the first installment of the sale of the Toyota Mark X. When asked if he had already received the remaining amount of 50 thousand Meticaís, the deponent responded positively.

However, he couldn’t tell when he received the last installment of the sale of his car. That is, Henriques Machava has in-memory facts that occurred nine months ago, namely the date of the payment of 200 thousand meticaís, but he no longer remembers when Manganhe paid the last installment of 50 thousand Meticaís. He promised to provide to the Court the proof of the payment, whose oral agreement stated that it would be done within two months, that is, until October 2019.

Machava was in Maputo the day Matavele was murdered

Speaking to the Court, the Mayor of Chibuto said that his driver learnt that the car was for sale the day the two went to the mechanic who had the Toyota Mark X in his custody. “He followed the conversation I had with the mechanic and learned that the car was for sale when he said he hadn’t found a customer yet”. However, Vitorino Muchanga had already told the Court, minutes before, that it was “his boss”, Machava himself, who instructed him to inform the mechanic that the car was for sale. When confronted with these statements, the Mayor of Chibuto admitted that he may have spoken to the driver, but he did not remember since the “process of selling the car had been going on for a long time”. When asked to clarify under what circumstances Ricardo Manganhe, an official from the municipality of Chibuto, contacted him to purchase the car, Machava replied that, first, he spoke with the driver, Vitorino. “It was only later that I had contact with Ricardo. In this interaction, Ricardo said that he did not have the full amount for the payment. After solving this issue of money for the payment, I told him that he could do everything with Vitorino”.

Regarding the involvement of the car in the crime, Machava explained that he learnt that it had been used in the crime against Matavele through his mechanic, who lives in Xai-Xai. He was in the city of Maputo. “I tried to talk to Manganhe, but he had his cell phones off.” On the following day, October 8, the Mayor said that he saw Manganhe in the celebrations of Chibuto City Day, but did not speak to him. “On the 9th, I called him to my office and asked him to explain to me what would have happened to the car. He replied that he had lent the car to Nóbrega”.

Coincidence or not, the fact is that Henriques Machava met Nóbrega Chaúque, one of GOE officers who died in the accident. “Nóbrega’ uncle married my cousin”. That is, Manganhe bought the Toyota Mark X from his superior and lent it to his friend Nóbrega, who, in turn, is related to the Mayor of Chibuto. And also: In the provisional indictment, it is said that Manganhe kept his cell phones offline on October 7 and 8 and that

he was not present at the commemoration of Chibuto City Day. When asked concerning the reasons for the non-existence of a declaration that attests that the car was actually sold, the deponent replied that he never imagined that “a problem would happen”.

Just yesterday, the Court heard the owners of the three cars that were parked at the scene of the accident and were damaged, and the owner of the mechanic shop, who saw part of his fence knocked down by the Toyota Mark X carrying Matavale’s murderers.

A deal done between colleagues of the municipality of Chibuto

Located about 70 kilometers from the Court that tries Matavele’s case, Chibuto has always been a reference in the hearing and trial sessions. And day six of the trial was no exception. Apart from the Mayor of Chibuto, another deponent, who is also an official in the same municipality, was heard. His name is Vitorino Muchanga, protocol driver for Henriques Machava and an intermediary for the sale of the car. That is, the car business, or rather, the hypothetical car business involved Mayor Machava, his protocol driver, and a municipality employee, Ricardo Manganhe.

Furthermore, deponent Alfredo Chichongue, appointed by the defendants as the person who distributed Frelimo’s campaign material to members of the platoon on October 4, 2019, said he knew Nóbrega Chaúque. On his Facebook page, Chichongue appears in many gatherings with the Mayor of Chibuto, Henriques Machava. Nevertheless, the investigation into the Matavele murder failed to demystify the “web” of Chibuto, that seems to have a connection with those responsible for the crime.

