

# An Assessment of Artistic Freedom: Mozambique



# SELAM

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## Foreword

The year 2022 was significant for Selam; We celebrated our organisation's 25th anniversary, which gave us an opportunity to put together our five-year plan for the continent. This plan includes advocacy and lobbying strategies inspired by the African Union's Plan of Action on Cultural and Creative Industries, whose objectives include, among others, Fostering creativity and innovation for socio-political development, job and wealth creation, and Creating an enabling environment for the growth of Africa's cultural and creative industries. As part of our efforts to contribute to an enabling environment for creatives to freely express themselves, we carried out research in eight African countries to assess the state of artistic freedom in order to understand the lobbying and advocacy strategies required to advocate for creatives' freedom of expression.

The research was part of our Pan African Network for Artistic Freedom project, which was launched in 2021 to promote artistic rights through research, capacity building, network building, and lobbying governments for better policies for the sector. PANAF is being implemented in collaboration with culture and civil society organisations in Nigeria, Kenya, Rwanda, Ethiopia, Uganda, Mozambique, Zambia and the Gambia. The researchers examined the legal frameworks that govern artistic expression, identified the major government agencies, national stakeholders, and artistic unions to be engaged in the lobbying process, and provided an overview of how copyright laws protect artistic works and whether practising artists benefit from them.

The reports note that authorities limit this right across the eight countries, particularly with regard to artists perceived to be government critics. Through direct and indirect means, these artists' ability to perform, display, or disseminate their work is constrained. As a result, few artists remain willing to publicly express their critical opinions or explore contentious themes in their work as a result, and those who do risk facing harsh repercussions. The methods used by the authorities to stifle critical artistic expression, include harassment, intimidation, threats, interference, legal pressure, arrest, imprisonment, and torture with a majority of victims being musicians, film-makers and cartoonists. Finally, the report contains a number of recommendations to authorities and other stakeholders for concrete steps needed to improve the situation of artistic freedom of expression in each country. This report is very essential as it will help sustain Freedom of expression which is at the heart of artistic practice and mission. The sustainability of artistic freedom of expression is critical to the continent's democracy; increasing transparency and accountability within the governments and leaders.

Selam is proud of our partners and researchers for overcoming the challenges and completing this research, especially given the sensitivity of the subject matter. We also want to express our gratitude to all the stakeholders and artists who took part in the data collection process. And finally, the results and achievements of our work are simply not possible without the support of our donors, the Swedish Arts Council. To that end, Selam will continue to work with its partners and other cultural organisations to lobby governments to make it possible for artists to freely express themselves and distribute their work in the interests of socioeconomic development and job creation. In addition, this year will see the launch of a literature review and study to provide context for the challenges faced by women in the cultural and creative sectors, as well as feasible recommendations for achieving gender equality.



### **Teshome Wondimu**

Founder and Executive Director - Selam

April, 2023





***Expression! on  
is a Right***

## Executive Summary

This report focuses on the crucial aspect of protecting artistic freedom within the artistic community, recognizing its significance in promoting creativity, innovation, and democratic values. It specifically examines the state of artistic freedom in Mozambique, aiming to identify potential threats and analyze the existing legal framework. Despite the absence of an official censorship body and the constitutional guarantee of freedom of expression, self-censorship remains prevalent among individuals in positions of power. The report also sheds light on challenges faced by artists, audiences, and policymakers in their efforts to uphold and protect artistic freedom.



To gather insights and perspectives, a survey was conducted, collecting 71 responses from various locations across Mozambique. Additionally, key informants, including leaders from seven civil society organizations, were interviewed to explore opinions on freedom of expression and gender balance. The report also considers relevant documentation and sources.

The findings reveal several threats to artistic freedom, including inadequate legal protection, insufficient support and funding for arts and culture, censorship of critical content, political interference, and a lack of awareness regarding artists' rights. Furthermore, despite attempts to address gender inequalities, the cultural and creative industries continue to lack specific measures to tackle gender imbalances, thereby perpetuating gender inequality within the sector.

The document concludes by providing recommendations for civil society organizations and the Mozambican state to enhance the protection of artists and their rights. These recommendations include the implementation of specific laws, initiatives to enhance capacity-building among artists, and the establishment of support systems to assist artists facing threats to their freedom of expression.

FEMICC, as an organization dedicated to nurturing a vibrant and inclusive artistic community, expresses deep appreciation for its participation in this Pan African initiative through the PANAF Network. The organization extends heartfelt gratitude to SELAM for facilitating the engagement of diverse African voices in meaningful discussions addressing crucial issues that impact the artistic community and society as a whole.

