



**Joint Parallel Report**

submitted by

**Justiça Ambiental (JA!)/ Friends of the Earth Mozambique,**

**Les Amis de la Terre France/Friends of the Earth France &**

**Center for International Environmental Law**

to the

**Human Rights Committee**

on the occasion of the consideration of the

**List of Issues Prior to Reporting**

for

**Mozambique and France**

during the Committee's 132nd Session, 28 June – 23 July 2021

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About the submitting organizations:

*The **Center for International Environmental Law (CIEL)** uses the power of law to protect the environment, promote human rights, and ensure a just and sustainable society. CIEL seeks a world where the law reflects the interconnection between humans and the environment, respects the limits of the planet, protects the dignity and equality of each person, and encourages all of earth's inhabitants to live in balance with each other.*

***Friends of the Earth France** is a non-profit environmental and human rights network, independent from any religious or political influence. Created in 1970, it helped build the French ecological movement and helped found the world's largest grassroots environmental network, Friends of the Earth International, with groups in 75 countries and over two million supporters around the world.*

***JA!** is a leading Mozambican NGO working on environmental and social issues in our country. JA!'s mission is to engender a culture of civil action in Mozambique through both our actions to*

*protect the environment, and our active engagement in developmental decisions pertaining to issues of environmental justice, both here in Mozambique and throughout the rest of the world.*

## **Executive Summary**

This joint submission by JA!, Les Amis de la Terre, and the Center for International Environmental Law (CIEL) focuses on the obligations of both Mozambique and France under the International Covenant on Civil and Political Rights (ICCPR or “the Covenant”) to respect and protect the rights to life, liberty and security of person, and freedom of expression and assembly, in the context of the massive gas projects off the coast of Cabo Delgado, Mozambique, and related human rights violations, instability, and violence in the adjacent onshore area. French oil giant, Total SE, is among the private companies leading the development of the offshore gas extraction projects and onshore support facilities, and French public financiers and private banks are backing the buildout. Local communities and civil society organizations have reported that the gas industry has already caused significant displacement, loss of local livelihoods, food insecurity, and adverse health impacts, and threatens to degrade both the local environment, by contaminating protected marine ecosystems, and the global climate, by unlocking millions of tons of greenhouse gas emissions. Since 2017, an escalating violent insurgency has taken hold in Cabo Delgado province, forcing hundreds of thousands of residents to flee, exacerbating harms caused by the gas projects, and leading to injuries, death, militarization, and reported incidents of violent repression of civil society and journalists by government actors. The situation in Cabo Delgado today is one of precarity and insecurity, incompatible with the rights to life and a life with dignity.

The authors submit this joint report on the obligations of both Mozambique and France because, as the host and home States, respectively, of private actors engaged in the exploitation of offshore gas reserves, both countries have duties under the ICCPR to respect and protect rights, including through adequate regulation of corporations and financial institutions. Specifically, as the host and home States of Total SE, both Mozambique and France are bound to protect human rights from the foreseeable risks posed by the company’s gas production activities in Cabo Delgado and to adequately regulate and hold the company accountable for its impacts on Covenant-protected rights. France’s regulatory duties extend equally to the French financial institutions backing the gas projects. Mozambique and France also have a duty to respect Covenant rights, by ensuring that their own conduct, through State actors, institutions, and financing, does not cause or contribute to the deprivation of rights, including the rights to life, liberty and security of person, and freedom of expression and association. The action and inaction of both States, including their failures to adequately regulate and hold accountable private actors, have contributed to grave risks to human rights and ongoing violations of those rights, stemming from the social, environmental, climate, economic, and political impacts of the gas exploitation, and from the authorities’ responses both to those impacts and to the mounting humanitarian crisis in Cabo Delgado.

**We respectfully request that the Committee include the following questions in the Lists of Issues Prior to Reporting for Mozambique and France, respectively:**

## **Mozambique**

1. What measures is the State taking to respect, protect, and ensure the rights of the population in Cabo Delgado to a life with dignity in the face of the gas projects' adverse impacts on the local population, and their exacerbation of climate change, which already threatens Mozambique and will only compound the projects' local toll?
2. How is the State ensuring that its response to the growing humanitarian crisis in Cabo Delgado, which is fueled in part by the gas projects, prioritizes protection of the local population's human rights over protection of gas facilities and business interests?
3. What steps is the State taking both to investigate reports of grave violations of the rights of civilians in Cabo Delgado by State and non-State actors, including reported repression, detention, disappearances and abuse of journalists and activists, and to provide victims with effective remedies?

## **France**

1. What measures is the State taking to ensure that public and private financial institutions and corporations under its jurisdiction or effective control, including Total SE and French export credit agency, Bpifrance Assurance Export, do not endanger the right to life through their involvement in the gas projects in Mozambique, which adversely affect the local population and the global climate? More specifically: (a) How has the State ensured that Bpifrance's support for gas exploitation is compatible with the State's Covenant obligations, particularly to respect and protect the rights to life and freedom of expression? (b) What steps did the State take to evaluate the human rights and security situation in Cabo Delgado, including the risk that gas production activities would exacerbate violent conflict in the region, prior to approving a credit guarantee of over €500 million for one of the offshore gas projects?
2. What measures is France taking to ensure that its financial and military aid to Mozambique and companies operating in Mozambique do not cause or contribute to violations of the right to life, liberty and security of person, and freedom of expression and assembly, and to ensure that French-made weapons are not used to commit abuses against civilians?

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The following sections outline the duties of both Mozambique and France to: (1) protect the right to life from the foreseeable threats posed by fossil fuel production and the associated risks to life related to ongoing gas sector activities in Cabo Delgado; and (2) respect and protect the rights to liberty and security of person and freedom of expression and assembly, and investigate and remedy reported violations of those rights, which remain at risk in Cabo Delgado.