DAY EIGHT: THE DAY THE JUDGE PULLED OUT THE HAMMER TO PREVENT THE COURTROOM FROM BECOMING A CIRCUS

The last session of the hearing of deponents could have been quieter and shorter, had it not been for the return to the stage of the lawyer Elísio de Sousa, appointed by the General Command of the Police to defend the Special Operations Group (GOE) officers involved in the murder of Anastácio Matavele. Absent in the previous three deponent hearings, Elísio de Sousa entered into the courtroom, on a Friday, taking with him copies of the weekly newspapers, SAVANA and Canal de Moçambique, the only ones that highlight the first trial of a “death squad”. In fact, as he insisted on writing on his Facebook page, he is the baobab that the press tries to overthrow. With simple axe blows.

When the judge, Ana Liquidão, announced the opening of the session, there was the “illustrious lawyer” with his previous questions that only resemble the circus. He complained about the reports concerning the trial that the two weekly newspapers have been reporting, showing the copies to the Court. The judge did what she had to do: she devalued Elísio’s false problem and said that she was not in the courtroom to discuss the work of the press.

Then, the hearing of the Personnel Director at the PRM Provincial Command in Gaza started. He was asked by the lawyers of the Matavele family to clarify doubts about the hierarchies and patents in the corporation raised during the interrogation of the defendants. Specifically, Flávio Menete wanted to know in what circumstances a hierarchical superior may have subordinates with a higher rank than his own. Elísio de Sousa protested the question, considering it biased and that, with the same question, the lawyer for the Matavele family sought to obtain the opinion of the deponent. The discussion that followed took more than 10 minutes, with Elísio de Sousa taking the lead.

“Your Honor, perhaps to remind the deponent that he is not obliged to answer”, he declared. The judge imposed the order and questioned the deponent, who answered them without any problem. He started by ex-

plaining that having the rank of an Inspector is one of the conditions to be appointed a Platoon Commander. And the uncomfortable question for the defense came: In what circumstances, can the Platoon Commander have a lower rank in relation to his subordinate?

Libombo replied without hesitation: “Although it is not practical, it does happen. And it happens to the extent that there are promotions for seniority, merit, and trust. And this can happen in the following case: at the time of the Platoon formation, two members have the rank of 1st Corporal, but later one is promoted to Sub-Inspector for seniority”.

The Personnel Director gave a practical example: “The Head of the Traffic Police Department in Gaza is a Police Superintendent, but he has, in his department, some officers who are Chief Police Superintendents. That is, officers who are superior to him in terms of the patent. But these Chief Police Superintendents owe obedience to their Commander, even if he has a lower rank”. Flávio Menete returned to the charge: “Do you know what will have happened between Agapito Matavele and Edson Silica to have the Platoon Commander with the lower rank and the subordinate with the higher rank?”

Before the reply, the defense asked: “We cannot allow a deponent to respond on matters in the file. They are asking you questions about specific names. But he doesn’t know these people, much less what would have happened. This way of asking is speculative”, said Elísio de Sousa. “He (Flávio Menete) is helping the Court to produce the sentence”, added another defense lawyer, arrogantly.

The judge did not like it and pulled out the hammer: “Gentlemen, he is answering about the patents. He is not responding to the matter of the process”. Ana Liquidão repeated the question of the lawyer for the Matavele family and the deponent replied that he did not know, specifically, what would have happened in the case of Agapito and Silica. “The Personnel Directorate is not responsible for appointing the managerial and leadership functions, but for the structure assembled in the UIR sub-unit. The Platoon Commanders are appointed by the Commander-in-Chief of the Police on a proposal from the Commander of the UIR sub-unit”, he explained.

When it was time for the defense to ask questions to the Personnel Director, Elísio repeated some questions that had already been asked to the deponent, such as the functions he plays in the Police; and whether it was up to him to clarify questions concerning promotions and demotions. The judge questioned the relevance of the questions, and Elísio exploded: “The questions that interest the Court are only those that will harm the defendants”.

“Don’t speak arrogantly, don’t speak arrogantly”, warned the representative of the Public Prosecutor’s Office. And a cheap show started, with the unfortunate Elísio bringing to the audience and courtroom the discussion concerning the use of masks, his health state of being asthmatic, all in a vain attempt to justify his flamboyant speeches.