A handwritten signature in black ink that reads "Rufus Maculube". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**Rufus Maculube**

President of Federação Moçambicana das Indústrias Culturais e Criativas (FEMICC)

## Acronyms

ACHPR	African Charter on Human and Peoples' Rights
FEMIC	Federação Moçambicana das Indústrias Culturais e Criativas
LDH	Liga dos Direitos Humanos
OAB	Ordem dos Advogados de Moçambique
OSISA	Open Society Initiative for Southern Africa
SALC	Southern Africa Litigation Center
SOMAS	Associação Moçambicana de Autores
UDHR	Universal Declaration of Human Rights

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## Contents

Executive Summary	7
Acronyms	8
1. Introduction	10
2. Literature review	11
3. Methodology	13
3.1 Limitations of the study	13
4. Results and discussions	14
4.1 Current legal frameworks	14
4.2 Threats to artistic freedom	15
4.2.1 The Valter Danone case	17
4.2.2 Other cases worth of mentioning	17
4.3 Major associations assessments needs	18
4.4 Gender representations in associations	19
4.5 The copyrights situation in Mozambique	19
5. Recommendations	22
5.1 For civil society organizations	22
5.2 For the Mozambican State	22
6. Conclusion	23
7. References	24

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# 1. Introduction

Artists should be free to create and express themselves without any interference or censorship. This freedom is an essential component of any healthy and vibrant society, as it allows for the exploration and sharing of diverse ideas, perspectives, and experiences. Unfortunately, artistic freedom of expression is not always respected or protected. Governments, institutions, and even individuals may seek to suppress or censor certain forms of artistic expression that they find offensive, controversial, or threatening. This can have a chilling effect on artistic expression and asphyxiate the creative process.

In order to guarantee artistic freedom of expression, governments put in place policies, legal frameworks, and public institutions to safeguard this right. Mozambique is not an exception, where the freedom of expression is guaranteed by the country's Constitution from 1990 and 2004 (revised in 2018); and international human rights instruments to which the country is a party, cases of the Universal Declaration of Human Rights and African Charter on Human and Peoples' Rights.

Since the country's independence in 1975, no official restrictions on the artists who criticize the government or to discuss matters of public interest have been registered, as there was no official censorship entity. Between 1975 and 1990, there were restrictions on freedom of expression for artists, through entities such as Radio Mozambique and the now extinct Ministry of Information. Songs like *Xantima I Bodlela* by Salimo Muhamed, were taken off the air.

On the other hand, people in key positions in the cultural and creative industries have since practiced some sort of self-vigilance. Meaning that, the freedom of expression although legally guaranteed, in practice, there have been cases where limitations have been put in place. It is in this context that the following questions come up:

- a. What is the current state of artistic freedom in Mozambique?
- b. What legal protection exists for artistic freedom in Mozambique?
- c. What are the main challenges to artistic freedom in Mozambique?
- d. What are the main strategies that artists, audiences, and policy makers in Mozambique use to defend their artistic rights to free expression?
- e. How do the government and other stakeholders in Mozambique promote and protect artistic freedom and what areas could be improved?
- f. Based on the current state of artistic freedom in Mozambique and the experiences of artists, audiences and lawyers, what recommendations could be made to better defend and promote artistic rights to free expression in the country?

This research aims to provide an overview of artistic freedom in Mozambique, as it is expected that, it will give a clear insight on the status of freedom of artistic expression and come up with a workable recommendations that will help artists, audiences and policy makers, to defend their specific artistic rights to free expression, and guide government and other stakeholders in better promoting and protecting them. Specifically, the objectives are:

- a. Examine the current legal frameworks; components for artistic freedom and the limitations subjected to artistic expression and identify any gaps as well as the potential opportunities available to enhance artistic freedom.
- b. The legal framework for freedom of expression will be assessed against relevant regional and comparative human rights standards.
- c. Identify threats to artistic freedom by outlining obstacles to artistic freedom advancement in Mozambique, and then highlight how governments and other players frequently fail in their tasks or responsibilities to promote and safeguard freedom of opinion and expression.
- d. Highlight how at-risk artists deal with authority and which organizations support them.



- e. Identify the major associations by creatives in the sector and conduct a needs assessment for each.
- f. Determine the gender representation in these associations in order to identify the sources of inequality in the cultural and creative industries, as well as the key challenges to gender equality.
- g. Determine how the copyright Act protects artistic works and indicate whether practicing artists are benefiting from it.
- h. Come up with a workable recommendation to work on the opportunities that could promote Artistic freedom.

## 2. Literature review

The freedom of expression in Mozambique is protected under the Constitution, which guarantees the right to freedom of thought, conscience, and expression. It is important to note that the country's Constitution since its independence in 1975 has had three major revisions, in 1990, 2004 and 2018.