### **I. France and Mozambique must respect and protect the right to life from the foreseeable threats posed by gas projects in Cabo Delgado**

#### **A. Under Article 6, States have a duty to protect the right to life from the foreseeable threats posed by fossil fuel production**

**States have an obligation to take steps to prevent and mitigate foreseeable threats to the right to life.** The right to life entitles every human being to “be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity.”<sup>1</sup> As this Committee has noted, States must exercise “due diligence to protect the lives of individuals” against foreseeable threats to life.<sup>2</sup> States must take “appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity.”<sup>3</sup> The Committee has recognized that such “general conditions” triggering State duties can include, *inter alia*, degradation of the environment, widespread hunger and malnutrition, and extreme poverty and homelessness.<sup>4</sup> Appropriate protective measures include, among other things, ensuring access to essential goods and services such as food, water, and shelter.<sup>5</sup>

**This duty to protect applies in the context of environmental harms.** In its General Comment 36 and subsequent jurisprudence,<sup>6</sup> the Committee has recognized the obligation of States to prevent foreseeable threats to life, and in particular a life with dignity, from environmental harm, including pollution and climate change caused by public and private actors.<sup>7</sup> The jurisprudence of regional human rights bodies reinforces the Committee’s observations and the applicability of the duty to protect against environmental harm, deprivation of livelihood, and other threats to life, in the context of natural resource extraction. In a case involving oil production, the African Commission on Human and Peoples’ Rights found that the State violated the right to life not only by failing to protect the local population from “pollution and environmental degradation to a level humanly unacceptable,” but also through the deliberate destruction of land, which jeopardized the survival of the community, and other acts of brutality and violence perpetrated by State security forces against the local population.<sup>8</sup> The Inter-American Court of Human Rights has also established that the realization of the right to life is linked to, and dependent upon, the physical environment and therefore that States must act to prevent environmental degradation and climate

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<sup>1</sup> U.N. Human Rights Comm, General Comment No. 36, U.N. Doc. CCPR/C/GC/36, para. 3 (2019) [hereinafter, “HRC, General Comment No. 36”].

<sup>2</sup> *Ibid.* at para. 7.

<sup>3</sup> *Ibid.* at para. 26.

<sup>4</sup> *Ibid.* at para. 26.

<sup>5</sup> *Ibid.* at para. 22.

<sup>6</sup> *Portillo v. Paraguay*, CCPR/C/126/D/2751/2016, paras. 7.3-7.5 (Sept. 20, 2019).

<sup>7</sup> HRC, General Comment No. 36, at paras. 26, 62.

<sup>8</sup> *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria*, Af. Comm’n. 155/96, para. 67 (2001).

change.<sup>9</sup> The Inter-American Court has found a violation of the right to life where the State failed to take measures to prevent and mitigate “extremely destitute conditions” in which Indigenous Peoples were forced to live after being displaced from their ancestral land to allow for an extractive project, impairing “their possibility of having a decent life.”<sup>10</sup> As discussed further below, the population displaced by the gas development in Cabo Delgado is likewise facing destitute conditions.

**Because climate change threatens the right to life, and fossil fuels drive climate change, States have a duty to mitigate fossil fuel production.** This Committee has recognized that climate change is one of “the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”<sup>11</sup> And the worst impacts of climate change fall disproportionately on the global South, including Mozambique: the country has already experienced the devastating effects of global warming-driven cyclones and remains extremely vulnerable to other natural hazards as well as the poverty magnifying effects of the changing global climate.<sup>12</sup> The scientific community has concluded for decades that human activity—particularly the combustion of fossil fuels—is the main driver of anthropogenic climate change.<sup>13</sup> The Intergovernmental Panel on Climate Change (IPCC) has found that keeping global warming below dangerous levels, consistent with the ultimate objective of the United Nations Framework Convention on Climate Change,<sup>14</sup> requires a phase-out of fossil fuels.<sup>15</sup> Yet, as highlighted in the

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<sup>9</sup> See, e.g., *Yakye Axa Indigenous Community v. Paraguay*, Judgment, Inter-Am. Ct. H.R. (ser. C.) No. 125, paras. 163-75 (June 17, 2005); *Saramaka People v. Suriname*, Preliminary objections, merits, reparations and costs, Judgment, (ser. C) No. 172, paras. 121-122 (Nov. 28, 2007); Advisory Opinion OC-23/18, Inter-Am. Ct. H.R. (ser. A) No. 23, paras. 47-55 (Nov. 15, 2017).

<sup>10</sup> *Yakye Axa Indigenous Community*, at paras. 164, 176; see also *ibid.* at paras. 163-175; *Xakmok Kasek Indigenous Community v Paraguay*, Judgment, Inter. Am. Ct. H.R. (ser. C) No. 214, paras 194-214 (Aug. 24, 2010).

<sup>11</sup> HRC, General Comment No. 36, at para. 62; *Ioane Teitota v. New Zealand*, HRC, Comm. No. 2728/2016, U.N. Doc. CCPR/C/127/D/2728/2016, para. 9.4 (Jan. 7, 2020).

<sup>12</sup> See, e.g., Sally Williams, ‘[The sea is rising, the climate is changing’: the lessons learned from Mozambique’s deadly cyclone](#)’, The Guardian (Jan. 2, 2021); [Mozambique: Vulnerability](#), World Bank Group Climate Change Knowledge Portal (last visited May 31, 2021).

<sup>13</sup> IPCC, *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, Summary for Policy Makers*, p. 5 (2014) [IPCC AR5] (“Emissions of CO<sub>2</sub> from fossil fuel combustion and industrial processes contributed about 78% of the total GHG emissions increase from 1970 to 2010, with a similar percentage contribution for the increase during the period 2000 to 2010 (high confidence).”); Heede, R., *Tracing Anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers*, 122 *Climatic Change* 229 (2014) (attributing the majority of cumulative worldwide CO<sub>2</sub> and methane emissions between 1751 and 2010 to 90 “carbon major” entities, including fossil fuel and cement producers).

<sup>14</sup> *United Nations Framework Convention on Climate Change*, art. 2, May 9, 1992, 1771 U.N.T.S. 107 [UNFCCC].

<sup>15</sup> See IPCC 1.5SR, IPCC, *Global Warming of 1.5°C: An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, p. 14, fig. SPM.3b, p. 15, para. C.2, p. 33 (2018).

United Nations Environment Programme's 2020 Production Gap Report, States around the world are planning to produce twice as much oil and gas as is consistent with a 1.5°C limit.<sup>16</sup> In May 2021, the International Energy Agency declared that new investment in oil and gas needs to halt if the world is to achieve the emissions reduction goals identified in the Paris Agreement.<sup>17</sup>

Given the foreseeable contribution of fossil fuels to the threat posed by climate change, States must review the compatibility of fossil fuel production with protection of the right to life and take action to prevent pollution and climate change caused by fossil fuels.<sup>18</sup> U.N. independent experts appointed by the Human Rights Council<sup>19</sup> and a number of human rights treaty bodies<sup>20</sup> have called on States to limit fossil fuel use and eliminate financial support for fossil fuel projects in order to mitigate the negative human rights impacts of climate change, noting that “the failure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States’ human rights obligations.”<sup>21</sup>

**Calling on Mozambique and France to address the climate change impacts of their support for gas production is consistent with the Committee’s past work.** The Committee has addressed State obligations in the context of climate change in its recommendations and/or lists of

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<sup>16</sup> Stockholm Environment Institute, International Institute for Sustainable Development, Overseas Development Institute, E3G, & UN Environment Programme, [The Production Gap: The Discrepancy between Countries’ Planned Fossil Fuel Production and Global Production Levels Consistent with Limiting Warming to 1.5°C or 2°C](#), pp. vii, 3-4 (2020).