Signature expert was the last deponent heard by the court

The judge called for the second deponent: Lázaro Filipe, one of the experts who analyzed the signatures of Tudelo Guirruogo (GOE Commander) and Justino Muchanga (Head of the Armament Section at Gaza UIR). These are the items on the register where the checking out and in of weapons is registered. Tudelo was the one who collected the AK 47 used in the murder of Matavele and later hidden at the cemetery by Agapito; Justino Muchanga collected two guns used in the crime.

“After the investigation, we concluded that there is no coincidence between the signatures in the register and the samples that we collected”, Lázaro Filipe explained. For a signature to pass the test, it must have, at least, four particular characteristics (specific to the individual) that coincide with the samples collected, namely the pressure, the direction of the letter, the movements, and the connection between the letters. For a handwritten signature, at least, eight particular writing characteristics that match the samples are required for it to be considered valid.

Tudelo and Muchanga's samples were collected in 10 A4 sheets and none of them had a single particular characteristic to coincide with the signature on the register. When asked to present his questions, Elísio de Sousa started by intimidating the deponent: "You are being heard as an expert. You know you can't lie. If you lie, it is a crime". Then, he went on to the questions: "In the signature of Muchanga and Tudelo, there was no coincidence.

That's what you said. What does that indicate? That there was an attempted forgery or the signatures were different?" he asked, in an aggressive manner. Lázaro Filipe replied that he did not know and that it was not up to him to presume whether the conclusions they reached indicated an attempt at forgery. "You must know. You said you're an expert. Or was it not necessary to be an expert to get to the conclusion you reached?"

On a busy day, the judge again appealed for calm and asked lawyer Elísio to avoid asking questions aggressively. "Your Honor, I am not being aggressive. I'm screaming because of the mask. If I am allowed to remove the mask, I will lower my voice", he explained, having his nose out of the mask. Returning to the deponent, Elísio questioned where the samples used in the investigation were. "I need to see these samples in the process. You may have analyzed samples from other people and not from the defendants who are present here. We may require new expertise", he declared, in an attempt to disqualify the work done.

Ana Liquidão shook her head and said: "This is the problem of you not consulting the process. The experts did their job and sent the report that is in the file". Then, she passed the long file to the lawyer, Elísio, who, after consulting the file, returned it to the judge with his head downward. At the end of the session, he still tried to introduce the discussion on the work of the press, but the judge remained unyielding in her positions. After the deponent hearings were over, the Gaza Province Judicial Court scheduled the presentation of the final allegations for 18th June, 2020.

PART 3: THE ROLE OF THE JUDICIAL COURT OF THE PROVINCE OF GAZA AND OF THE PUBLIC PROSECUTOR IN THE PURSUIT OF THE PUBLIC INTEREST AND THE ACHIEVEMENT OF JUSTICE IN THE CASE OF ANASTÁCIO MATAVELE

Contextualization

Anastácio Matavele was murdered on 07 October 2019, in broad daylight, on a public road in Xai-Xai City, Gaza Province, by state agents, police officers of the Republic of Mozambique (PRM), specifically officers of the Special Operations Group (GOE) of the Rapid Intervention Force (FIR), the riot squad of the PRM, one week before the general elections of 15 October. A few weeks after the prosecution's indictment, the officers involved in Anastácio Matavele's murder were promoted; a decision which the police department later considered to be flawed and consequently revoked it, but the department did not demonstrate to society at large how this decision was flawed, and they corrected it only after several criticisms from various organizations, including the Mozambican Bar Association, through its Ex. Bastonary Flávio Menete at the opening of the judicial year of 2020, when he said: *"Although the Commander General of PRM has come forward to say that there had been a blunder in the promotion process, what is certain is that the perception remains that there are death squads and that their members rise in the career according to their performance in the implementation of barbaric missions, which is unacceptable. Citizens need to trust their police officers."* *"In view of the circumstances under which the events occurred, the onus is on the PRM to prove that it was a mistake that the PRM agents who murdered the activist Matavele were promoted. And they (police department) should know that they're under everyone's scrutiny."*

