



MOZAMBIQUE'S VIOLENT INSURGENCY:

IMAGINING A NEW SOCIAL CONTRACT THROUGH TRANSITIONAL JUSTICE



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CONTRACT THROUGH
TRANSITIONAL JUSTICE

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CONTENTS

Introduction	2
Conceptual framework	4
Mozambique's previous approaches to transitional justice	7
Where to from here? Results from community and civil society consultations in Cabo Delgado	10
Basic service delivery	10
Security	12
Dialogue	14
Truth-telling	15
Amnesties and accountability	16
Disarmament, Demobilisation, Rehabilitation and Reintegration	18
Political and institutional reforms	20
Conclusion and recommendations	21
Endnotes	25

Introduction

Mozambique has been beset with violent conflict for decades. Its 15-year-long civil war ended in 1992 with the signing of the Rome General Peace Agreement, but ongoing conflict between the Mozambican government, formed by the Mozambique Liberation Front (FRELIMO), and the Mozambican National Resistance (RENAMO) required a further peace agreement in 2019. Yet even before then, a new conflict in the northern province of Cabo Delgado had begun to dominate the local headlines. A violent insurgency, led by Ahlu-Sunna Wa-Jama'a (ASWJ), known locally as Al Shabaab,¹ quickly took centre stage, leaving communities at greater risk than ever before, and attesting to deep societal divides.

The response to the insurgency has primarily been a military one, with the Mozambican security forces, supported by troops from Rwanda and the Southern African Development Community Mission in Mozambique (SAMIM), driving Al Shabaab out of its coastal strongholds and displacing it to new inland areas. However, this has done little to address the root causes of the conflict.

According to many analysts, the drivers of extremism are varied and deep-seated, and include unemployment, poverty, socio-economic disparities, ethnic and

religious intolerance, political and economic marginalisation, illegal mining, and local and transnational organised crime.²

The local environment is further characterised by high levels of corruption and elite greed, intertwined with an illicit economy of trade in arms, drugs, wildlife and gems.³ Furthermore, the discovery of Liquefied Natural Gas (LNG) off the coast of the Rovuma Basin in 2016 led to an influx of multinational companies such as TotalEnergies and Eni, and further skewed the development characteristics of the area. This has fuelled resentment against the Mozambican state, and helped to create a setting in which jihadism could flourish.

Morier-Genoud traces the emergence of Al Shabaab back to as early as 2007, in a context in which religious divisions are superimposed on ethnic, social, political and power divisions.⁴ He argues that Al-Shabaab initially sought to create an alternative society through sharia-based rule. Instead of trying to change the established political order, the group split off from mainstream society and began to offer its own faith-based justice, health and education systems through its mosques. This approach changed after 2017, when it decided to attack government installations. According to Morier-Genoud, state administrators initially refused to intervene, seeing

this as an intra-Muslim affair, but began to clash with Al Shabaab from 2015 onwards, detaining many of the men associated with the group and calling on the population to reject their faith-based state. Therefore, he describes the shift to 'armed jihadism' as a 'consequence of the repression it experienced from the mainstream Muslim organisations and, later on, the state – the latter's involvement possibly tipping the group into abandoning its approach of withdrawing from society'.⁵

As state–society relations in Mozambique continue to fissure, there is a need to reimagine a social contract that will provide more meaningful political participation and assist the state to meet basic human needs. As a result, this study explores community perspectives for framing a new social contract in Mozambique through the lens of transitional justice. It is funded by the Knowledge Management Fund under its work on social contracts in conflict-affected settings, and co-funded by the Open Society Initiative for Southern Africa (OSISA). The OSISA grant forms part of a larger project titled 'Shifting Narratives on Violent Extremism in Africa'. The general objective of the project is to produce alternative narratives about and approaches to countering violent extremism in Africa, thereby contributing towards sustainable peacebuilding that includes gender-sensitive and survivor-centred transitional justice and reconciliation processes.⁶

The study is based on research conducted among civil society organisations (CSOs) and communities in three towns in Cabo Delgado, namely Montepuez, Mecúfi and Pemba,



Entrance to Montepuez ruby mine – the site of some attacks – in June 2023

from 5 to 9 June 2023.⁷ It starts by outlining how the context of and approach to violent extremism traditionally differ from that of armed conflict. It then provides insights from the field research, and begins to reimagine a new social contract for Mozambique. It concludes with policy recommendations to the Mozambican government and the international community.

Conceptual framework

The term ‘social contract’ is used throughout this study, as it provides an opportunity to consider the factors that build resilience in conflict-affected countries. By examining the nature of state–society relations, it allows the international community to reflect on how to improve its support for national and local peace processes,⁸ which the United Nations defines as a goal and a process to ‘build a common vision of society’.⁹ It also shifts the focus away from elite-level bargaining towards people-centred processes. According to an analytical paper emerging from Knowledge Platform Security & Rule of Law (KPSRL) discussions, ‘social contract’ refers to ‘the process by which people in positions of power (including both formal and informal authorities) and people and organisations challenging for power and social change, make promises to or agreements with society that raise expectations on the exercise of political authority. When these expectations are met, authority is considered across society to be legitimate, which builds consent and cooperation’.¹⁰ The term ‘social contract’ is used in this study because of its flexibility, adaptability and the way in which it lends itself to imagining an ideal context.

According to McCandless, this framing is useful as there are three ‘drivers’ that can facilitate resilient and inclusive social contracts. In the context of Mozambique, this would involve ‘i) tying a political solution to agreements around inclusive, participatorily developed, and nationally owned policies; ii) building responsive institutions that reflect local needs and radically improve service delivery; and iii) improving social cohesion vertically and horizontally by tackling the resentment and mistrust of the state that paves the way for terrorist narratives to gain a foothold, and, the intercommunal cleavages caused by struggles for resources and internal displacements’.¹¹ She further stresses that positive communication strategies are vital for wider behaviour change, as are local disengagement and local reconciliation processes to foster a sense of belonging.