<sup>17</sup> International Energy Agency, [Net Zero by 2050: A Roadmap for the Global Energy Sector](#), p. 21 (2021).

<sup>18</sup> HRC, General Comment 36, at para. 62.

<sup>19</sup> See, e.g., Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, U.N. Doc. A/74/161, paras. 73, 77(a) (July 15, 2019).

<sup>20</sup> Joint Statement by Comm. on the Elimination of Discrimination against Women (CEDAW), Comm. Eco. Soc. and Cultural Rights (CESCR), Comm. on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW), Comm. on the Rights of the Child (CRC) and Comm. on the Rights of Persons with Disabilities (CRPD), Statement on Human Rights and Climate Change, U.N. Doc. HRI/2019/1, para. 3 (Sept. 16, 2019) [hereinafter “Joint Statement on Human Rights and Climate Change”]; CEDAW, General Recommendation No. 37, U.N. Doc. CEDAW/C/GC/37, para. 14 (Feb. 7, 2018).

<sup>21</sup> Joint Statement on Human Rights and Climate Change, at para. 3.

issues to at least six States, including Cabo Verde,<sup>22</sup> the United States,<sup>23</sup> Dominica,<sup>24</sup> Philippines,<sup>25</sup> Kenya<sup>26</sup> and Guyana.<sup>27</sup> In all of those, it highlighted the impacts of climate on the right to life. The Committee's List of Issues for Guyana included questions particularly relevant to the situation in Mozambique. The Committee asked the State to "provide information on the steps taken to prevent and mitigate the negative effects of climate change and environmental degradation, particularly as a consequence of ... offshore oil production," and to "respond to concerns that large-scale oil extraction significantly increases greenhouse gas emissions, causes ocean acidification and sea level rise, and adversely affects the most vulnerable groups in the State party, including ... fishery-dependent communities and individuals living in poverty."<sup>28</sup>

**The duty to mitigate the contribution of fossil fuel production to climate change and other threats to rights requires States to regulate public and private conduct, domestically and extraterritorially.** A State's obligation to protect the right to life applies to the conduct of all actors within its jurisdiction and effective control that contributes to the threat to life, both public and private, domestic and extraterritorial.<sup>29</sup> The right to life imposes on States a duty to prevent foreseeable human rights harms caused by climate change, both within and outside of their jurisdictions. States must "take appropriate legislative and other measures to ensure that all activities taking place in whole or in part within their territory and in other places subject to their jurisdiction, but having a direct and reasonably foreseeable impact on the right to life of individuals outside their territory, including activities taken by corporate entities based in their territory or subject to their jurisdiction, are consistent with article 6."<sup>30</sup> Consistent with these obligations, in Concluding Observations, this Committee has recommended that a home State

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<sup>22</sup> U.N. Human Rights Comm., List of issues in relation to the initial report of Cabo Verde, U.N. Doc. CCPR/C/CPV/Q/1/Add.1, para. 7 (Apr. 25, 2019); U.N. Human Rights Comm., Concluding observations on the initial report of Cabo Verde, U.N. Doc. CCPR/C/CPV/CP/1/Add.1, paras. 17-18 (Dec. 3, 2019).

<sup>23</sup> U.N. Human Rights Comm., List of issues prior to submission of the fifth periodic report of the United States of America, U.N. Doc. CCPR/C/USA/QPR/5, para. 15 (Apr. 18, 2019).

<sup>24</sup> U.N. Human Rights Comm., List of issues in the absence of the initial report of Dominica, U.N. Doc. CCPR/C/DMA/Q/1/Add.1, para. 11 (Apr. 25, 2019); U.N. Human Rights Comm., Concluding observations in the absence of the initial report of Dominica, U.N. Doc. CCPR/C/DMA/COAR/1, paras. 24-25 (Apr. 24, 2020).

<sup>25</sup> U.N. Human Rights Comm., List of issues in relation to the fifth periodic report of the Philippines, U.N. Doc. CCPR/C/PHL/Q/5, para. 12 (June 30, 2020).

<sup>26</sup> U.N. Human Rights Comm., List of issues in relation to the fourth periodic report of Kenya, U.N. Doc. CCPR/C/KEN/Q/4, para. 13 (July 1, 2020).

<sup>27</sup> U.N. Human Rights Comm., List of issues prior to submission of the third report of Guyana, U.N. Doc. CCPR/C/GUY/QPR/3, para. 14 (Aug. 6, 2020).

<sup>28</sup> *Ibid.*

<sup>29</sup> HRC, General Comment 36, at paras. 18, 21-22.

<sup>30</sup> *Ibid.*, at para. 22.

“enhance the effectiveness of existing mechanisms to ensure that all [] corporations under its jurisdiction ... respect human rights standards when operating abroad.”<sup>31</sup>

**These obligations apply with equal force to regulation of financial actors subject to a State’s jurisdiction and effective control.** As this Committee has recognized, the contents of States’ obligations under Article 6 of the ICCPR should be interpreted in light of obligations under international environmental law.<sup>32</sup> The States Parties to the Paris Agreement, including France, pledge to “mak[e] finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.”<sup>33</sup> Accordingly, France’s obligation to respect and ensure the right to life should be understood to require it to ensure that public and private financial actors within its jurisdiction and effective control align their investments with a low-emissions pathway.

Indeed, other treaty bodies have called on States to regulate their financial actors to shift away from financing fossil fuels. <sup>34</sup> For example, in 2019, CESCR noted with concern in its COB to Switzerland that “public and private financial institutions, including pension funds, maintain significant investments in the fossil fuel industry, despite its adverse impacts on the climate.”<sup>35</sup> It recommended that the State Party take the “necessary measures to reduce public and private investments in the fossil fuel industry and ensure that they are compatible with the need to reduce greenhouse gas emissions.”<sup>36</sup> Emphasizing that these regulatory duties extend to extraterritorial conduct the Committee on the Elimination of Discrimination Against Women (CEDAW) has called on Sweden to ensure that activities of companies registered in the State party, “including their financial flows and investments” outside of the country, do not “negatively affect human rights or endanger environmental, labour and other standards.”<sup>37</sup>

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<sup>31</sup> See, e.g., U.N. Human Rights Comm, Concluding observations on the sixth periodic report of Canada, U.N. Doc CCPR/C/CAN/CO/6, para. 6 (Aug. 13, 2015).

<sup>32</sup> HRC, General Comment 36, at para. 62.