The 1975 Constitution did not establish norms on freedom of expression and freedom of cultural creation, it stated on its Article 27 that, in the achievement of the objectives of the Constitution, all citizens enjoy freedom of opinion, assembly, and association. But in reality, public media under the then Ministry of Information, banned a number of songs particularly the Radio Mozambique.

The 1990 revision introduced the multi-party system in the political arena, and strengthened individual rights and guarantees, increasing their scope and accountability mechanisms.

The 2004 Constitution which was revised in 2018, does not rupture with the 1990, but it introduces provisions that seek to reinforce and solidify the rule of law and democratic regime introduced in 1990, through better specifications and deepening of existing provisions. A key distinction between this constitution and previous ones, is the fact that it was approved through a process of "consensus.", as it arises from a discussion not only of the citizens, but also of the Parliament represented by different political parties, which did not happen in the previous ones (Sal e Caldeira, n.d.).

The freedom of expression on the actual Constitution emanates from its Article 3, which mentions that the Republic of Mozambique, is a state that upholds the rule of law, with a democratic political system that allows pluralism of expression, respects and guarantees fundamental human rights and freedoms. According to Article 43, the country's constitution interprets the fundamental rights of its citizens in a way that is consistent with the principles outlined in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights. These international human rights instruments, to which the country is a party, are reflected in the country's bill of rights, which embodies universal and African values on human rights.

In a more specific manner, Article 48 adds that every citizen has the right to freedom of expression, freedom of the press, and the right to information. The exercising of the freedom of expression includes, in particular, the ability to express one's own thoughts and ideas. And the state guarantees the impartiality of public sector media and the independence of journalists from the government and other political powers, where the expression and confrontation of ideas from different viewpoints are ensured. The exercise of rights and freedoms referred to in this article, is regulated by law based on the imperatives of respecting the constitution and the dignity of the human being.

Article 94 assures the right to freedom of scientific, technical, literary, and artistic creation to all citizens. Adding that the State protects the inherent rights of intellectual property, including copyright, and promotes the practice and dissemination of letters and the arts.

The Mozambican Bar Association (OAM) has since 2016 published reports on human rights in the country, as part of its mandate to defend the democratic rule of law and fundamental rights and freedoms. These reports serve as periodic assessment and monitoring tools for the evolution of the human rights situation in the country, always with reference to the recommendations of previous reports published. While they address economic, cultural, and social rights, and rights of access to information, freedom of the press and opinion, there is no specificity to the artistic freedom of expression as category/point, to be addressed (OAM, 2021-2022).



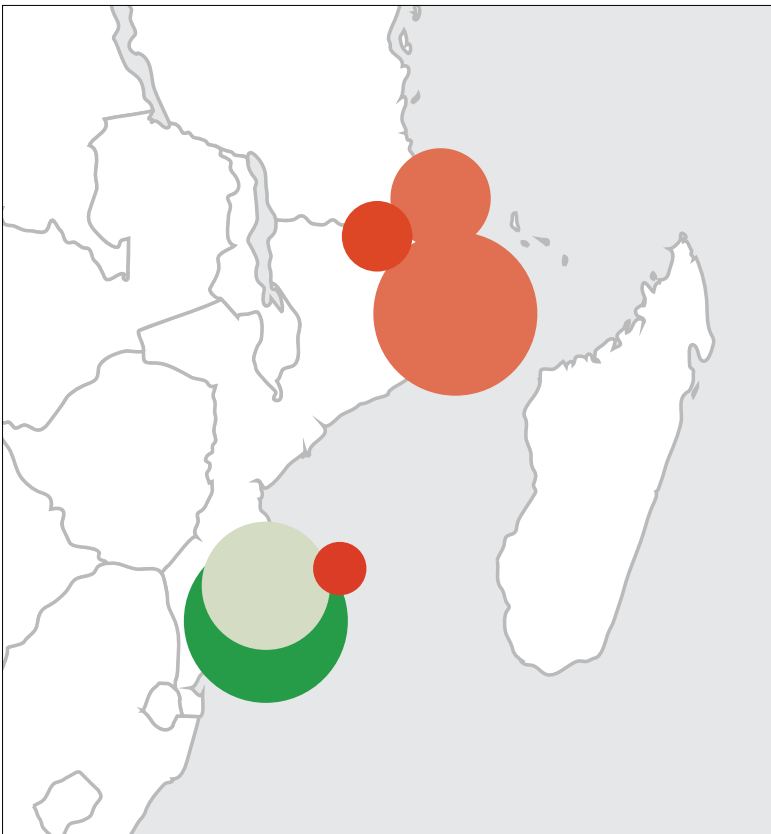
**Say no to  
~~Censorship~~**

## 3. Methodology

For this qualitative research, a non-probabilistic convenience sampling was chosen, due logistical constraints that made it impossible to cover the country. The sensibility of the subject matter, made it also difficult to access a representative sample of the population, some informants were not comfortable in openly giving information.

