



BUSINESS & HUMAN RIGHTS



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MOZAMBIQUE: CHALLENGES AND OPPORTUNITIES AT THE INTERSECTION OF BUSINESS AND HUMAN RIGHTS

Contextualizing Mozambique's Commitment to Business and Human Rights

- The intersection between business and human rights has gained increasing attention worldwide in recent years. Mozambique, a country with vast natural resources and significant economic potential, is no exception to this trend. As the country seeks to balance economic development with the protection of human rights, the creation and implementation of a binding treaty on business and human rights has become essential. In this context, it is crucial to analyze the progress and importance of such a treaty, especially in a scenario where conflicts and human rights abuses are still prevalent in natural resource exploitation regions.





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The Mozambican Context: Achievements and Challenges

Mozambique is a country with great potential, endowed with a vast and diverse wealth of natural resources, featuring one of the world's largest deposits of natural gas, coal mines, graphite, titanium, rubies, and heavy sands, among others, which are important for improving the living conditions of the population and for the current energy transition process that, with good management, can contribute to the country's development. However, like most African nations rich in natural resources, the wealth that exists in Mozambique has not yet translated into shared wealth for the millions of Mozambicans who, even after decades of exploitation, continue to live in extreme poverty and deprivation. With a Development Index of 0.461 points, 183rd in the world¹, Mozambique is stagnant at the tail end of development, with more than half of the population living below the poverty line, with high levels of social inequality and low access to basic social services such as education and health.

As evidenced by the Mapping of Mozambican

Legislation Relating to Business and Human Rights, carried out by the Centre for Democracy and Human Rights (CDD), at the national level, issues related to human rights violations involving the State and security forces in producing regions continue to be a problem of great concern. Another concern relates to human rights abuses committed by companies, in a context of impunity and lack of accountability. These factors have been identified as responsible for the emergence and perpetuation of conflicts that occur in natural resource exploitation areas in Mozambique, mainly in Cabo Delgado Province.

The problem is not limited to violations and abuses, which include destruction of communities' livelihoods, marginalization and exclusion, precarious and forced resettlement, negative environmental impacts, forced labor, violence against human rights defenders, restrictions on freedom of expression and association, but also disruptions to the well-being of communities and the denial of their right to development.

International Business and Human Rights Commitments

The United Nations Global Compact, developed in 2000, was the first attempt to address these issues and define corporations' responsibilities regarding human rights². Before the Global Compact, most corporations challenged the idea that human rights were even relevant to the operation of their businesses. The Global Compact required companies to respect and support human rights, avoid complicity in human rights abuses, and adhere to environmental, labor rights, and anti-corruption principles. However, critics argued that the Global Compact's lack of clear guidelines and accountability mechanisms would allow corporations to claim social responsibility without having to significantly change their operations³.

In parallel, in June 2000, the United Nations (UN) Human Rights Council endorsed the Guiding Principles on Business and Human Rights (UNGPs). The UNGPs consists of 31 Principles that were developed to implement the "protect, respect and remedy" parameters. Following the adoption of the UNGPs by the Mozambican State in June 2011⁴, it has been imperative to ensure that both the Government and businesses are aligned with the principles established. These principles provide essential guidelines for the prevention, mitigation and remedy of human rights abuses caused by business.

As a result, in 2024, Mozambique presented the first proposal for an Action Plan on Business and Human Rights. This plan was the result of

¹ United Nations Development Programme – UNDP (2024). **Human Development Report 2023/2024 – Summary**. "Breaking the deadlock: Reimagining cooperation in a polarized world". UNDP. Available at: <https://hdr.undp.org/system/files/documents/global-report-document/hdr2023-24overviewen.pdf>

² <https://www.investopedia.com/terms/u/un-global-compact.asp#:~:text=The%20United%20Nations%20Global%20Compact%20is%20a%20strategic%20initiative%20that,%2C%20o%20ambiente%2C%20e%20corruption>.

³ <https://blogs.lse.ac.uk/businessreview/2022/07/26/reflecting-on-the-un-global-compact-what-went-wrong/#:~:text=impending%20recessionary%20fears,-,%20...>

⁴ The Mozambican State, as a full member of the United Nations Human Rights Council, endorsed, together with the other member States, the PONDH prepared and presented to the Council by the representative of the United Nations Secretary-General, Professor John Ruggie. In this regard, see United Nations, Human Rights, Office of the High Commissioner – The corporate responsibility to respect human rights: An interpretive guide, ob.cit., p.1.

complex collaborative work, which involved, since November 2022, government institutions, entities from the country's 11 provinces, justice bodies, business sector stakeholders, trade unions, associations and civil society organizations (CSOs). The National Action Plan, aligned with the United Nations Guiding Principles on Business and Human Rights (UNGPs), represents an important step in establishing a framework for companies to adopt ethical practices and ensure the protection of human rights.