<sup>33</sup> *Paris Agreement to the United Nations Framework Convention on Climate Change*, art. 2(c), Dec. 12, 2015, T.I.A.S. No. 16-1104.

<sup>34</sup> Joint Statement on Human Rights and Climate Change, at para. 3; CESCR, Concluding observations on the sixth periodic report of Sweden, U.N. Doc. E/C.12/SWE/CO/6, para. 11 (July 14, 2016); CESCR, Concluding observations on the fourth periodic report on Switzerland, U.N. Doc. E/C.12/CHE/CO/4, paras. 18-19 (Nov. 18, 2019); CRC, List of issues prior to submission of the combined fifth and sixth periodic reports of Luxembourg, U.N. Doc. CRC/C/LUX/QPR/5-6, para. 23 (Mar. 5, 2019); CRC, List of issues prior to submission of the combined fifth and sixth periodic reports of Switzerland, U.N. Doc. CRC/C/CHE/QPR/5-6, para. 25(C) (Nov. 11, 2019); CEDAW, List of issues and questions prior to the submission of the tenth periodic report of Sweden, U.N. Doc CEDAW/C/SWE/QPR/10, para. 8 (Mar. 20, 2019).

<sup>35</sup> CESCR, Concluding observations on the fourth periodic report on Switzerland, U.N. Doc. E/C.12/CHE/CO/4, para. 18 (Nov. 18, 2019).

<sup>36</sup> *Ibid.* at para. 19.

<sup>37</sup> CEDAW, List of issues and questions prior to the submission of the tenth periodic report of Sweden, U.N. Doc CEDAW/C/SWE/QPR/10, para. 8 (Mar. 20, 2019).



**Both host States and home States have duties to protect against threats to life posed by fossil fuel production.** In Mozambique, where the population is already severely exposed to the harmful impacts of climate change, authorizing the production and export of massive quantities of gas, which will inevitably lead to increased emissions when the fuel is burned as intended, heightens the risk of future harm. France, as a historically high-emitting country, has a duty to take all measures within its power to reduce the threat posed by greenhouse gas emissions, including by regulating French companies and financiers to phase out the production of fossil fuels and the resultant emissions. In light of the above Covenant obligations, Mozambique and France both are required to ensure that their actions and omissions are not causing or contributing to the dire human rights violations occurring in Cabo Delgado and to adequately regulate private actors subject to their jurisdiction and effective control to ensure that they are respecting human rights.

#### **B. Gas development threatens the right to life and a life with dignity in Cabo Delgado through its direct local and indirect climate impacts**

Civil society documentation and media reports expose a number of ongoing threats and violations of the right to life in Cabo Delgado, including infringements of the right to life with dignity. As outlined below, sources document large-scale displacement, loss of livelihood without replacement, environmental degradation, and significant projected greenhouse gas emissions from gas production, which will contribute to climate change, exacerbating harms faced locally.

**The ongoing and planned gas sector developments in Mozambique are massive in scale and involve numerous foreign actors.** Between 2010-2013, the ninth largest gas reserves in the world were discovered off the coast of Mozambique.<sup>38</sup> Since then, multinational and national corporations have begun developing three liquified natural gas (LNG) projects off the coast of Mozambique's northern Cabo Delgado province, affecting the UNESCO biosphere of the Quirimbas Archipelago: Mozambique LNG, Coral South floating liquified natural gas (Coral FLNG), and Rovuma LNG. French oil and gas company, Total SE, is the majority owner and operator of the Mozambique LNG project, which, at \$24 billion, is reportedly the largest foreign direct investment in Africa to date. Total is also constructing associated onshore facilities in the Afungi LNG Park, which will occupy 70 square kilometers of land<sup>39</sup> and will also serve the Rovuma LNG project. (Other foreign oil companies, including Eni, Exxon and the Chinese

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<sup>38</sup> Friends of the Earth International (FOEI), Les Amis de la Terre France, Justiça Ambiental! (JA!), [Gas in Mozambique: A Windfall for the Industry a Curse for the Country, France Thrusts Mozambique into the Fossil Fuel Trap](#), p. 2 (2020) [hereinafter, "FOEI et al., Gas in Mozambique"].

<sup>39</sup> [Mozambique LNG Park, Cabo Delgado Province](#), Hydrocarbons Technology (last visited May 28, 2021).

National Petroleum Corporation, are involved in Coral FLNG and Rovuma LNG.) Construction for the Mozambique LNG project began in 2019, with a production target of 2024.<sup>40</sup>

**Gas industry development has undermined the right to life through displacement, disruption of livelihoods, and food insecurity.** The gas projects are already jeopardizing the livelihoods of local communities. Submitting organization Amis de la Terre and Justiça Ambiental (JA!) are two of a number of civil society organizations that are working with communities on the frontlines of the gas developments and have documented the projects' impacts. Groups report that more than 550 families have been displaced from their land and fishing grounds in Cabo Delgado to make way for onshore gas facilities in the Afungi LNG Park.<sup>41</sup> Groups have met with families that have been displaced without proper consultation or adequate compensation.<sup>42</sup> In one village people signed forms in a language they could not read, agreeing to about 50 USD for the destruction of their land.<sup>43</sup> Others have been offered replacement land a tenth of the size of their original plots.<sup>44</sup> People have also lost their farmland to provide materials to build infrastructure for the projects without receiving compensation because they are not considered directly impacted.<sup>45</sup> Moreover, many fisherfolk have been relocated inland where they do not have access to the ocean and/or have otherwise lost access to traditional fishing grounds because of gas-related developments.<sup>46</sup> Community members were promised jobs, but those have not materialized.<sup>47</sup> The vast majority of the Mozambican population depend on agriculture or fishing for their livelihoods, making the link between land, sea and environment a vital one.<sup>48</sup> The loss of land or access to the ocean is thus the loss of a means of subsistence and livelihood. Without adequate compensation,

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<sup>40</sup> [Mozambique LNG Project](#), NS Energy (last visited May 28, 2021).

<sup>41</sup> See Friends of the Earth (FOE), [What's Happening in Mozambique?](#) (Apr. 9, 2021); FOEI and JA!, [Gas Rush, Human Rights Abuses, Climate Devastation, Insurgent Attacks, Covid Hotspot: The Ravaging of Cabo Delgado, Mozambique](#) (June 4, 2020) [hereinafter, "FOE & JA!, *Gas Rush, Human Rights Abuses*"]; Friends of the Earth International (FOEI), Les Amis de la Terre France, & JA!, [De L'Eldorado Gazier au Chaos: Quand la France pousse le Mozambique dans le piège du gaz](#), pp. 4, 27 (2020) [hereinafter "FOEI et al., *De l'Eldorado Gazier au Chaos*"]; see also FOE, [Report from the Field: Perspectives and Experiences of Mozambican Communities and Civil Society on Liquefied Natural Gas Exploitation](#), pp. 3, 8-10 (2016) [hereinafter, "FOE, *Report from the Field*"].

