



VPSHR

VOLUNTARY PRINCIPLES
SECURITY
AND HUMAN RIGHTS

IN MOZAMBIQUE *BULLETIN*

PLATFORM FOR DIALOGUE ON BUSINESS, SECURITY AND HUMAN RIGHTS IN CABO DELGADO

GUARDIÃO DA DEMOCRACIA | www.cddmoz.org

Friday, June th16, 2021 | Year 1, Number 17 | Director: Prof. Adriano Nuvunga | English

Roundtable Endorses Creation of National Working Group on Voluntary Principles for Mozambique



As part of the initiative for the effective implementation of the Voluntary Principles on Security and Human Rights (VPSHR) in Mozambique, the Center for Democracy and Development (CDD), in partnership with the Ministry of Justice, Constitutional and Religious Affairs, organized, yesterday, Thursday, a roundtable meeting that brought together representatives of the Government and State institutions, private sector, diplomatic re-

presentations, multilateral organizations, international organizations and civil society. At the meeting, it was agreed to establish a national working group on the effective implementation of the Voluntary Principles on Security and Human Rights in Mozambique.

A major guest at the roundtable was the Geneva Center for Security Sector Governance (DCAF), represented by Alan Bryden. As an international foundation committed to good se-

curity sector governance, DCAF has supported the Voluntary Principles on Security and Human Rights for over 10 years, as they set important practices and standards for how extractive sector companies should act, including their obligations to the security and human rights of the communities affected by their operations.

Speaking of DCAF's experience in implementing the Voluntary Principles, Alan Bryden highlighted the importance of establishing a national working group that has a broad base of representation, ranging from ministries, key human rights institutions such as the National Human Rights Commission, companies, national and international civil society organizations, diplomatic representations, and multilateral organizations committed to developing security and respect for human rights.

"A national working group on Voluntary Principles can provide a specific focus on security and human rights issues in the extractive sector. It can also ensure coherence with other relevant initiatives in the field of business and human rights, such as the UN Guiding Principles on Business and Human Rights, in the area of extractive sector governance, such as the Extractive Industry Transparency Initiative," Alan Bryden pointed out.

The DCAF representative advocated the need for human rights training of defense and security forces as a key requirement of the Voluntary Principles. These trainings are delivered by different actors, in different ways, using different service providers through an approach based on the Voluntary Principles. Most importantly, good leadership from national authorities can enable the building of a long-term and sustainable model with national trainers rather than external providers.

"I strongly recommend that the Government of Mozambique consider joining the Voluntary Principles initiative, as it is a high-level platform where governments, business and civil society organizations share governance responsibilities and together lead an initiative with great weight on the international stage. I would also like to recommend the establishment of an operational working group in Cabo Delgado. The common success factor of local Voluntary Prin-



Alan Bryden, Representative of the DCAF

principles groups is their ability to create a process of building trust and engagement between local communities, businesses, authorities and the security sector," Alan Bryden recommended.

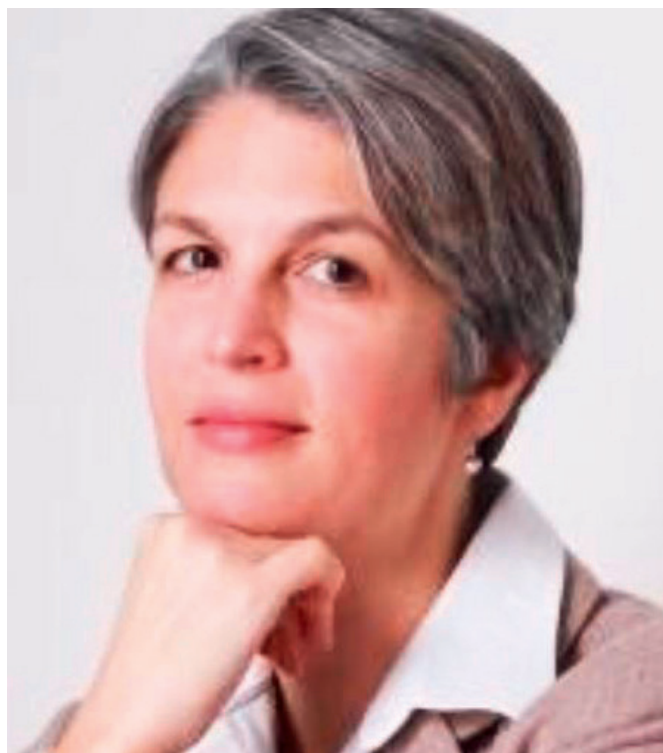
"I strongly recommend that the Government of Mozambique consider joining the Voluntary Principles initiative, as it is a high-level platform where governments, business and civil society organizations share governance responsibilities and together lead an initiative with great weight on the international stage"