Transitional justice (TJ) is a tool for achieving a new social contract in countries moving away from conflict, as it strengthens forward-looking perspectives while simultaneously addressing the past. It speaks to formal or informal measures that are inclusive and context-specific. The African Union’s Transitional Justice Policy (AUTJP) of 2019 defines transitional justice as

‘the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation’.¹² The AUTJP has 11 indicative elements, all of which can be considered in a country context, namely: peace processes, TJ commissions, African TJ mechanisms, reconciliation and social cohesion, reparations, redistributive (socio-economic justice), memorialisation, justice and accountability (amnesties, plea bargains, mitigation/alternative forms of punishment), political and institutional reforms, human and people’s rights, and diversity management.¹³

However, striking the right balance among these ingredients is vital. Furthermore, transitional justice requires political will, since it often emphasises progressive measures to achieve change, notably through political and institutional reforms, or collective efforts to envision the future, such as through reconciliation. In a study of the potential for transitional justice in pre-transitional societies, Mungure and Mandikwaza analyse the cases of Uganda and Zimbabwe. They conclude that transitional justice in these contexts may only form part of preparing for a transition, and recommend actions such as building the capacity of communities, documenting memory, cumulative legislative reforms, accelerating symbolic developmental justice, and raising citizen awareness of the right to healing, justice and reconciliation.¹⁴

It is also important to reflect on critiques of forgiveness and reconciliation, which cannot take place unless survivors regain their sense of self-worth and dignity.¹⁵ In this regard, the United Nations (UN) considers recognition to

be the central aim of the different pillars of people-centred transitional justice. It notes that recognition can be a key driver of change, but only if it is connected with efforts towards representation and redistribution. However, it should be defined by survivors. From a gender perspective, recognising wider conflict experiences, beyond victimisation, can also recognise women’s agency and help to promote their political and socio-economic participation.¹⁶

Recognition (in transitional justice processes) can be a key driver of change, but only if it is connected with efforts towards representation and redistribution

Frameworks for transitional justice and Countering or Preventing Violent Extremism (C/PVE) operate in different contexts, which have implications for programming. The concept of transitional justice is usually traced back to the late 1980s and early 1990s, as countries in Latin America, especially Argentina and Chile, as well as countries like South Africa and others in Eastern Europe, supported transitions from authoritarian to democratic rule, with demands to know the truth and to achieve justice for systemic human rights violations. C/PVE, on the other hand, emerged as a response to a growing counter-terrorism architecture marked by an emphasis on militaristic responses (which, *inter alia*, had a negative impact on civil-society-led programming), stressing a ‘whole-of-society’ approach instead.

This leads to three important distinctions. Firstly, transitional justice is often used in situations in

which there is an underlying peace agreement that seeks to establish a new political order, which is not the case for violent extremism. This then influences the various instruments that can be used for transitional justice. Secondly, despite shifts from counter-terrorism towards C/PVE frameworks, the ongoing labelling of extremist groups as 'terrorists' by national governments and the international community in UN Security Council (UNSC) resolutions juxtaposes the state (as a positive force) against violent insurgents (as a negative force), as opposed to transitional justice situations in which the different sides are both considered parties to the conflict. This leaves less room for dialogue, for examining state accountability or the conditions that give rise to or exacerbate extremism, or for examining the legitimacy of demands from insurgents.¹⁷ Thirdly, C/PVE programming is often conceptualised at an individual rather than at a collective level, while transitional justice frameworks look at both the individual and the collective.

However, in the African context, violent extremism operates in situations of marginalisation or socio-economic grievances, which can be seen as a response to discrimination by the state. Extremist groups often manipulate these grievances to their benefit. This is certainly the case in Mozambique.¹⁸ Since the transitional justice approach is aimed at identifying the violations, exclusions and oppressions of the past as a pathway to healing societies, and the manifestation of violent extremism in the African context is often an outgrowth of these

issues, there is an alignment between utilising transitional justice and the conditions that fomented violent extremism. Moreover, in the absence of a peace agreement, the development of inclusive national policies can be an important mechanism for forging a new social contract. Since peace processes can take many years, it is important to create space for dialogue. Inclusion in negotiations can be incremental, keeping the potential for reimagining a social contract open.¹⁹

Violent extremism also has transnational elements that demand a more collective focus. In this regard, there is an opportunity to span the silos of these different concepts and to bring together strategies that address the collective/macro focus found in conflict resolution and transitional justice, as well as the individual (micro) focus found in approaches to C/PVE. As such, seeing violent extremism as sets of relationships, which include the role of government, can highlight alternative paradigms of legitimacy for governance (including religious autonomy). At the same time, C/PVE approaches stress the need for individual disengagement practices, which should also be considered.²⁰

Thus, despite the different contexts, there are many lessons from the transitional justice field that can be applied to C/PVE frameworks and can play a role in imagining a new social contract. The next section examines Mozambique's past efforts at transitional justice in the context of armed conflict, with a view to understanding the possibilities for transitional justice in the future.

Mozambique's previous approaches to transitional justice

Following independence in 1975, the socialist regime led by FRELIMO began to dismantle customary authorities and repress traditional practices. Some scholars have asserted that this amounted to a process of 'reconciliation without truth'; which prevented the country from fully dealing with the past legacies of violence.²¹ At the same time, some truth commissions were established between 1975 and 1982, aimed at dealing with 'traitors of the revolution' – i.e. those who had sided with the colonial power, Portugal, in the course of the war of liberation. These were open meetings that attempted to uncover evidence and bring controversial actions out into the open. Meneses contends that this truth-telling exercise contributed to a broader sense of belonging,²² but Igreja suggests that the public confessions of guilt, accompanied by the torture and killing of anyone deemed to be unpatriotic, were seen as overly punitive and resulted in the unintended consequence of persuading people to join RENAMO in its fight against the governing FRELIMO.²³ This may be why truth-telling has not featured on the Mozambican agenda ever since – due to the fear of repercussions.