<sup>42</sup> FOE, [Report from the Field](#), at pp. 3, 8-10; Radio World Radio, [Threats and Abuses of the Growing Gas Industry in Mozambique](#) (July 31, 2019); see also Sophie Nieman, [Explosive Mix](#), New Internationalist (Dec. 23, 2020).

<sup>43</sup> FOE, [Report from the Field](#), at p.9.

<sup>44</sup> FOE & JA!, [Gas Rush, Human Rights Abuses](#).

<sup>45</sup> FOE, [Report from the Field](#), at pp. 3, 9-10.

<sup>46</sup> Real World Radio, [The Dire Consequences of the Gas Expansion Plans in Mozambique](#) (May 21, 2020) [hereinafter, "RWR, *The Dire Consequences of the Gas Expansion*"]; JA!, [Total Runs from its Responsibilities with its 'Force Majeure' Announcement on Mozambique Gas](#), Apr. 2021 [hereinafter, "JA!, *Total Runs from its Responsibilities*"].

<sup>47</sup> JA!, [Total Runs from its Responsibilities](#); FOE, [Report from the Field](#), at pp. 3, 6-7; FOE, [What's Happening in Mozambique?](#).

<sup>48</sup> RWR, [The Dire Consequences of the Gas Expansion](#).

the displacement heightens food insecurity and poverty, and leaves communities in dire living situations incompatible with the right to life, particularly a life with dignity.<sup>49</sup>

**The gas projects also increased exposure to and aggravated the consequences of the COVID pandemic.** In the context of the global pandemic, the influx of population into the project area has led to dire health consequences. For example, the first confirmed case of COVID-19 in Cabo Delgado was a Total foreign worker.<sup>50</sup> Within two weeks, two thirds of people infected with COVID-19 in the country were Total employees or linked with the company, such as service providers including cooks, cleaning staff, and security guards who would travel to and from their surrounding villages to the construction site without regular testing, at risk of transferring the virus to their communities.<sup>51</sup>

**Gas production will exacerbate global climate change, from which Mozambique is already suffering, and thereby compound the gas projects' direct local harms.** In addition to the above-mentioned social and health impacts, the gas projects are already having negative environmental impacts, and if developed, will emit significant amounts of greenhouse gases. Local businesses have described adverse impacts from the gas development on wildlife and the environment. A hotel owner, for example, has explained that wildlife and tourism on the island and in nearby Pemba have been almost completely destroyed.<sup>52</sup> Moreover, the project threatens to pollute the air, water, and soil; negatively impact the health of local people; and destroy the local ecology.<sup>53</sup> The drilling and transportation of the gas from the deepwater seabeds to the shore for processing not only entail risks of leakage, contamination and accidents, which could devastate the marine environment; the operations are also energy-intensive, and thus contribute additional greenhouse gases and other pollutants.<sup>54</sup> The offshore gas developments will likewise threaten the endangered species of coral and fish in the Quirimbas Archipelago, a UNESCO Biosphere off the coast of Cabo Delgado.<sup>55</sup>

On top of these adverse local impacts, the project will contribute significantly to climate change, with both local and global consequences. Estimates state that emissions from the Mozambique LNG project during the construction phase alone could increase the country's annual greenhouse

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<sup>49</sup> JA!, [Total Runs From Its Responsibilities](#); FOE, [Report from the Field](#), at pp. 9-10.

<sup>50</sup> Tom Bowker, [Mozambique LNG in Lockdown](#), Petroleum Economist (Apr. 28, 2020) (“Total’s Mozambique LNG project has become the centre of the country’s Covid-19 outbreak, following the first diagnosis in the country on 1 April.”).

<sup>51</sup> See RWR, [The Dire Consequences of the Gas Expansion](#); see also [Covid-19 Spreads to Palma Town Neighbouring Mozambique LNG Project](#), Zitamará News, May 14, 2020; FOEI *et al.*, [De l’Eldorado Gazier au Chaos](#), at p. 16.

<sup>52</sup> FOE, [Report from the Field](#), at p.11.

<sup>53</sup> JA!, [Total Runs From Its Responsibilities](#).

<sup>54</sup> FOE, [What’s Happening in Mozambique?](#).

<sup>55</sup> FOEI & JA!, [Gas Rush, Human Rights Abuses](#); see also [Quirimbas Biosphere Reserve, Mozambique](#), UNESCO (last visited May 31, 2021).

gas emissions by up to 10%,<sup>56</sup> while at full capacity, the project's operations will produce around 18MtCO<sub>2</sub> per year, and overall emissions from burning the gas produced would reach 116MtCO<sub>2</sub>e per year—"equivalent to the total emissions from the aviation sector for all EU member states combined."<sup>57</sup> The combined greenhouse gas emissions for the project will contribute to climate change and warming that may lead to irreversible impacts, disproportionately felt by local communities in Mozambique. Mozambique is already on the frontlines of climate change and is one of the countries most vulnerable to harm.<sup>58</sup> In recent years, for example, Mozambique has experienced three devastating climate change-fueled cyclones.<sup>59</sup> The two cyclones in 2019, Idai and Kenneth, caused damage worth half the national budget.<sup>60</sup>

**Both Mozambique and France are involved in the gas buildout, and therefore implicated in its human rights impacts.** Mozambique, as the host State where the gas exploitation is occurring, has a duty to respect human rights and take action to prevent, mitigate, and remedy human rights harms caused by other actors, including by not allowing its territory to be used for such violations. France, while not the locus of the violations, is deeply involved in the gas buildout through both the conduct of private French companies and through public financial, military, and diplomatic support. In addition to the role that Total SE plays as the largest shareholder and operator of the Mozambique LNG project, four major private banks and the French government itself are supporting the gas industry in Mozambique.<sup>61</sup> Four major French banks, BNP Paribas, / Natixis, Crédit Agricole, Société Générale have provided funding for the Mozambique LNG and/or Coral South FLNG projects.<sup>62</sup> Crédit Agricole and Société Générale have also played the dual role of financier and financial advisor for the Coral South FLNG and Mozambique LNG projects, respectively.<sup>63</sup> Specifically, for the Coral South FLNG, Société Générale reportedly provided US \$242 million, BNP Paribas US \$251, Crédit Agricole \$399 million, and Natixis US \$267

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<sup>56</sup> Total, Mozambique LNG, ESHIA Executive Summary and Update, Document No. MZ-000-AM1-HS-RPT-00002, at p. 36 (May 14, 2020).