“Engaging communities is essential to reducing risks of human rights abuses and incidents,” Mora Johnson

The importance of working groups on the Voluntary Principles on Security and Human Rights was also addressed by the representative of the International Voluntary Principles Secretariat, Mora Johnson. But she began by pointing out that the Voluntary Principles provide guidelines to companies involved in security operations in order to reduce human rights abuses and/or violations. “The practical guide helps the extractive sector reduce the risks and impacts of human rights abuses.”

About the working groups, Mora Johnson said it is an initiative that brings together stakeholders such as extractive companies, government authorities, security sectors, civil society, and together they lead and sustain an inclusive and sustainable dialogue. “The stakeholder initiative is a platform for learning, problem solving and promoting best practices (consultation with communities and regular communication between the public and private security sectors) at challenging times in the areas of security and human rights.”

The key objective of working groups is to build capacity for identifying local challenges and promoting better procedures in the security sectors, as well as ensuring that there is prompt reporting of human rights incidents and a prompt and satisfactory response for affected parties. “Key elements in reducing the risks of human rights abuses and incidents are the engagement of communities and the creation of good policies and practices at the company level. Special attention should be paid to potentially vulnerable groups, such as human rights defenders, women and children,” Mora Johnson of the International Secretariat of the Voluntary Principles on Security and Human Rights argued.



Mora Johnson

“Key elements in reducing the risks of human rights abuses and incidents are the engagement of communities and the creation of good policies and practices at the company level. Special attention should be paid to potentially vulnerable groups, such as human rights defenders

The Ministry of Justice considers it important that Mozambique adheres to the Voluntary Principles

Partner of CDD in organizing the Round Table, the Ministry of Justice, Constitutional and Religious Affairs was represented by its Inspector General, Jorge Ferreira. In his opening speech, the Inspector General recalled that the Government is engaged in the dialogue on the Voluntary Principles aware of the challenges that Mozambique faces in the protection of human rights, particularly in the framework of corporate social responsibility of multinational companies that operate in natural resource extraction in local communities.

Therefore, Jorge Ferreira considered necessary and important the establishment of a national working group on the Voluntary Principles on Security and Human Rights that integrates state institutions, the private sector and civil society organizations. He also defended the need for the Republic of Mozambique to adhere to the Voluntary Principles on Security and Human Rights and other related instruments, mainly the United Nations Guiding Principles on Business and Human Rights, and the need to raise awareness among the communities living in the natural resource exploitation areas about the existing potential and the importance of transparent management based on the observance of the Voluntary Principles.

The Inspector General of the Ministry of Justice, Constitutional and Religious Affairs recalled that it was due to the need to make the global business environment committed to respect human rights that in June 2011 the United Nations, through the Human Rights Council, approved 31 guiding principles on business and human rights. Four years later, in October 2015, the Ministry of Justice, in partnership with the Mozambican Human Rights League, and with support from international partners, launched the first national report on business and human rights, which also encompasses the Voluntary Principles on Security and Human Rights.



Jorge Ferreira, Inspector General of the Ministry of Justice

Jorge Ferreira considered necessary and important the establishment of a national working group on the Voluntary Principles on Security and Human Rights that integrates state institutions, the private sector and civil society organizations

Chatham House briefing note will provide a basis for national working group discussions

The UK government was one of the founding members of the Voluntary Principles initiative, aimed at getting government, the private sector and civil society working together to minimize the risks of human rights abuses and the occurrence of security-related incidents in communities, as well as promoting good corporate social responsibility practices.

“Today, the Voluntary Principles on Security and Human Rights have become more important than ever. The UK and Mozambique have been working together on this initiative to engage businesses on matters related to human rights. In 2019, the UK Human Rights Ambassador traveled to Mozambique where he held meetings with companies working to implement the Voluntary Principles in the extractive sector,” the British High Commission representative in Mozambique highlighted.