Some notes on the court's decision

The Court sentenced six PRM officers to between three and 24 years in prison, namely Tudelo Guirruogo, Edson Silica and Alfredo Macuácuá to 24 years in prison; Euclídio Mapulasse to 23 years in prison; Januário Rungo and Justino Muchanga to three and two years in prison. The judgment does not give enough detail on the real motives and the reasons for Matavele's murder, nor does it demonstrate the investigation carried out to identify the moral authors of this murder, although there are strong signs in the file that the operational agents of this crime would have been ordered to kill Matavele by higher authorities who still roam the streets free. An example of the weak investigation into the identification of the planners and moral perpetrators of the murder is the fact that the court avoided investigating the phone calls and exchanges of phone messages that the defendants made on the days before and after the murder, taking into account the personal, state, and private relations revealed in the case, with particular attention to the contacts of the fugitive defendant, Agapito Matavele.

Wittingly or unwittingly the Court may have helped in exculpating the State, by finding that the material perpetrators (i.e. operatives) of the murder of Matavele acted at their own risk and on their own account. It is not clear the premises that led it to this conclusion. The Court seems to completely ignore doing analysis regarding the relationship of the perpetrators of the crime with the State, the circumstances of time, space and manner in which the crime was committed, the ownership of the instruments of crime and their mode of requisition and return after the crime was committed, the electoral context and the nature of the activist's work in the electoral process in Gaza Province and its impact due to irregularities in the electoral process in Gaza.

The Court also ignored the fact that the material agents of this crime did not manifest any other behaviour on the day of the facts than to murder the activist Matavele, without giving any indication of any motive other than the electoral context in Gaza due to the nature of the work that Matavele was carrying out. Matavele was murdered in that context. It is also important to note that the Court ignored the analysis of the agents' statements that they intended to rob or steal money from the activist Matavele, when in the criminal act nothing was done that could feed that alleged justification of theft, robbery or something similar.

An important aspect to consider that reveals some protection for the convicted defendants is the fact that the court has arbitrated the derisory compensation amount totaling 1,500,000.00M (one million five hundred thousand meticais, about \$23,500), that the defendants must pay, jointly and severally, to the family of Anastácio Matavele, as if it were a sign of gratitude or forgiveness from the State to the defendants for having murdered Matavele. This argument of the protection of the accused by the State becomes stronger when the accused are not the target of disciplinary proceedings and/or administrative liability, and they fully enjoy the office of the state police, with rights arising therefrom.

With regard to compensation, even if it is compensation for one's life, death falls into the category of non-pecuniary damages that cannot be assessed in monetary terms. However, the law allows the payment of a certain compensation amount as a form of "reparation" for damages. Therefore, it is not clear what legal criteria the court used to fix that derisory compensation amount, considering that life in this case is the legal asset, and the fact that the defense of Anastácio's family had requested compensation in a much higher amount than that arbitrated by the Court.

The sentence and compensation order by Judicial Court of Gaza Province has the effect of both failing to not identify the planners and moral authors of this crime, and failing to ensure state responsibility and accountability. The State, through its PRM, was not tainted, taking, from factual and legal viewpoints, the unsustainable position made as a court finding that the accused persons acted at their own risk and on their own behalf, despite being State officers using state lethal ammunition to commit the crime and receive promotions thereafter. The Judicial Court of Gaza Province did not respect the principle of a fair trial by demonstrating many weaknesses of judicial investigation and a highly biased attitude towards protecting the

State at all costs for the criminal actions of its agents, as well as doing little to hold the moral perpetrators of the murder accountable, thus frustrating the much desired justice that would need those with command responsibility to also face justice as a wider judicial approach to combat abuse of power and impunity associated with it. The trial did not discuss in depth and exhaustively the reasons that led the defendants to commit this murder crime against Anastácio Matavele, in clear disregard for the principle of material truth that also guides the criminal process.