<sup>57</sup> FOE, [Briefing: UK Export Finance- climate litigation Legal briefing](#), p. 2 (Dec. 2020).

<sup>58</sup> Ministry of Foreign Affairs of the Netherlands, [Climate Change Profile, Mozambique](#), p. 3 (Feb. 2019).

<sup>59</sup> See Chloé Farand, [Cyclone Eloise shatters Mozambique's progress to recover from 2019 storms](#), Climate Home News (Jan. 28, 2021).

<sup>60</sup> See Brot Fur die Welt & Erlassjahr, [Climate change, Debt and COVID-19: Analysing the Triple Crisis with a New Climate Disaster and Debt Risk Indicator and Building Forward for a Resilient Recovery. Based on Climate Justice](#), p.19 (March 2021); Chloé Farand, [Cyclone Eloise shatters Mozambique's progress to recover from 2019 storms](#), Climate Home News, Jan. 28, 2021; United Nations Development Program, [Cyclones Idai and Kenneth in Mozambique](#) (June 2, 2019).

<sup>61</sup> FOEI *et al.*, [Gas in Mozambique](#), at p. 3.

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.* at pp. 3, 6; BankTrack *et al.*, [Banking on Climate Chaos: Fossil Fuel Finance Report 2021](#), p.89 (2021); Paul Burkhardt, Total's Mozambique LNG to Sign \$15 Billion Financing in June, Bloomberg, May, 20, 2021; Les Amis de la Terre France, [Mozambique: Société Générale and Crédit Agricole Support Total's Controversial Gas Project](#) (July 8, 2020).

million.<sup>64</sup> The French government has also acted directly in Mozambique's gas industry in both a financial and a political capacity. France's export credit agency, Bpifrance, provided a loan guarantee of over half a billion euros to the oil company Technip France SAS, a contractor involved in the Coral South FLNG.<sup>65</sup>

## **II. France and Mozambique are obligated to prevent, protect against, investigate and remedy violations of the rights to liberty and security of person and freedom of expression**

### **A. States are obligated to respect and protect the rights to liberty and security of person, and freedom of expression, and to investigate and remedy violations**

The ICCPR provides all persons, including human rights defenders, with numerous rights and protections against insecurity and violence, particularly violence directed as retaliation against the exercise of rights. States have duties to respect and ensure the right to life (article 6), liberty and security of person (article 9), freedom of expression and assembly (article 19), and association (article 21).<sup>66</sup> States must take all necessary measures to prevent arbitrary deprivations of life,<sup>67</sup> threats to persons' life or bodily integrity,<sup>68</sup> to guarantee the right to freedom of expression,<sup>69</sup> and facilitate, and promote an enabling environment, for peaceful assembly.<sup>70</sup> In contexts of conflict, insecurity and shrinking civic space, these rights are particularly interrelated, and abusive conduct often violates multiple rights. States have heightened duties to protect these rights for vulnerable persons who experience specific threats, or pre-existing patterns of violence.<sup>71</sup> This Committee has recognized that this group of persons includes human rights defenders, journalists, and individuals documenting human rights violations.<sup>72</sup> Retaliation for the exercise of rights or

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<sup>64</sup> FOEI *et al.*, [De l'Eldorado Gazier au Chaos](#), at p.18; *see also* Friends of the Earth France, [La France Amorce une Bombe Climatique au Large du Mozambique](#), p. 4 (2019).

<sup>65</sup> FOEI *et al.*, [Gas in Mozambique](#), pp. 3, 5; *see also* bpifrance, [Evaluation Environnementale et Sociale, Liste des contrats garantis en 2017](#), at p. 8 (last visited May 31, 2021).

<sup>66</sup> International Covenant on Civil and Political Rights art. 2(1), opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter "ICCPR"].

<sup>67</sup> ICCPR art. 6(1); HRC, General Comment 36, at paras. 4, 7, 13-14.

<sup>68</sup> HRC, General Comment 36, at para. 7; HRC, General Comment No. 35, U.N. Doc. CCPR/C/GC/35, para. 9 (Dec. 16, 2014) [hereinafter, "HRC, General Comment 35"].

<sup>69</sup> HRC, General Comment No. 34, U.N. Doc. CCPR.C.GC.34, para. 11 (Sept. 12, 2011) [hereinafter, "HRC, General Comment 34"].

<sup>70</sup> HRC, General Comment No. 37, U.N. Doc. CCPR/C/GC/37, para. 24 (Sept. 17, 2020) [hereinafter, "HRC, General Comment 37"].

<sup>71</sup> HRC, General Comment 36, at para. 23.

<sup>72</sup> *Ibid.*; HRC General Comment 35, at para. 9; HRC, General Comment 34, at para. 23.

deprivation of rights through acts or omissions that violate other Covenant rights—such as arbitrary detention for exercising freedom of expression or use of force resulting in the death of demonstrators exercising freedom of assembly—is presumptively arbitrary.<sup>73</sup> And, as this Committee has recognized, “enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life.”<sup>74</sup>

States must ensure that non-State actors comply with Covenant obligations, investigate violations, and provide victims with an effective remedy.<sup>75</sup> For example, States must ensure that private individuals or entities empowered or authorized to use force with potentially lethal consequences comply with Article 6 obligations.<sup>76</sup> States have a duty protect individuals against abuses, including abduction or detention, by private security forces or other private actors, such as armed or terrorist groups, operating within their territory.<sup>77</sup> Such duty extends to participants in peaceful assemblies, who must be shielded from abuse and interference by State and non-State actors.<sup>78</sup> States must also investigate Covenant obligations by public and private actors, and the investigation must be independent, prompt, thorough, effective, credible and transparent.<sup>79</sup> Where appropriate States must prosecute perpetrators and States must ensure that victims are afforded effective remedies.<sup>80</sup>

**B. The development of the gas industry is widely believed to have fanned the flames of instability and violence in Cabo Delgado, compounding harms suffered by the local population**

Since 2017, Cabo Delgado has been plagued by violence from State and non-State actors, including Al-Shabab, and the private military company, Dyck Advisory Group, resulting in the reported killing of over a thousand civilians, displacement of over 700,000, and a humanitarian

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<sup>73</sup> HRC, General Comment 36, at para. 17; HRC, General Comment 35, para. 17.

<sup>74</sup> HRC, General Comment 36, at para. 57; *see also ibid.* para. 58; HRC, General Comment 35, at para. 17.

<sup>75</sup> ICCPR, art. 2(3); HRC, General Comment 36, at paras. 14-15; HRC, General Comment 35, at paras. 7-9; HRC, General Comment 34, at paras. 7, 24, 89.