In the late 1990s, Mozambique underwent legal and political reforms as it embarked on a democratic transition. The General Peace Accord, signed between the government and RENAMO in 1992, considered democratisation through decentralisation, peacebuilding, reconciliation and the rule of law. Decentralised policies again recognised the role of chiefs and customary courts, but this was ambiguous, and created two separate processes: the official politics of recognition, and the societal process of reconciliation.²⁴ The government unilaterally enacted a blanket Amnesty Law – Law no. 15/92 of 14 October 1992 – that did not address elements of accountability (including truth-telling) for dealing with the past from actions committed by either RENAMO or FRELIMO. Some scholars asserted that the law was beneficial for peacebuilding and democratisation, considering that Mozambique could not afford the costs of establishing a truth commission, or carrying out criminal prosecutions.²⁵

Conversely, Igreja argues that the granting of amnesty to perpetrators of human rights abuses obscured the lack of public commitment to reconciliation, and therefore did not lead to an

increase in the quality of inclusive participation in the memories of the civil war and perceptions of moving towards a fair and just society. He further asserts that the amnesty law was used as a smokescreen to create the perception that it was about reconciliation, while it instead pertained to selective forgetting.²⁶ Political instability continued, and by 2012 the FRELIMO government agreed to enter new talks with RENAMO.

At the community level, there were some efforts to develop new cultural practices or to adapt old ones to deal with the legacies of war. Traditional chiefs stressed the importance

of reconciliation rather than revenge, and emphasised forgiveness. Christian religious groups discouraged notions about formal justice, suggesting that this should be left to God. In contrast to Christian religious approaches that discouraged any practices to revisit the past or demand accountability, traditional healers in the Gorongosa district of Central Mozambique – the epicentre of the civil war – conducted reintegration rituals for former combatants. This drew on the notion of *gamba* (*magamba* in the plural), which refers to the spirits of the dead soldiers who return to the land of the living to fight for justice.²⁷ This is explained in the box below.²⁸

Localised transitional justice mechanisms in Mozambique: The example of *magamba*

The *magamba* philosophy states that the deaths and killings of individuals require atonement rituals, otherwise the spirits of the victims will return to the land of the living. Healers, guided by ancestral spirits, would transfer the body of the patient to their body, and diagnose all aspects of the problem. An intervention strategy would be defined for healing. This would include a balance between individual and collective responsibility that also brought in the voices of young people. Reparations also formed part of this approach. Importantly, Igreja notes that *magamba* spirits are testimonies of 'collective truths of victimisation and post-war responsibility and accountability',²⁷ further stressing that the process acknowledges suffering and restores dignity, thereby enabling reconciliation. He makes the point that because the spirit is a perpetrator who comes back as a victim, the process highlights the challenges in identifying different categories of perpetrators and victims and differing levels of responsibility. However, he cautions that there is also a need to take a critical approach, as there is a gender bias in that women are unable to return as spirits. These traditional healing practices suggest that there was a demand for local African transitional justice mechanisms, and that this could also be relevant to the current situation in Cabo Delgado. Even so, this practice was adopted in the Gorongosa district, and so other approaches inclusive of different ethnicities, religion and gender may be more suitable in Cabo Delgado in the north.

In sum, Mozambique's approach to transitional justice was rooted in amnesties at the state level, with no focus on retributive, redistributive or restorative justice, which continues to be a challenge. At the community level, local practices focused on reconciliation,

healing and social cohesion, but these were not actively supported by the state, which also posed challenges in formulating an overarching approach. So where does this leave Mozambique's transitional justice options as a means of dealing with violent extremism?



Community consultation in Mecúfi

Where to from here? Results from community and civil society consultations in Cabo Delgado

As noted, civil society and community consultations were held in Cabo Delgado, aimed at generating inputs for reimagining a social contract. The anonymity of respondents was respected in order to protect them, and to solicit more honest responses. Questions were semi-structured and adapted, depending on the type of audience, and to allow for certain issues to be probed in greater depth. Pemba and Mecúfi have never been attacked (Figure 1), but are active sites of recruitment for Al Shabaab. Montepuez was a site of attacks on the Gemfields ruby mine in October 2022 and again in February 2023. All areas in which the consultations were held have seen massive influxes of internally displaced persons (IDPs).

Basic service delivery

All respondents were asked to name the biggest challenges they had faced since the onset of the attacks in 2017. They were also asked about the ways in which government and civil society were responding, and the areas in which more assistance was needed. The primary response of all those consulted related to the absence of services, as well as of the state. According to the consultations, the influx of IDPs has greatly

strained services in all areas. Schools house up to 100 children per class, with lessons often held under trees. Queues for medical services are long, there is limited access to medicine, and people are often forced to make use of private medical service, which they cannot afford.²⁹

In addition, the treatment of IDPs has varied. Some IDPs live in camps, while others have been taken in by host communities.³⁰ In Montepuez, inmates of the Marconi IDP camp lamented that they had not received emergency support from the government for many months, but that host communities were denying them access to land as they believed they were receiving preferential treatment. The findings confirm those of Feijo, who found that in Mapupulo in Montepuez, 59.4 per cent of IDPs have never had access to land, and there are massive infrastructural needs in terms of education, health and support for economic activities.³¹ The IDPs at Marconi camp emphasised the lack of government communication, stating that they were reluctant to return to their areas of origin until the conflict had ended and demanding that information about this be better communicated.³²

FIGURE 1: Map showing the areas in which community consultations took place



Moreover, the reception of IDPs is affected by differences in religions, ethnicities and occupations (Muslim vs Christian, fishermen vs agriculturalists, etc.) as well as cultural

behaviours (e.g. the eating of pork, rats and snails). In Montepuez, this has led to further conflict. In Mecúfi, communities take IDPs into their homes, placing a strain on resources,

with state support notably absent. In Pemba, IDP camps still exist and are supported by the government, which people in other districts view as unfair. However, civil society respondents in Pemba noted that the IDPs were not consulted on the development of projects, meaning that these interventions were not always contextually appropriate. Access to services is also limited to people with identity documents, which is problematic as many did not have these documents even before the insurgency.³³ Resettlement requires trust in the government, but it appears that this does not exist.