The Judicial Court of Gaza Province has done a fallacious justice in this case by seeking to sentence the defendants to maximum prison sentences on the one hand in an attempt to comfort the victim's family and citizens in general when, on the other hand, it undermines the whole logic of achieving justice in this case in the following terms: a) Non liability of the State, though there are objective elements to this end; b) Failure to carry out the necessary investigation to identify the moral authors of this crime, those who planned it and resourced it and those who had command responsibility in directing the operatives now in jail to carry out the offence. There are enough elements in the file to indicate the existence of moral authors; c) Failure to discuss in depth and exhaustively the real reasons that led the defendants to commit this crime of homicide, when there are elements in the records to better exploit this discussion as a judicial investigation; d) Failure to arbitrate reasonable compensation based on legal criteria that takes into account the legal good (life), the position of the defendants as agents of the State, that have a legal obligation to protect citizens and guarantee public order, and the circumstances of time, place and manner in which the crime was committed.

The issue of State crime by officers on duty

The instruments of crime, in this case the weapons used, are from PRM and were returned to the UIR warehouse and received by the person responsible for the arsenal, without being handed over to the criminal investigation and without any questioning about their use, despite the fact that the crime was reported in a comprehensive and worrying manner given the fact that the defendants were involved in a traffic accident and were caught red-handed. The circumstances in which the crime was committed and what is on the record of the criminal case reveal that the defendants acted as state agents and in accordance with the orders of their superiors. On these facts, the judge should have carried out a better judicial investigation and demonstrated the extent to which these elements are not sufficient to characterize the criminal act as an illegal act by State agents in the exercise of their functions or to what extent they are classified as such, in order to dispel any doubts on the decision they made regarding the State's responsibility.

The fact that the defendants' lawyers in the case were appointed by the General Command of the PRM is further curious evidence that the crime was committed by orders of the corporation, because, if it had been at their own risk, as PRM and the Public Prosecutor's Office have always defended, why should the PRM be so sympathetic to the defendants as to offer them a lawyer? The Judicial Court of Gaza Province also ignored this fact to the detriment of the effective realization of justice, with the aim of protecting the mandates of this crime of murder of Anastácio Matavele.

The Judicial Court of Gaza Province and the Jurisdictional function

Mozambique is a state of democratic law and social justice as enshrined in the Constitution of the Republic, in which the judicial function is to guarantee and strengthen legality as a factor of legal stability; to guarantee respect for the laws, ensure the rights and freedoms of citizens, as well as the legal interests of the different bodies and entities with legal existence, as provided for in Article 211(1) of the Constitution of the Republic.

“The courts shall penalize violations of legality and shall adjudicate lawsuits in accordance with the provisions of the law.” This is provided for in paragraph 2 of the same Article above. More than that, according to the provisions of Article 212 of the Constitution of the Republic: “The courts shall educate the citizens and the public administration in the voluntary and conscious observance of the laws, establishing a just and harmonious social coexistence.” The constitutional provisions above lead one to reflect on the extent to which the Judicial Court of Gaza Province has observed and fully complied with those constitutional commands in conducting the trial in the Anastácio Matavele murder case.

It should be noted that the manner in which the trial was conducted and the sentence handed down also leads to the need for careful reflection on the issue of the independence of the judiciary and its commitment to the protection of human rights and respect for the rule of law, to prevent and penalize abuse of power and violations of rights and law. Mozambique is a signatory to a number of regional and international legal instruments that impose an obligation on it to establish independent and impartial tribunals of justice that guarantee the right to fair trials such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples Rights (ACHPR). By conducting the trial in a way that potentially prevented the moral authors of the violence from ever facing justice and getting away scot-free as well as exonerating the State from responsibility when the state agents planned and executed a murder using state lethal equipment against an unarmed citizen merely because of being a human rights defender, it can be argued strongly that Mozambique violated the right to a fair trial in the case of the killing of Matavele.

On the criminal investigation of the judge

It is not easy to find out from the sentence handed down by the Judicial Court of Gaza Province the steps taken under the criminal procedure and in a dispute process such as this one to investigate the identification of the perpetrators of the crime and their responsibility, as well as the effective and efficient collection of evidence of this criminal fact, especially with regard to the relationship of the accused with the State. This should be done by taking into account the evidence in the records on the circumstances of time, place, mode and context in which the crime was committed. The trial judge ignored the strict application of the rules of criminal investigation in this case, including the discussion and trial hearing stage.