<sup>76</sup> HRC, General Comment 36, at para. 15.

<sup>77</sup> HRC, General Comment 35, at para. 7, 9.

<sup>78</sup> HRC, General Comment 37, at para. 24.

<sup>79</sup> HRC, General Comment 36, at paras. 27-28, 58; HRC, General Comment 34, at para. 23; HRC, General Comment 37, at para. 90.

<sup>80</sup> HRC, General Comment 36, at paras. 15, 27; HRC, General Comment 34, at para. 23; HRC, General Comment 35, at para. 8; HRC, General Comment 37, at paras. 21, 90.

disaster.<sup>81</sup> Recent reports of a cholera outbreak in Cabo Delgado only compound the intersecting crises of COVID-19, climate change, and conflict.<sup>82</sup> Amnesty International (AI) and Human Rights Watch (HRW) have reported on the gruesome tactics used by the groups, with AI-Shabaab reportedly burning villages, beheading individuals, and abducting young women and children.<sup>83</sup> AI and HRW have reported that Mozambique's government forces have been implicated in grave abuses such as extrajudicial executions, committed acts of torture and other-ill treatment, arbitrary arrests, and deployed excessive force.<sup>84</sup> And, according to the researchers' interviews, Dyck agents have fired machine guns from helicopters and dropped hand grenades indiscriminately into crowds of people.<sup>85</sup> In March 2021, numerous groups and media reported on an escalation of violence starting with attacks in Palma by non-State actors on March 24, 2021 that lasted for ten days.<sup>86</sup> More than 39,000 people fled the district of Palma during this recent wave of violence.<sup>87</sup>

**The conflict and the gas projects are interconnected.** This ongoing state of insecurity and violence is fueled and exacerbated by the development of the gas industry in the region, and must be viewed in the context of the high levels of poverty and inequality.<sup>88</sup> While the gas projects are not the sole cause of the crisis, the influx of investment by foreign corporations is fomenting social tensions and inequalities as local communities experiencing loss of land and livelihood to make way for gas production, see others use and benefit from their land.<sup>89</sup> Moreover, the response of the Mozambican government to the unsafe environment has been to prioritize

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<sup>81</sup> FOEI *et al.*, [Gas in Mozambique](#), at p.3; Amnesty International, [Mozambique: "What I saw is Death": War Crimes in Mozambique's Forgotten Cape](#), pp. 5-6, 8-11 (2021) [hereinafter, "AI, Mozambique: 'What I saw is Death'"]; JA!, [Total Runs From Its Responsibilities](#); Save the Children, [Children as Young as 11 Brutally Murdered in Cabo Delgado, Mozambique](#) (Mar. 16, 2021); Human Rights Watch, [World Report 2021: Events of 2020](#), pp. 470-72 (2021) [hereinafter, "HRW, World Report 2021"].

<sup>82</sup> See UNICEF, [UNICEF Mozambique Humanitarian Situation Report No. 1: 1 January - 28 February 2021](#) (Apr. 7, 2021); see also [Geneva Palais Briefing on the Situation of Children in Cabo Delgado, Mozambique](#), UNICEF, (Mar. 30, 2021).

<sup>83</sup> AI, [Mozambique: "What I saw is Death"](#), pp. 5, 12-13; HRW, [World Report 2021](#), at pp. 470-72.

<sup>84</sup> AI, [Mozambique: "What I saw is Death"](#), pp. 5, 13-15; HRW, [World Report 2021](#), at pp. 470-71.

<sup>85</sup> AI, [Mozambique: "What I saw is Death"](#), at pp. 5, 17.

<sup>86</sup> [Grave Concern for Women and Children Targeted in Northern Mozambique](#), U.N. News, Mar. 30, 2021; JA!, [The Despair of the people of Cabo Delgado](#) (Apr. 8, 2021).

<sup>87</sup> U.N. High Commissioner for Refugees, [Urgent needs in Mozambique: Cabo Delgado Situation](#), p.1 (2021).

<sup>88</sup> FOEI *et al.*, [Gas in Mozambique](#), at p. 3; JA!, [Total Runs From Its Responsibilities](#); AI, [Mozambique: "What I saw is Death"](#), at p.8.

<sup>89</sup> JA!, [Total Runs From Its Responsibilities](#); Anabela Lemos & Ilham Rawoot, [Mozambican Journalists' Lives are on the Line in Cabo Delgado](#), Al Jazeera, Mar. 7, 2021 [hereinafter, "Lemos & Rawoot, Mozambican Journalists Lives are on the Line"]; Real World Radio, [The Dire Consequences of the Gas Expansion Plans in Mozambique](#) (May 21, 2021).

protection for the gas project sites rather than local communities.<sup>90</sup> The press has reported that in the recent round of violence, “there was no security protecting the town [Palma], although 800 soldiers were inside the walls at Afungi protecting Total workers.”<sup>91</sup>

**Journalists have been targeted.** Civil society and media sources have reported that journalists covering the conflict and its connection to the gas sector have gone missing, faced arrests and detention—some without any charge and others facing criminal charges—while others have been assaulted and killed.<sup>92</sup> For example, in April 2020, Ibrahim Mbaruco, a journalist and newscaster at a community radio station in Cabo Delgado was reportedly forcibly disappeared on his way home from work. That same day he sent a text message to a colleague saying that he was surrounded by soldiers.<sup>93</sup> A month prior, another local journalist Roberto Abdala had disappeared in the same region.<sup>94</sup> In 2019, journalists Amade Abubacar and Germano Daniel Adriano were reportedly arbitrarily detained for three months.<sup>95</sup> While Abubacar was in detention, Amnesty International reported receiving reports that he was “being subjected to ill-treatment, including denial of food, family visits and medical treatment.”<sup>96</sup> Civil society sources also have documented experiences with government obstruction and harassment related to meetings with communities in the affected area.<sup>97</sup>

**Escalating violence has led Total to declare force majeure, leaving contractors and communities in the lurch.** In April 2021, after the March escalation of violence, Total announced that it was withdrawing all Mozambique LNG project personnel from the site, declaring force majeure.<sup>98</sup> In response, JA! released a statement, expressing fear that this will result in local subcontractors losing their contracts, and income. In addition, neither the company nor the government have addressed how this will impact local communities still waiting to receive

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<sup>90</sup> JA!, [Total Runs From Its Responsibilities](#); JA! & FOEI, [Gas Rush, Human Rights Abuses](#).

<sup>91</sup> Joseph Hanlon, [Frelimo Gambled Everything on Gas and Lost](#), Mail & Guardian, Apr. 8, 2021; see also Adnan Bajic, [Total Resumes Mozambique LNG Work](#), Offshore Energy, Mar. 24, 2021.