However, voluntary guidelines alone are not sufficient to address the complexities of business and human rights, and mandatory report-

ing requirements are becoming increasingly necessary. One such development is the 2014 European Union (EU) Directive on Non-Financial Disclosures, which requires large corporations to disclose information on environmental, social and governance (ESG) issues in their annual reports⁵. This directive represents the largest development in mandatory general transparency and has been suggested as a model for a disclosure requirement in a treaty on business and human rights. Such a treaty would aim to create a legally binding framework for corporate accountability, with mandatory disclosure requirements as a key component.



⁵ <https://www.assent.com/resources/knowledge-article/what-is-the-eu-non-financial-reporting-directive/>

The Global Perspective: The binding treaty on Business and Human Rights

The Binding Treaty on Business and Human Rights emerged as a global initiative to create a legally binding framework to ensure that companies respect human rights in all their operations. The first proposal was put forward in 2014, led by Ecuador and South Africa, and since then, several negotiation sessions have taken place at the UN Human Rights Council.

The negotiations have been complex and challenging, involving the active participation of several countries, civil society organizations and representatives of affected communities. African countries such as South Africa, Kenya, Tanzania, Nigeria and Zambia have played important roles, recognizing the potential of the treaty to bring about transformative changes in trade practices across the continent.

Key challenges include resistance from some countries and corporations that fear negative impacts on their operations, as well as disagreements over mechanisms for monitoring and enforcing the treaty. A lack of consensus on crucial issues, such as reparations and justice for victims of human rights abuses, has also hampered progress in the negotiations.

Despite these challenges, there is an ongoing effort to establish universal standards that apply uniformly, requiring greater transparency, accountability and respect for human rights from companies. The treaty proposes clear obligations for companies, as well as monitoring and enforcement mechanisms, ensuring that violations are properly investigated and that victims have access to redress and justice.

Alignment between IcoCA, PVs and the Binding Treaty

The Binding Treaty on Business and Human Rights, the Voluntary Principles on Security and Human Rights (VPs) and IcoCA are closely aligned in their goal of ensuring that companies respect human rights and act responsibly, particularly in private security contexts and in areas of risk. The Binding Treaty, first proposed in 2014, aims to create a legally binding framework to ensure that companies, regardless of their area of activity, respect human rights in all their operations. The proposal came in response to growing concerns about the negative impacts of business practices on vulnerable communities, especially in sectors such as resource extraction and private security.

In parallel, the Voluntary Principles on Security and Human Rights (VPs) were created to ensure that private security companies operate ethically, minimizing the risk of human rights abuses, particularly in communities close to resource extraction areas. By guiding security companies to adopt responsible practices, the VPs contribute to the reduction of human rights violations and provide clear guidelines on how companies should act in risky contexts.

In turn, the International Code of Conduct for Private Security Service Providers (IcoCA) emerged in 2013 as a governance and oversight

mechanism for private security companies, ensuring that their practices are aligned with human rights and international humanitarian law standards. IcoCA, which operates as the monitoring body for adherence to the International Code of Conduct for Private Security Service Providers, promotes an environment of accountability by providing a framework to ensure that private security companies respect human rights and international standards.

The interconnection between these three elements can be seen in several dimensions:

Legal and ethical accountability: The Binding Treaty proposes a legally binding approach, placing a direct responsibility on companies to respect human rights in their operations. While the IcoCA and the PVs are largely voluntary initiatives, both encourage practices that are in line with human rights principles and business ethics. The IcoCA complements the Binding Treaty by providing a governance mechanism to monitor private security companies' compliance with international standards, while the PVs provide a set of practical guidelines to ensure that security operations respect human rights and minimize the risk of abuse.

Stakeholder engagement: The Binding Treaty engages governments, companies and civil society, creating a space for negotiation to address the impacts of business activities on human rights. VPs also operate collaboratively, bringing together companies, governments and NGOs to foster accountability in security operations. IcoCA, as a multi-stakeholder initiative, shares this inclusive approach, involving all stakeholders in the development of standards for the private security sector.

Strengthening responsible business practices: The Binding Treaty aims to ensure that companies follow mandatory global standards, while the VPs offer a more flexible and voluntary approach for security companies to adopt responsible practices. The IcoCA, in turn, provides a platform to monitor and ensure that these practices are followed in the private security sector, and is an important tool to ensure that companies not only commit to following human rights principles but also to ensure their effective implementation.

In countries like Mozambique, implementing practices aligned with VPs and IcoCA is an important step in strengthening corporate governance and protecting human rights. The launch of the VP promotion initiative in Mozambique, with the creation of two working groups, one

being the National Working Group and another Technical Working Group in Cabo Delgado Province, which has the secretariat of the CDD and the coordination of the Ministry of Justice, Constitutional and Religious Affairs, demonstrates an effort to integrate security and human rights practices within the local context. The Binding Treaty, when discussed at the UN Human Rights Council, represents a complementary tool that can boost the implementation of these practices in the country since global human rights standards can strengthen companies' commitment to corporate responsibility and ensure a safer and more respectful environment for affected communities.