According to Article 9 of the Code of Criminal Procedure (CCP) “the judge has the prerogative to order ex officio any steps deemed indispensable to the discovery of the truth, even when the criminal action depends on the particular charge, but without prejudice to the provisions of the preceding articles.”

Of course, there is a legal basis for the judge to go further in clarifying the matter of fact with a view to discovering the material truth. The evidence produced by the Judicial Court of Gaza Province is weakened to the extent that there is no evidence that the defendants acted at their own risk, i.e. not in the capacity of PRM agents. Moreover, it is not clear what means of obtaining evidence have been put in place under the CCP. Regarding the fact that certain defendants confessed to the crime, the sole paragraph of Article 174 of the CCP states that “Even if the accused has confessed to the crime, the judge shall make every effort to establish the truth and shall investigate, with all available evidence, whether the confession is not true.”

The fact that the defendants did not behave as though they were stealing, assaulting, or committing a similar crime against Anastácio Matavele, and the fact that the defendants did not quarrel with the victim was enough for the Court to have focused more on investigating the reasons for committing this crime of murder, or otherwise asking for medical examinations of a mental or behavioral nature because it is not understandable to any average person that a group of PRM agents organize themselves to murder a person at random. Only a mental disorder can justify such behavior, which is not the case since the agents in question enjoy good mental health. The judge has evaded her legal obligation to investigate and clarify the facts in order to discover the truth of

the matter and to have a solid basis for her decision. (her “boss” who guarantees her salary) may explain Some strong political interference in the magistrate’s the judge’s lack of investigation in order to exculpate independence, intimidation or fear of holding the state the state and hide the moral authors of this crime.

The sins of the Public Prosecutor in the Anastácio Matavele criminal trial

With regard to the functions of the Public Prosecutor, Article 235 of the Constitution of the Republic states that “The Public Prosecutor’s Office shall be responsible for representing the State before the courts and defending the interests determined by law, monitoring the legality, the time limits for arrests, directing the preparatory investigation of criminal proceedings, conducting criminal proceedings and ensuring the legal defense of minors, the absent and the incapacitated.” In turn, Article 233(2) of the Constitution of the Republic states that “In the exercise of their functions, magistrates and public prosecutors shall be subject to the criteria of legality, objectivity, exemption and exclusive submission to the directives and orders provided by law.”

However, of the constitutional provisions mentioned above, it is important to analyze the extent to which the Public Prosecutor’s Office has observed them in its action in the Matavele murder case, especially with regard to its function of representing the State before the courts and defending the interests determined by law, as well as monitoring legality.

Representing the State and defending the interests that the law determines means fundamentally pursuing the public interest in full respect for the law, the rule of law and the rights and freedoms of citizens, since the public interest and respect for legality are the interests of the State, that is, interests that the State aims for and must pursue in accordance with the law. To represent the interests of the State is to defend the pursuit of the public interest, if the State through its agents, services or bodies does not respect the pursuit of the public interest should be denounced and prosecuted in order to respect the public interest. In other words, if a body denounces violations committed by the State is, in good faith, representing the interests of the State, it is defending the public interest, which is therefore the interest of the State and of the law.

Thus, the Public Prosecutor’s Office in its function of representing the State before the courts must always and unconditionally, in an exempt, objective, impartial and legal manner, defend or safeguard the public interest in accordance with the law and be guided by justice even if to do so it has to denounce illicit, illegal behaviour of the State that damages the public interest or the rights and freedoms of citizens.

The function of the Public Prosecutor’s Office to represent the State before the courts and to defend the interests determined by law does not mean that this body should at all costs defend the State in order to exempt it from liability even when it violates the law, the rights and freedoms of citizens for the conduct of its officers or bodies. This is not the function of the Public Prosecutor’s Office under the terms of the Constitution and Law no. 4/2017, of 18 January (Organic Law of the Public Prosecutor’s Office and which approves the Statute of Magistrates of the Public Prosecutor’s Office.