<sup>92</sup> Lemos & Rawoot, [Mozambican Journalists' Lives are on the Line](#); FOEI et al., [Gas in Mozambique](#), at p. 3; [Mozambique: Joint Statement by Civil Society Groups Calling for the Unconditional and Immediate Release of Radio Journalist](#), Human Rights Watch (Apr. 11, 2019).

<sup>93</sup> HRW, [World Report 2021](#), at pp. 472-73; [Radio Journalist Ibraimo Abú Mbaruco Missing in Mozambique](#), Committee to Protect Journalists, Apr. 17, 2020.

<sup>94</sup> Lemos & Rawoot, [Mozambican Journalists' Lives are on the Line](#).

<sup>95</sup> Human Rights Watch, [Jailed Mozambican Journalists Get Bail after 3 Months](#) (Apr. 23, 2019).

<sup>96</sup> Amnesty International, [Mozambique: Detained Journalist in Critical Condition Denied Medical Treatment](#) (Mar. 4, 2019).

<sup>97</sup> See FOE, [Report from the Field](#), at p.12.

<sup>98</sup> JA!, [Total Runs From Its Responsibilities](#).



relocation land and compensation. As JA!’s statement emphasizes, communities’ “survival is at stake. Neither Total nor the government seem to have made any plan for them.”<sup>99</sup>

**The dire situation implicates the duties of both Mozambique and France.** Mozambique has not only failed to adequately protect civilians against violence by non-state actors, but has reportedly been involved in abuses committed in the context of the government’s response to the insurgency in Cabo Delgado. As noted above, France is deeply engaged in Mozambique through financial, political, and military ties. The decision to provide financing from French export credit agency, Bpifrance, in support of gas exploitation appears to have been made in spite of constructive, if not actual, notice of the violence in the area and the risks of grave human rights violations. The French export credit agency’s American counterpart, the U.S. Export-Import Bank, for example, had identified an insurgency as “the primary security threat” but ignored the warnings and proceeded to grant a \$4.7 billion financing package for the development of offshore gas reserves.<sup>100</sup> France had a duty to inquire into such risks to human rights and take sufficient precautions to prevent those risks from materializing, before deciding to finance the gas project.

**Since the arrival of Total in Cabo Delgado, there has been increased military cooperation between France and Mozambique.** For example, French helicopters reportedly have been used by the South African private military company operating in the region, as well as other non-state armed groups.<sup>101</sup> In July 2020, press reported that Mozambique and France were discussing a military maritime cooperation agreement to provide support with respect to the conflict in Cabo Delgado, and that French Armed Forces of the Southern Zone of the Indian Ocean were training Mozambican authorities.<sup>102</sup> Private mercenaries affiliated with the infamous US private security company Blackwater, as well as companies from Russia and South Africa, have had an increasing presence in Cabo Delgado.<sup>103</sup>

**Both States have an obligation to ensure that they are not causing or contributing to, or failing to protect against, the instability, violence, and ensuing insecurity, or the repression of journalists and activists trying to bring the circumstances or its causes to public attention.** In its response to the mounting humanitarian crisis, Mozambique must ensure that its

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<sup>99</sup> *Ibid.*

<sup>100</sup> [U.S. Export-Import Bank Warned on Mozambique Risks Before \\$4.7 Billion Loan](#), Bloomberg, April 6, 2021. (“The concern about Islamist militants in northern Mozambique was flagged in the due diligence the bank undertook before the loan was reaffirmed in July, according to documents obtained through a Freedom of Information Act request by Friends of the Earth United States. An insurgency is the “primary security threat” to the project’s “schedule and costs, not to mention potential threats to life,” the lender said in redacted documents on the Mozambique transaction.”).

<sup>101</sup> FOEI *et al.*, [Gas in Mozambique](#), at p. 3.

<sup>102</sup> Joseph Hanlon, [Mozambique: U.S. and French Look to Move In](#), AllAfrica, July 27, 2020.

<sup>103</sup> FOEI *et al.*, [Gas in Mozambique](#), at pp. 3-5. See also [Moscow muscles in as protector of oil firms in Cabo Delgado](#), Africa Intelligence (Mar. 9, 2020); [Private Military contractors Appear to be Active in Mozambique](#), defenceWeb (Apr. 15, 2020).

interventions are not subordinating protection of the rights of individuals in the affected region to the interests of businesses there.<sup>104</sup> And France, as a political, economic, and military partner of Mozambique, whose corporations and banks are backing the gas projects, must undertake requisite due diligence to assess the risk that its financing and/or military support contribute to violations of rights and exacerbation of insecurity, and take all necessary steps to prevent those risks from materializing.

In light of the above, we respectfully request that the Committee include the following in the LOIPR for Mozambique and France, respectively:

### **Mozambique**

1. What measures is the State taking to respect, protect, and ensure the rights of the population in Cabo Delgado to a life with dignity in the face of the gas projects' adverse impacts on the local population, and their exacerbation of climate change, which already threatens Mozambique and will only compound the projects' local toll?
2. How is the State ensuring that its response to the growing humanitarian crisis in Cabo Delgado, which is fueled in part by the gas projects, prioritizes protection of the local population's human rights over protection of gas facilities and business interests?
3. What steps is the State taking both to investigate reports of grave violations of the rights of civilians in Cabo Delgado by State and non-State actors, including reported repression, detention, disappearances and abuse of journalists and activists, and to provide victims with effective remedies?

### **France**

1. What measures is the State taking to ensure that public and private financial institutions and corporations under its jurisdiction or effective control, including Total SE and French export credit agency, Bpifrance Assurance Export, do not endanger the right to life through their involvement in the gas projects in Mozambique, which adversely affect the local population and the global climate? More specifically: (a) How has the State ensured that Bpifrance's support for gas exploitation is compatible with the State's Covenant obligations, particularly to respect and protect the rights to life and freedom of expression? (b) What steps did the State take to evaluate the human rights and security situation in Cabo Delgado, including the risk that gas production activities would exacerbate violent conflict in the region, prior to approving a credit guarantee of over €500 million for one of the offshore gas projects?
2. What measures is France taking to ensure that its financial and military aid to Mozambique and companies operating in Mozambique do not cause or contribute to violations of the right to life, liberty and security of person, and freedom of expression

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<sup>104</sup> Other treaty bodies have emphasized the primacy of protecting human rights over business interests. *See, e.g.* CESCR, *General Comment 24*, para. 12 (“The obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over Covenant rights without adequate justification, or when they pursue policies that negatively affect such rights.”).

and assembly, and to ensure that French-made weapons are not used to commit abuses against civilians?