In response to the numerous challenges of services and infrastructure in Cabo Delgado, the government has developed the Reconstruction Plan for Cabo Delgado (PRCD 2020–2024), as well as the Northern Resilience and Integrated Development Program (PREDIN). However, most of the PREDIN budget will be spent on transport, communication and energy. Only 10 per cent will be spent on education and 10 per cent on health,³⁴ despite these being the key services identified in the consultations. The programme is meant to be coordinated by the Northern Development Agency (ADIN), which was lambasted in the community consultations as being ineffective and an instrument for gaining political support ahead of the municipal elections.³⁵ Respondents also felt that policies were highly centralised and made in Maputo, and therefore not reflective of realities in northern Mozambique – a criticism frequently levelled by the Centre for Democracy and Development (CDD).³⁶ Some have argued that ADIN has been sidelined by the Ministry of Economy and Finance due to a lack of trust among donors.³⁷ It is clear that the lack of coordination and strategic planning at a national level has filtered down to communities on the ground, further eroding trust in the state.

A failure to provide basic services is strongly linked to extremism.³⁸ Therefore, it is essential for the Mozambican government to place a greater emphasis on identifying people's needs for services in a decentralised way, and to communicate this plan for broader buy-in. Moreover, younger respondents identified the lack of jobs as a primary driver of extremist recruitment – therefore, greater emphasis should be put on livelihood training. In Mecúfi, the lack of security has meant that communities can no longer farm.³⁹ Furthermore, while the multinational TotalEnergies has resettled some communities from Palma and Mocímboa da Praia, they are restricted to certain areas. An independent expert commissioned by the company has recommended that fishermen should be offered wider and more diversified access to the coast.⁴⁰ Thus, there is a need for more context-specific and localised resettlement strategies that also take ethnic, religious and cultural considerations into account. The consultations therefore confirm McCandless's assertion that a social contract requires responsive institutions that reflect local needs.⁴¹

Security

The other common theme that emerged from the community consultations related to corruption and human rights abuses by state agents, including local leaders, policemen and soldiers. This includes sexual harassment and rape, beatings, torture and unfair distribution of food.⁴² In order to address human rights issues related to the Mozambican military, the European Union Training Mission (EUTM) has been training Quick Reaction Forces on accountability and human rights, but does not train any troops in Cabo Delgado itself.⁴³ Its efforts may therefore not have much of an impact on the behaviour of security personnel where it is most needed.

Across Cabo Delgado, paramilitary community forces, known as 'Local Forces', have constituted themselves as a means of guaranteeing security for the local population. They first appeared in 2018, but have since become more prominent.⁴⁴ In Pemba, civil society respondents explained that the Local Forces had emerged out of distrust of the military.⁴⁵ Broadly speaking, the local population welcomes these forces as they fill a gap left by the Mozambican Defence Armed Forces (FADM). In 2020, Article 7 of the National Defence and Armed Forces Law was amended to incorporate Local Forces into the national defence structure under the authority of the General Staff of the FADM. The functioning of the Local Forces was regulated by a decree issued in April 2023.⁴⁶ However, the new decree does not offer a long-term solution, as the integration of the Local Forces into the FADM raises issues of accountability, the proliferation of arms, and demobilisation. Since many are tied to FRELIMO, the partisan profile of these forces is also cause for concern. Moreover, since members of the Local Forces do not receive salaries, their firearms, uniforms and ammunition may be used to commit crimes.⁴⁷

To date, government support has been piecemeal. In Mecúfi, communities explained that they had a Community Security Council, but that it received no government support.⁴⁸ The Local Forces also operate separately from the military – in Muidume, Local Forces seized weapons from Al Shabaab and refused to hand them over to the FADM, illustrating the complexities associated with this approach.⁴⁹ In Montepuez, civil society respondents asserted that these Local Forces have themselves committed many abuses, particularly against women, and bemoaned the fact that they only protected the local Chinese miners, thereby suggesting that security is increasingly privatised.⁵⁰

The peacekeeping forces do not operate in the areas in which the consultations were held – SAMIM is stationed in Macomia, Mueda and Nagande, while Rwandan troops are stationed in the Palma and Mocímboa da Praia districts, the areas in which LNG is located. Although respondents generally viewed the peacekeeping missions in a positive light, some expressed concern over the privatisation of security with regard to the Rwandan troops and Total. In Montepuez, people perceived the need for foreign assistance as reflective of the capacity gap left by the military. Civil society respondents said they trusted the Rwandan forces, but since SAMIM came from different countries, questions of accountability were raised. Nevertheless, respondents believed that the peacekeeping presence had minimised abuses by members of the FADM. The Rwandans were labelled as 'consistent', and praised for their approach of engaging with communities (Rwandans speak Kiswahili, which allows them to interact with communities in their designated areas), and working to provide basic services.⁵¹ This forms part of Rwanda's philosophy of restoring peace through development.⁵²

'The state should believe the population is its boss, but it thinks Total is its boss'

In Pemba, there was also recognition of SAMIM's efforts to conduct training, including training police personnel on gender-based violence. As SAMIM now has a scenario five mandate, it is regarded as a multidimensional mission, which is greatly appreciated by the local population.⁵³ This speaks to a preference for impartial peacekeeping missions that also try to address the challenges of

the government, rather than a peace enforcement mandate, which is premised on the idea that the legal regime put forward by the government is based on international humanitarian and human rights law.⁵⁴ However, the issue of the privatisation of security was raised once again, with some civil society respondents reflecting a perception that Total intended to separate Palma and Mocimboa da Praia from the rest of the country. Tellingly, one respondent stated: *‘The state should believe the population is its boss, but it thinks Total is its boss,’* speaking to the fact that the government is perceived as serving foreign interests rather than the population.⁵⁵

Specialised support for women and children is also absent. The UNSC has adopted 10 resolutions on Women, Peace and Security (WPS), but none of these seems to have had any effect on the ground. In Pemba, civil society respondents remarked that the government knew about the sexual harassment by people distributing food, but seemed unable to control it. The consultations point to a clear need for Mental Health and Psychosocial Support (MHPSS).⁵⁶ Currently, less than 10 per cent of the displaced population is receiving any kind of psychological assistance.⁵⁷

If a new social contract were to be imagined in Mozambique, security across all areas of Cabo Delgado would be vital, with specialised responses for women and children. Furthermore, human rights abuses by soldiers as well as corruption in the military must be addressed. The UN Development Programme’s (UNDP) 2017 and 2023 studies on extremism found that grievances about government security actors, such as the killing or arrest of a family member, are often the tipping points in respect of extremism in Africa.⁵⁸ Thus, unless such abuses are prevented and addressed, and trust is built

between security actors and local communities, others may also be driven to violent extremism. The peacekeeping missions could therefore expand their training on human rights for the military and police, but also expand this to the Local Forces. If Mozambique were to adopt a new social contract, efforts should be made to develop more effective models of community policing that adhere to human rights and accountability standards, and are inclusive and participatory. The Local Forces should be encouraged to develop codes of conduct and to be inclusive and gender-sensitive, with repercussions for those who fail to adhere to them.