In the criminal case of the murder of the activist Anastácio Matavele, the Public Prosecutor’s Office on behalf of the State did everything and without sufficient legal basis, for the State to be considered innocent and without any kind of responsibility in the process, allegedly because the PRM agents, now convicted, for the murder of the activist Matavele acted at their own risk, without, however, objectively demonstrating, in an exempt manner and in accordance with the law, the extent to which the circumstantial elements of the crime contained in the files establishing the link between those agents and the State are not relevant to the accountability of the State or to consider it an innocent and unimplicated party in the process. One should note that the context and circumstances of mode, time, place, including the instruments of the crime demonstrate that it is a crime of the State committed by its agents in that capacity. With regard to the criteria of legality, objectivity, impartiality and exclusive submission to the law to which the Public Prosecutor’s Office

is subject in the exercise of its functions in accordance with the provisions of Article 11(2) of the Constitution, the Court of Justice shall have the power to determine whether a criminal offence is committed by the State.

With regard to the criteria of legality, objectivity, impartiality and the exclusive submission to the law to which the Public Prosecutor's Office is subject in the exercise of its functions in accordance with Article 233(2) of the Constitution of the Republic, there is no doubt that in the criminal proceedings in the case of

the murder of Anastácio Matavele, the Public Prosecutor's Office did not comply with these criteria, neither with regard to the investigation for holding the State responsible nor with regard to the criminal investigation for identifying the moral authors of the crime in question, despite being the body that par excellence directs the preparatory investigation of the criminal proceedings and carries out the criminal action. The question is: What public interest has the Public Prosecutor's Office been defending in this criminal case concerning the murder of Anastácio Matavele?

Concluding remarks

From the above, there is ample evidence that both the Judicial Court of Gaza Province and the Public Prosecutor's Office representing the State despite securing the conviction and sentencing of the operatives who killed the civil society leader, they came short in the performance of their duties and did not fully comply with the provisions of the law concerning their powers or functions. Such biased, subjective conduct contrary to the law, especially with regard to the principle of criminal investigation in this criminal case, may lead to inferences that the Mozambican legal system has been unable to deal with a case of violation of human rights warranting a conclusion of impunity and absence of effective local remedies for the victims and their survivors. In extreme situations where the judge handles a case in a way to whitewash accountability for the perpetrators the immunity of judicial officers has not been seen as absolute. The limit of this guarantee of legal irresponsibility is the very law that must be complied with, otherwise there may be responsibility for the judges' actions.

Considering that the State has not been called to account in the first instance, there is nothing to prevent this issue from being re-examined in the second instance, as a result of the appeal that has now been lodged against the sentence handed down by the Judicial Court of Gaza Province, because the issue of the legitimacy of the State in this case is a matter of law, the clarification of which is relevant to the achievement of justice in this case.

Furthermore, the appeal against the sentence of the Judicial Court of Gaza Province may open the way for a re-examination of the elements in the file that indicate the existence of moral authors of the crime of the murder of Anastácio Matavele.

The position of the Centre for Democracy and Development (CDD) is that the Judicial Court of Gaza Province has not carried out due justice in this case and has committed essential procedural irregularities in this criminal case as demonstrated above, such irregularities must be examined on appeal.

The conduct of the magistrates denying justice to the Matavele family and society in general in this case should be investigated by the competent bodies for the management and discipline of the activities of magistrates and prosecutors respectively, the Superior Council of the Judiciary and the Superior Council of the Public Prosecutor's Office. CDD also believes that the competent criminal investigation and rigorous analysis of the elements in the files that are relevant to the State's responsibility in this process should be carried out at the level of the appeal. CDD will continue, on the basis of the law, to monitor the actions of the organs of justice in the case of the murder of Matavele, denouncing all irregularities and activating all possible mechanisms to ensure that justice is done with clear demonstration of a rigorous, impartial and objective investigation in full respect for the law, rights and freedoms of citizens.



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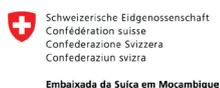
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