In the first three months of this year, the UK government worked with CDD on a project which aimed at raising awareness on the importance of the Voluntary Principles for Mozambique, sharing international best practices and outlining next steps to strengthen their implementation in Cabo Delgado and the country in general. It is a project that ensured the involvement of the Government, international partners, experts and all stakeholders, including operating companies and subcontractors in the oil and gas industry.

“In August this year, Chatham House (a London-based organization) will release a briefing note on the Voluntary Principles and their relevance to Mozambique. That document will provide a basis for discussions by the working group we are launching today. We will continue to work with CDD and other partners to take forward the recommendations from these important discussions,” he explained.



The British High Commission representative in Mozambique

“In August this year, Chatham House (a London-based organization) will release a briefing note on the Voluntary Principles and their relevance to Mozambique. That document will provide a basis for discussions by the working group we are launching today. We will continue to work with CDD and other partners to take forward the recommendations from these important discussions,”

Local communities have the right to consent, active participation and development in the exploitation of natural resources

Paulo Comoane, Judge Counsellor of the Administrative Court, spoke of the progressive view of the African Commission on Human and Peoples' Rights regarding the right to self-determination and exploitation of natural resources, which was initially interpreted as a right of states to freely exploit their resources. Lately, the Commission has been taking a more progressive interpretation, by looking at natural resource exploitation as a relationship between the state and its citizens and a human rights issue.

"From that perspective, there is a first right that emanates from the right to self-determination and human resource exploitation, which is the right to consent. One of the resolutions of the Commission states that the exploitation of natural resources must be preceded by the exercise of the right to consent by the affected local communities," Paulo Comoane explained. The exercise of the right to consent should include the right to information. That is, it must be exercised after comprehensive information on the consequences that may result from the exploitation of natural resources. This is because the exploitation of natural resources affects several rights and interests of local communities.

The African Commission on Human and Peoples' Rights also understands that the right to self-determination and exploitation of natural resources has a participatory dimension. Local communities must exercise their right to active participation in the process of negotiating the exploitation of natural resources between States and concessionary companies. "The right of participation must be exercised in a broad, sufficiently informed manner and above all governed by the principle of good faith. All parties involved in the negotiations must act in the most collaborative sense." The third dimension is developmental. The Commission believes that the exploitation of natural resources must have the necessary impact on the development of local communities.

The judge counselor of the Administrative Court argues that the three dimensions of the



Paulo Comoane, Judge Counsellor of the Administrative Court

right to self-determination and exploitation of natural resources are present in Mozambican legislation. "For example, the land legislation imposes the procedure of consultation with local communities for the concession of land, including for the purpose of exploitation of natural resources. The right to participate in matters that may harm the interests of citizens is also enshrined in Mozambican legislation, namely in Law 14/2011, of 10 August. This law states that whenever the Public Administration has to make a decision that affects the rights and interests of citizens, the public participation of those citizens should be promoted.

The development dimension is present in the legislation on resettlements, which provides that the revenues that arise from natural resource exploitation projects should guarantee the development of the affected communities. "The big challenge lies in the application of this human rights-based legislation. The application of human rights-based legislation is the recognition that people are right-

ts holders. When a community consultation is carried out it must be understood that those communities have the right to be consulted.”

Paulo Comoane recalled that the Constitution of the Republic of Mozambique, in its article 43, says that the interpretation of human rights should be done in harmony with the African Charter on Human and Peoples’ Rights and the Universal Declaration of Hu-

man Rights. “In case of disputes involving local communities and international companies, the courts should settle on the basis of human rights. In 2013, the United Nations Human Rights Committee made this recommendation that the great challenge facing Mozambican courts is to incorporate human rights in their decisions,” he concluded.

The State must protect people from human rights violations

Ivete Espada, representative of the United Nations High Commissioner for Human Rights (OHCHR), spoke about the UN Guiding Principles that establish duties and responsibilities of Governments and businesses to prevent and mitigate adverse impacts resulting from commercial activities. Although voluntary in nature, these principles are an official and globally recognized framework and were approved by the OHCHR in 2011. “They ensure that there is increased corporate responsibility to respect human rights at various levels. And that minimizes abuses against third-party rights and helps mitigate the impacts resulting from the activities of companies throughout their production chain,” Ivete Espada explained.