Dialogue

The consultations revealed that communities were predominantly in favour of dialogue with Al Shabaab. All the community respondents believed that the government knew who was behind the insurgency, as some people had been released back into communities (see the section on amnesties below). Respondents cited cases of insurgents who had been released and returned to their communities, and questioned how it was possible for those who were still associated with the insurgents to walk free. They questioned how it was possible that people still associated with the insurgents could walk free. In Pemba, civil society respondents mentioned that people known to have committed crimes linked to the insurgency were operating freely, driving nice cars and flashing money.⁵⁹

‘Some people don’t want the dialogue to end. It is difficult to make dialogue, but also easy, as people are ready’

Moreover, respondents referred to the case of the Brazilian nuns who were abducted in September 2020 when insurgents occupied the port of Mocimboa da Praia, and located 24 days later.⁶⁰ Respondents therefore questioned who was engaged in the negotiations for their release, with some reports stating that the government had mobilised for them to be freed,⁶¹ and others suggesting that the insurgents used the nuns' satellite phone to solicit payments from the Catholic diocese.⁶² One respondent in Pemba noted: *'Some people don't want the dialogue to end. It is difficult to make dialogue, but also easy, as people are ready.'*

*'War does not end with
another war'*

Another respondent stressed that the government should consider dialogue, as *'War does not end with another war'*.⁶³ At the beginning of the insurgency, the government was quick to label it as 'faceless', reflecting the fact that it blamed the growth in violent extremism on foreign influences and linkages rather than recognising its home-grown elements. However, on 2 February 2023, the government acknowledged, for the first time, that a Mozambican leader, Abu Sorraca, also known as Bin Omar, had played a significant role. Despite this, the government does not seem to have considered a move towards dialogue, opting rather for a military victory, which may be unlikely given the root causes of the conflict that have caused a perpetual cycle of violence.⁶⁴ While the idea of dialogue with Al Shabaab may not be palatable for the Mozambican government at this stage, dismissing the group's moral claims is likely

to inflame conflict rather than to resolve it. The government could do much more to try to understand Al Shabaab's underlying motives from insurgents who have been captured as well as from communities, and to devise strategies for addressing these grievances.

The international community could also stress and support the importance of community-led dialogue to better understand these conflict dynamics, to ensure that grassroots and survivors' voices are heard, and to utilise them as sounding boards for future transitional justice interventions. Pronounced efforts should be made to include women, as they are not only survivors, but also active agents of change.⁶⁵

Truth-telling

As noted earlier, truth-telling has not featured prominently on the Mozambican agenda. During the consultations, the civil war between RENAMO and the FRELIMO government was frequently mentioned. Some respondents suggested that this demonstrated that reconciliation was possible, since at that time members of RENAMO were placed back in communities without any specific reintegration efforts and without any government communication. However, they also noted that the objectives during the civil war were clear, making it easier to understand and to know when it was over through the signing of a peace agreement.⁶⁶

*'If they came here, we would treat
them fairly, but we would question
them: why?'*

Furthermore, respondents noted that the actions of Al Shabaab were horrific, and demanded sterner punishment. These statements highlight the difference between violent extremism and armed conflict. The consultations reflected the demand for truth-telling, with communities wanting to know what Al Shabaab wanted, and what had happened to their family members. As one person in Mecúfi explained: *'If they came here, we would treat them fairly, but we would question them: why?'*⁶⁷

Truth-telling is a key component of transitional justice as it is regarded as an important part of acknowledging victims and their suffering. It does not preclude the need for justice, but rather complements it.⁶⁸ In many cases, transitional justice commissions are set up to establish a full historical record of violations that covers the different experiences of different groups of people, the identities of survivors and perpetrators, and the role of state and non-state institutions. In cases where there is insufficient political will to create a truth commission, civil society can still play a role in gathering information and documenting violations. In Nigeria, this is currently being done in the context of violent extremism by the National Human Rights Commission, while specialised non-governmental organisations (NGOs) have also collected evidence of international crimes in Libya, Mexico and Yemen.⁶⁹ Efforts should therefore be made to preserve and protect evidence.

Amnesties and accountability

One of the reasons why CSOs and communities believe the government knows who is behind the violence is that President Filipe Nyusi has been granting amnesty to those thought to have been forcibly recruited by the ASWJ.⁷⁰ The president made two amnesty offers in 2021, with alleged

insurgents testifying to the genuine nature of the amnesties and the importance of laying down arms at a public meeting in Mocímboa da Praia.⁷¹ This is a move reminiscent of the past. As noted earlier, the FRELIMO government did not embark on a confrontational process for retributive justice at the end of the civil war, since the post-colonial government's strategy of reckoning had led to many people joining RENAMO. Therefore, the first peace agreement between the government and RENAMO included blanket amnesties.

Community members noted that Al Shabaab had committed far worse atrocities than those seen during the civil war, and that there was therefore a need to consider additional approaches to addressing the past. However, this differed depending on whether communities had been directly or indirectly affected. In Montepuez, civil society respondents proposed that insurgents should be isolated for a few years to prevent further recruitment, or even imprisoned.⁷² Vitally, maintaining accountability (especially for serious violations of human rights) is a legal obligation of states, based on international human rights law.⁷³

Mozambique has made efforts to prosecute suspected terrorists – many have been arrested, but relatively few have been convicted (a rate of 37.5 per cent between 2017 and 2021).⁷⁴ Its penal code specifies that suspects may be held for six months without charge, and ten months without trial. At the same time, the criminal justice system does not have the capacity to prosecute all terrorism-related cases, or to humanely detain suspects for this length of time. Therefore, different levels of accountability are needed, such as differentiating between those who were forcibly recruited, or child soldiers. The granting of amnesties suggests that such an approach is being taken, but this has not been explained or justified by the government.

