



Africa Criminal Justice Reform  
Organisation pour la Réforme de la Justice Pénale en Afrique  
Organização para a Reforma da Justiça Criminal em África



# MEDIDAS DE RESPOSTA À COVID-19 E VIOLAÇÃO DOS DIREITOS HUMANOS - A PROSPECTIVA DA SOCIEDADE CIVIL

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# Justiça Criminal, Direitos Humanos e Covid-19 em Moçambique

- Data in Mozambique was collected from April 2020 to October 2021
- Mozambique Country Survey Report available at: [www.reformar.co.mz](http://www.reformar.co.mz)
- Overview
  - a. COVID-19 measures (legal framework, procedures, role of legislature, extent of consultations, body in charge of decision making,)
  - b. Legal and other challenges
  - c. Punishment for transgressions; examples of rights violations.

## COVID-19 measures taken in Mozambique

- On 30 March 2020 the Mozambican government declared an SoE as provided for in the Constitution.
- SoE not to exceed 30 days; Extended 3 times.
- Further extension was made under the legal provision of Law n. 15/2014 which establishes the framework for the management of disasters.
- Decree n.79/2020 of 4 September 2020 ended the SoE and Mozambique has since 7 September 2020 been in a State of Public Calamity (SoC).

## Procedures for declaring/imposing restrictions

- In Mozambique, Presidential decrees/declarations are submitted to Parliament for ratification, enacting them into laws. Once ratified, the Council of Ministers determines the specific implementation measures.
- Changes to restrictions were made on a monthly basis.
- Stakeholder consultation (?)
- Pandemic-related law - the Disaster Risk Management and Reduction Law (Lei de Gestão e Redução do Risco de Desastres), amends Law no. 15/2014 and introduces the term 'pandemic' for the first time.

# Transgressions

- Transgressions were in some instances punished with imprisonment if the person was convicted of disobedience.
- The crime of disobedience is punishable with up to three months of imprisonment, or in the case of aggravated disobedience up to six months imprisonment.
- Open letter by REFORMAR and changes in punishing transgressions

## Litigation of lockdown

- Courts have played a pivotal role in testing the limits of States' responses to the pandemic. There have been a number of legal challenges to statutory lockdown declarations and their accompanying rules and regulations in the countries surveyed.
- In Mozambique (?)

# Impact on Civil and Political Rights

- Right to life
- Right to liberty and security of the person
- Right to freedom of movement
- Fair trial rights
- ...

## Fair trial and prisoners' rights

- Courts worked with reduced capacity which affected all matters.
- Procedural deadlines were suspended, and only cases that resulted in arrests were processed (until end of July 2020).
- All family visits to prisons were suspended / since mid-August 2021 prisoners can receive a visit from one person per month.
- In Mozambique visits by lawyers continued, but IPAJ also worked with reduced capacity.
- Mozambique's National Human Rights Commission was also not able to conduct monitoring visits since it is also dependent on donor funding.



## Legislative, procedural and other challenges

- The provincial and municipal governments seem to have taken a number of measures beyond what the law mandates and the enforcement and sanctions, especially in the beginning;
- Provisions were not specific and open to different interpretations and abuse.
- Access to information on the pandemic and ensuring that the public are informed of what the laws and rules are, was a major challenge.
- Irregularities: the police were enforcing an unofficial curfew, approaching and arresting persons in public after 8 pm; discrimination; the use of force by law enforcement officials in enforcing the lockdown

Obrigada!  
Thank you!