The alignment between the Binding Treaty on Business and Human Rights, the Voluntary Principles on Security and Human Rights and the IcoCA is clear and essential to create a coherent framework that not only regulates the private security sector but also ensures that companies across all industries comply with their human rights responsibilities. The convergence of these three mechanisms helps to ensure that companies adopt responsible practices that respect the communities affected by their operations, while at the same time being held accountable for their actions within a robust legal framework, promoting a true transformation in business practices at the global and local levels.

The need for Mozambique to align with the Global Agenda

At the global level, the Binding Treaty on Business and Human Rights has been a focal point of discussions. Given the extensive presence of multinational companies in Mozambique's extractive sector, it is important that the country actively engages in the discourse around this treaty.

By participating in the Binding Treaty negotiations, Mozambique can align itself with its regional peers, such as South Africa, Kenya and Tanzania. This would strengthen its regional position and contribute to a unified African voice in the negotiations, promoting greater solidarity and cooperation among the countries of the continent.

Furthermore, Mozambique's involvement in treaty discussions would provide additional tools and frameworks to increase multinational corporations' accountability for their human rights impacts. This commitment to corporate

responsibility would ensure that companies operating within its borders comply with the highest human rights standards.

Adherence to the treaty can also promote sustainable development. A strong commitment to business and human rights would attract responsible and sustainable investment, boosting economic growth without compromising the rights of local communities. Such an approach would ensure that economic progress occurs ethically and fairly, benefiting all Mozambicans.

Finally, Mozambique's active participation in the treaty process would reinforce its commitment to ensuring that companies act transparently and ethically. This would not only protect the rights of Mozambican citizens but would also improve the country's image on the international stage, attracting more investment and beneficial partnerships.

Harmony between the Binding Treaty on Business and Human Rights and the Mozambique National Action Plan

The Binding Treaty on Business and Human Rights is in line with Mozambique's National Action Plan, which aims to promote corporate accountability and protect human rights. This plan has already established important guidelines and mechanisms to ensure that business activities respect the rights of local communities, including the implementation of ethical business practices and the establishment of structures to monitor and report abuses.

By aligning with the Binding Treaty, Mozambique can strengthen these existing mechanisms by incorporating international standards that require greater transparency and accountability from companies. The treaty complements the National Action Plan by providing a more robust legal framework and enforcement mechanisms that can help ensure that multinational companies respect human rights.

Furthermore, Mozambique's National Action Plan highlights the importance of reparation and justice for victims of human rights abuses.

Conclusion

Mozambique has taken important steps in addressing business and human rights issues, with the development of its National Action Plan, which aims to promote ethical business practices and ensure the protection of the rights of local communities. However, to further solidify its commitment and increase corporate accountability, it is crucial that the country actively participates in the global negotiations of the Binding Treaty on Business and Human Rights.

By doing so, Mozambique will strengthen existing national mechanisms and align itself with global standards, ensuring that multinational companies operate responsibly and respect human rights. Joining the treaty will enable a more robust and legally binding approach, which will increase transparency, corporate accountability

The Binding Treaty supports this objective by establishing clear obligations for companies and effective mechanisms to investigate violations and provide redress to victims. This synergy between the treaty and the plan strengthens Mozambique's ability to protect the rights of its citizens and hold companies accountable for any harm caused.

Mozambique's active participation in the Binding Treaty negotiations can also help ensure that the country's particularities and challenges are taken into account in the development of global standards. This will allow Mozambique to tailor the treaty to its specific needs, ensuring that the resulting legal framework is relevant and effective in the national context.

Therefore, by aligning with the Binding Treaty on Business and Human Rights agenda, Mozambique can ensure greater protection of human rights, promote sustainable development and strengthen its regional and international position.

and justice for victims of abuses, especially in areas of natural resource exploitation, such as Cabo Delgado.

Furthermore, Mozambique's alignment with the Binding Treaty will contribute to the country's sustainable development by attracting responsible investments that benefit local communities and drive economic growth without compromising human rights. Through this commitment, Mozambique will strengthen its regional and international position, playing a crucial role in global discussions on business and human rights. In this way, the country will be in a stronger position to protect its citizens and promote a true transformation in business practices, contributing to a more just and sustainable future.



MISSÃO:

Inspirar e impulsionar ações para proteger os direitos humanos, fortalecer a democracia e promover a justiça.

MISSION:

Inspiring and driving actions to protect human rights, strengthen democracy, and promote justice.

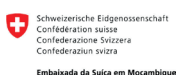
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