The UN Guiding Principles encompass three dimensions, namely: protect, respect, and remedy. It is the duty of the state to protect people from human rights violations by businesses by adopting appropriate policies and regulations. “Businesses have the responsibility to respect human rights, to act with due diligence to avoid infringements, and to address adverse human rights impacts. Remediation implies that the state and businesses must provide victims with effective dispute resolution resources through judicial and non-judicial grievance mechanisms.”

Alcídio Siteo, legal advisor, spoke about the protection regime for IDPs, focusing on the Kampala Convention. This is a document that



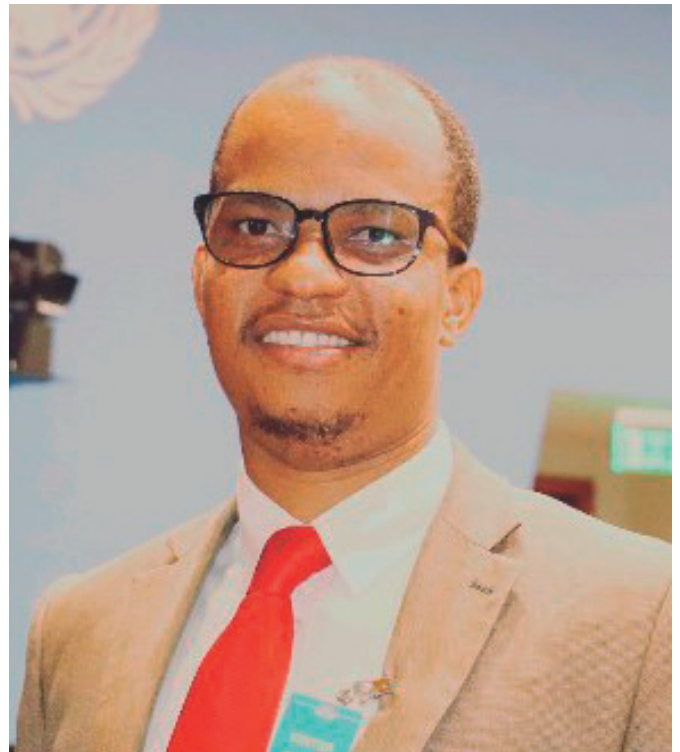
Ivete Espada, Representative of the OHCHR

“They ensure that there is increased corporate responsibility to respect human rights at various levels. And that minimizes abuses against third-party rights and helps mitigate the impacts resulting from the activities of companies throughout their production chain”

contains norms that oblige different actors to protect and assist the internally displaced, with emphasis on the State. In fact, the primary obligation of the state is to offer protection and assistance to displaced persons. "The state is also obliged to ensure the safe return of IDPs to their areas of origin. In cases where this is not possible, the state must create conditions for housing the displaced in safe areas and keep people informed," Alcídio Siteo explained.

The Kampala Convention obliges international organizations and humanitarian agencies to act with respect for the principles of humanity, neutrality, impartiality and independence. In light of this continental instrument, armed groups are prohibited from causing arbitrary and unnecessary displacement and from placing obstacles to the protection and assistance of internally displaced persons under any circumstances. Given the cyclical way in which conflicts occur in Mozambique, Alcídio Siteo suggests that perhaps it is time to think about the specific fund for assistance to IDPs. "Maybe it's also time for us to have specific legislation on IDPs."

The Confederation of Business Associations of Mozambique (CTA) was represented by Pedro Baltazar, President of the Private Security and Protection Sector, who lamented that the conflicts in Central and Northern Mozambique pose a serious threat to communities, investments, businesses and human rights. "As business activities move forward, it becomes imperative that investments contribute to the development of the country, to the improvement of governance, respect for human rights and the well-being of citizens," the representative of the private sector argued.



Alcídio Siteo, Legal advisor



Pedro Baltazar, Representative of the private sector (CTA)



EDITORIAL INFORMATION

Property: CDD – Centro para a Democracia e Desenvolvimento
Director: Prof. Adriano Nuvunga
Editor: Emídio Beula
Author: Emídio Beula
Team: Emídio Beula, Ilídio Nhantumbo, Isabel Macamo, Julião Matsinhe e Ligia Nkavando.
Layout: CDD

Address:
 Rua Dar-Es-Salaam Nº 279, Bairro da Sommerschild, Cidade de Maputo.
 Telephone: +258 21 085 797

 CDD_moz
E-mail: info@cddmoz.org
Website: <http://www.cddmoz.org>

PROGRAMMATIC PARTNER



FINANCING PARTNERS