The absence of a clear policy and legal framework is challenging, as it is important to manage the expectations of both the public and the perpetrators.⁷⁵ In this regard, the AUTJP warns that amnesties should be ‘formulated with the consent of affected communities, including victim groups, and have regard to the necessity of the right of victims to remedy’. It also warns that amnesties should be implemented in a transparent way, based on clear criteria, with relevant information publicly disclosed, and that this should be administered impartially. They should also facilitate truth-telling, and facilitate remedies to survivors through public acknowledgement of their suffering, expression of remorse by perpetrators, or the payment of reparations.⁷⁶ Without a more comprehensive strategy that outlines these differentiations, and is adequately communicated to the public to ensure legitimacy, perpetrators may be reintegrated into the same communities and under the same conditions that gave rise to radicalisation in the first place. This was reflected by a respondent in Pemba, who said: *‘Last year the president came with some terrorists and asked communities to forgive them. They should do some activities, as you can’t just forgive people. It should be more practical.’*

‘Last year the president came with some terrorists and asked communities to forgive them. They should do some activities, as you can’t just forgive people. It should be more practical.’

Also in Pemba, another respondent stated that the imprisonment of people that were forcibly recruited was unfair. They also

claimed that members of CSOs who gave the government information ended up in jail, which further creates an atmosphere and distrust. Respondents agreed that more could be done to utilise this information as intelligence, and to understand the motives of the ASWJ.⁷⁷

Respondents also distinguished between leaders of the ASWJ and those who were forcibly recruited, suggesting that the leaders should go to jail but that there should be leniency further down the ranks. This was important for the state to show people that *‘killing is a bad thing’*. People explained that the communities know who joined the ASWJ voluntarily, and know their families as well. In addition, community members said they would be more amenable to taking back those who asked for forgiveness and laid down their arms.

One respondent suggested a 30-day amnesty to incentivise people to defect. Indeed, the UNDP has found that government incentives and amnesty programmes have influenced decisions to leave extremist groups voluntarily. Awareness of these programmes is crucial in supporting engagement. Moreover, disengagement has a cascading effect, reflecting how socialisation is a key element of extremism.⁷⁸ In Borno State in Nigeria, the governor has implemented a mass exit policy, profiling ‘low-risk’ and ‘high-risk’ perpetrators, with intentions to reintegrate the ‘low-risk’ perpetrators through localised transitional justice mechanisms, such as official Islamic Sulhu courts⁷⁹ as well as localised restorative justice practices. Thus, the Mozambican government could consider a multi-tiered strategy to incentivise defections, but should ensure that these are used for truth-telling and the acknowledgement of survivors, and that communities are consulted about the process. It can also use defections to better

understand the pathways to radicalisation, and how to address these grievances. It is important to note that these pathways are gendered, and that the reasons why women join extremist groups vary, with direct implications for policy and programming.⁸⁰

Civil society respondents in Pemba explained that they would look to the state for an explanation of why people would be granted amnesties, along with sensitisation, learning about aspects of forgiveness and how to co-exist together, along with government strategies for MHPSS, as well as religious centres for re-education.⁸¹ In particular, the women and children involved should be given specialised psychosocial support. In Mecúfi, there was some discussion over whether insurgents could be used to rebuild communities, and in Pemba, some suggested that those associated with the ASWJ should be used to produce food, speaking to some restorative aspects of transitional justice.⁸²

In Mozambique, many traditional African justice mechanisms have been weakened over time, and thus people look to the government for guidance. In some communities, the Islamic practice of Sulhu exists, but given that Cabo Delgado has an influx of different ethnicities and religions, any use of localised mechanisms would have to ensure that they were inclusive (of ethnicity, religion and gender) and legitimate in the eyes of the population. The *magamba* philosophy used in Central Mozambique shows that these mechanisms have been used in the past as a means of finding justice, but other mechanisms could continue to be explored.

In sum, given the context in Cabo Delgado, the idea of blanket amnesties is not palatable, and

is less of a consideration, given that the situation is one of violent extremism, with no efforts made to reach a peace agreement. Accountability through prosecutions is therefore necessary. However, the Mozambican government must find ways to incentivise defections and to explore different levels of approaches depending on responsibility. In traditional situations of armed conflict, one such way is through a Disarmament, Demobilisation, Rehabilitation and Reintegration (DDRR) strategy.

Disarmament, Demobilisation, Rehabilitation and Reintegration

Despite the contexts of armed conflict and violent extremism being very different (with DDRR assuming a pause in violence, often on the basis of a peace agreement), much can be learned from past DDRR efforts. Indeed, DDRR is increasingly expected to operate in situations of ongoing war, and thus there has been a growing focus on community violence reduction through greater participation and political reform. Reintegration has become a key focus rather than an afterthought.⁸³ Mozambique already has experience of this, having done so with RENAMO. The Personal Envoy of the UN Secretary-General for Mozambique, Mirko Manzon, who led the process, notes four elements that contributed to its success: establishing national ownership from the outset, building trust, remaining flexible, and ensuring a human-centred process throughout.⁸⁴

Wiegink emphasises the importance of putting reintegration at the forefront of these activities by understanding combatant actions in terms of ruptures and continuities of relationships and networks.⁸⁵ For RENAMO combatants, there were efforts to establish social relationships

outside the military organisation, including spirits, marriages and fictive kin relationships. Wiegink points out that these wartime relationships shaped their post-war trajectories. Thus, a DDRR strategy should endeavour to understand these relationships and their impact on reintegration prospects. Moreover, she observes that the focus on reintegration is often more on the combatants than on the communities. Since communities themselves are not always homogeneous or harmonious, it is important to understand their different dynamics and needs before considering reintegration. There are also blurred lines between civilians and combatants, and their relationship changes over time.⁸⁶

If Mozambique were to consider an approach to DDRR, community consultation is vital. Dzinesa proposes that Mozambique should take an adaptive approach to DDRR, namely a ‘whole-of-society consultative process to collaboratively develop a common understanding of the structural drivers of violent extremism, and to develop and adapt home-grown DDRR programs together’.⁸⁷ An approach involving local communities would ensure that the programme is more sustainable, focuses more effectively on community resilience, and responds to the heterogeneity of both combatants and communities.

A pronounced focus is needed on the reintegration element of DDRR, with communities specifying the conditions under which they would accept those previously associated with the ASWJ. This would in turn promote social cohesion and reconciliation. The International Organisation for Migration (IOM) now advocates for ‘Disarmament, Disengagement, Reintegration and Reconciliation’ in the context of violent extremism to address the fact that a common outcome of screening is a category of people

whose crimes do not trigger legal obligations to prosecute, but who cannot be immediately released and require alternative approaches. For IOM, it is important that perpetrators are screened, rehabilitated and then reintegrated in a way that continues to address their socio-economic needs while promoting the welfare of the community as a whole. Support for reconciliation can include restorative justice forums, community-based psychosocial recovery activities or other transitional justice efforts.⁸⁸ In this regard, reparative justice might form part of the discussions, such as community service, apologies or reparations, as has been done in other countries.

In Kenya, amnesties were offered to combatants who had completed a government-run deradicalisation and demobilisation programme. They were also given reintegration kits to start businesses.⁸⁹ However, this was considered a failure, with several lessons that could be instructive to Mozambique. Firstly, an operational policy or legal framework is necessary, with safety assurances for returnees. Secondly, attention needs to be paid to execution of the amnesty programme so that those receiving assistance are not resented by communities for being ‘rewarded’ for illegal conduct. Thirdly, the programme would also need to clarify issues of eligibility, and work closely with security forces to ensure that those applying for amnesty are not detained or killed. Finally, it would be important to monitor the success of the programme.⁹⁰ If Mozambique were to consider a DDRR programme, it would therefore be vital for communities to be consulted on the development of a strategy, and that emphasis be placed on community perspectives on reintegration and reconciliation, through various transitional justice mechanisms determined through communities.

Political and institutional reforms

There is also the prevailing context of exclusion and inequality that needs to be considered as part of any overarching DDRR, or broader transitional justice approach. It is often argued that amnesties can be effective when they are combined with strategies for advancing political reforms, and that they can be more pragmatic as a first step towards establishing just rules and a new political order. This provides a guarantee of non-repetition. Nevertheless, peace agreements arise in contexts in which there is a 'mutually hurting stalemate' – a term coined to explain a situation in which neither side can win, and the deadlock is painful enough to seek an alternative.⁹¹ However, this assumes that a political bargain will be struck, or that there will be some significant concession.⁹² The challenge in Mozambique is that this is highly unlikely at the present time.

However, such reforms will be vital if Mozambique is to frame a new social contract. Tellingly, one respondent in Mecúfi suggested that *'the government should ask forgiveness for its system of governance'*.⁹³ Until the Mozambican government makes an effort to adopt more inclusive policies, sustainable peace is unlikely. McCandless suggests the development of a National Action Plan for

Preventing Violent Extremism, which has been utilised in countries like Kenya to promote a whole-of-society approach. But there should also be policies that provide more community benefits from natural resource management.⁹⁴

'The government should ask forgiveness for its system of governance.'

Moreover, the AUTJ advocates for 'constitutional and legal reforms based on inclusive and fully consultative processes, including devolution of power and wealth-sharing arrangements, guarantees on the representation of women and marginalised groups in decision-making structures, a justiciable bill of rights, independent constitutional commissions like a national human rights commission and ombudsperson, institutional safeguards that limit executive power and institutionalise separation of powers and checks and balances, independence of the judiciary with constitutional review powers, and empowerment of traditional authorities'.⁹⁵ It also calls for legislation on non-discrimination, hate speech and a review of criminal law.' Mozambique should therefore consider some of these options.

Conclusion and recommendations

This report has shown that, despite the different contexts of armed conflict and violent extremism, there are many opportunities to consider aspects of transitional justice in Mozambique's approach to the insurgency in Cabo Delgado. While it may be premature to consider a genuine and comprehensive transitional justice strategy, the notion of a social contract allows the imagining of an ideal situation, based on the needs of communities.

Revisiting the notion of a social contract would require the Mozambican government to agree to expectations of how political authority should be exercised. As the consultations show, communities primarily expect the government to provide them with security, and then to deliver basic services across all areas, religions and ethnicities. Overwhelmingly, communities want better communication from the government, and enhanced two-way participation. More decentralised governance with greater community engagement would therefore allow for more tailored efforts that are attuned to local dynamics.

Furthermore, there is a need to develop greater trust between the government and communities,

which can be advanced by adopting a zero-tolerance approach to human rights abuses and corruption, implementing inclusive policies, holding dialogues with communities to understand the nature of their grievances, and acknowledging their suffering. People yearn for clear and well-communicated strategies in respect of justice, accountability and truth-telling. However, the government must understand and promote community conceptualisations of justice and accountability. If amnesties are granted, this should be done in consultation with communities, in terms of clearly defined criteria, and used to promote truth-telling. The government should consider reparations, which could be symbolic or financial.

In this frame, how can international actors best support Mozambique? The consultations show that the peacekeeping missions are appreciated for their efforts not only to provide security, but also to support the provision of basic services and to raise awareness of human rights, by virtue of their presence or their ability to conduct training. However, they also illustrate the reflections seen in global discussions on the challenges and internal contradictions of deploying peacekeeping (or peace enforcement)

missions in the first place. For example, the UN Special Rapporteur on counter-terrorism and human rights has noted that militarised solutions tend to address the symptoms rather than the root causes of conflict, and that 'unqualified consolidation of political and security support for Governments that are weak, unrepresentative, corrupt and unaccountable to their publics inevitably leads to further cycles of insecurity and violence, often feeding and sustaining the grievance that has led to United Nations or regional military engagement in the first place'.⁹⁶

In the UN's *New Agenda for Peace*, its Secretary-General, António Guterres, alludes to the limits of peacekeeping and urges the prioritisation of comprehensive approaches over securitised responses. He asserts that 'United Nations and regional peace operations can play important roles in this respect: mobilising collective action, promoting comprehensive approaches with strong civilian, police and development dimensions and – most importantly – pursuing political solutions and sustainable peace. Similarly, effective disarmament actions could be a powerful preventive tool in support of comprehensive response'.⁹⁷ In the context of counter-terrorism, he urges the development of prosecution, rehabilitation and reintegration strategies that ensure accountability and justice.

As such, the international community can stress the importance of developing a unified political strategy within the Southern African Development Community (SADC) as well as between SAMIM and the Rwandan forces, with funding to bolster the more civilian-led aspects of peacekeeping, such as deepening engagement with civil society, developing inclusive human-rights-based and gender-sensitive community policing strategies (such as developing codes of conduct for Local Forces),

and supporting developmental initiatives that are based on inclusion. It is also worth noting that while Western conceptualisations of justice tend to focus on prosecution, justice in the African sense (see for example the AUTJP) can mean a series of judicial and non-judicial measures that also emphasise redress for communities. Support can be provided for the collection and preservation of evidence, but beyond this, much more can be done to recognise and acknowledge the suffering of survivors.

In this regard, the international community could also support discussions that further gather community perspectives on justice and reconciliation, and seek to construct alternative narratives and approaches to preventing violent extremism by non-militarised means. Although it may not be possible to promote the development of a fully fledged transitional justice strategy, the international community can also raise community awareness and capacity for transitional justice. As noted earlier, Mungure and Mandikwaza assert that transitional justice can form part of preparing for a transition through incremental governance reforms, enhancing symbolic developmental justice, documenting memory, and raising awareness of healing, justice and transformation.⁹⁸ Efforts should also be made to strengthen social cohesion through dialogue.

It could also be useful to share experiences on DDRR in the context of violent extremism in other parts of the world and elsewhere in Africa. In Nigeria, for example, Borno State has employed a mass exit strategy to address a wave of defections from Boko Haram, and is using a community-driven approach to dialogue, transitional justice and reintegration.⁹⁹ The model departs from traditional strategies by placing communities at the forefront of

these engagements, allowing them to decide on appropriate localised and context-specific mechanisms.

The UN's *New Agenda for Peace* also emphasises that addressing inter-state conflict must be driven by national governments, but that they should look to the UN for expertise and funding. Guterres stresses the importance of developing national prevention strategies, with economic, social and cultural rights as well as civil and political rights at the heart of this. He also notes the importance of people-centred approaches and the inclusion of civil society.¹⁰⁰ This aligns with McCandless's perspective that it is important to develop inclusive, participatorily developed and nationally owned policies.¹⁰¹ The international community can therefore play a political and technical role in pushing for the development of inclusive policies.

Ultimately, the existing military approach is unlikely to address the root causes of the conflict and communities believe that dialogue should be the only approach. Should the Mozambican government be willing, the international community can act as impartial mediators that have expertise in this field.

Sustaining peace in Mozambique will require a common vision from society. Unless the Mozambican government opens up channels of dialogue, participation and recognition, conflict

may continue into the long-term future.

As such, the following recommendations are made:

To the Mozambican government

- Prioritise the delivery of basic services and security, with a zero-tolerance approach to human rights abuses and corruption.
- Develop better and more decentralised avenues for communication and consultation with civil society.
- Develop a multi-layered approach to dealing with those affiliated to Al Shabaab, depending on their levels of responsibility and based on consultations with CSOs and communities on their perceptions of justice.
- Consider a system of incentives to promote defections from Al Shabaab, and utilise these defections to understand its demands and how to end the war.
- Consider broad aspects of transitional justice as a strategy for sustainable peace, including truth-telling, political and institutional reforms, redistributive justice and traditional justice mechanisms, based on the demands of the local population in Cabo Delgado.

To the international community

- Develop a political strategy for guiding support for engagement in Mozambique, and stress its importance for the peacekeeping missions.
- Ensure that support to peacekeeping missions focuses on deepening engagement with civil society, developing community policing strategies, and supporting developmental initiatives that are based on inclusion.
- Support the development of prosecution, rehabilitation and reintegration strategies, with a focus on reintegration, based on community needs. Support local NGOs to gather and preserve evidence.
- Promote capacity development in communities, and raise awareness of the right to healing, justice and reconciliation through dialogue. Share experiences of DDRR from other parts of the world and the continent.
- Emphasise the need to develop national prevention strategies which include a review of policies relating to economic, social, cultural, civil and political rights.
- Expand training on human rights for security actors, specifically in Cabo Delgado.

Endnotes

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- 6 Specifically, the project aims to 1) enhance evidence-based knowledge of conflict management narratives and responses to violent extremism in Kenya, Mozambique and Nigeria; and 2) enhance experience sharing, thought leadership and knowledge dissemination on violent extremism in the three regions to relevant stakeholders.
- 7 Specifically, the consultations comprised one focus group in Montepuez (four men and seven women, made up of community leaders and civil society representatives); one consultation in an IDP camp in Montepuez (comprising 34 men and seven women); one community consultation in Mecúfi (Muinde) with eight women and seven men; one community consultation in Mecúfi (Sasallane) with eight women and eight men; and one focus group with 14 civil society representatives in Pemba.
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The IJR was launched in 2000 in the wake of the public hearings of South Africa's Truth and Reconciliation Commission (TRC). Our stated aim at the time of our founding was to become a civil society voice, campaigning for the adoption of the TRC's recommendations through government policy and citizen action. In light of the central role that we played in one of the most observed transitional justice processes in recent memory, our expertise and guidance has been sought in similar transitional justice processes across the African continent. The IJR continues to work towards its broadened vision of building fair, inclusive, democratic and peaceful societies in Africa, and increasingly further abroad, by designing relevant and carefully crafted interventions that combine research, dialogue, capacity-building, advocacy, policy advice and implementation support. We pursue this vision at the global, continental, regional and national levels.

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