Data collection was conducted through a survey using Google Forms, key informant interviews and document reviews. The survey sample was composed by seventy one (71) respondents' country wide. It included questions on the respondents' views on freedom of expression, their experiences with restrictions on speech, any challenges faced in exercising their right to freedom of expression and recommendations for stakeholders including the government.

Seven civil society leaders representing some of the most prominent cultural conglomerates were chosen as key informants for open questions. The questions were around gender balance in their organizations, policies in place, steps being taken to address gender imbalances, and the needs of organizations to better perform their duties. And a review of relevant documentation on freedom of expression in Mozambique, including laws, policies, and research reports was also carried out.

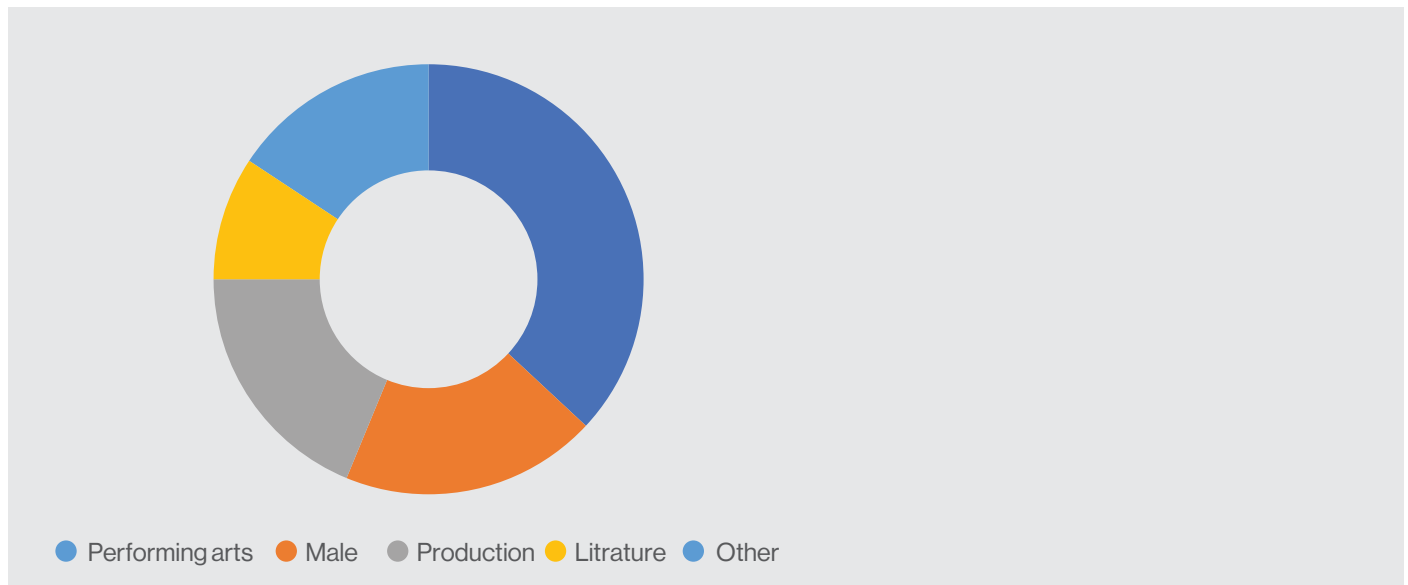


*Country respondents per province*

### 3.1 Limitations of the study

The sample size, diversity and specificity of artistic expressions and other support roles for creativity were limited by time, resources, and access to the internet and devices for many potential respondents.

Artistic expressions could not be detailed in a more specific manner, the team decided to group them in the following categories: (i) performing arts, (ii) visual arts, (iii) literature, (iv) production/management/organization, and (v) other.



#### *Areas of activity*

And as promised on this research disclaimer, all names of the informants were kept anonymous, including civil society leaders and government officials, and where there is a direct citation fictional names were given.

## 4. Results and discussions

### 4.1 Current legal frameworks

As already mentioned, the freedom of expression in Mozambique has been guaranteed by the 1990, 2004 and 2018 constitutions, on articles 74, 48 and 48 respectively, providing that all citizens have the right to freedom of expression and freedom of the press, as well as the right to information.

However, freedom of artistic expression as a concept does not exist in the Mozambican legal system. It can be understood as freedom of expression, as a human and fundamental right of citizens, to freely express themselves without submitting to censorship, or the need to obtain license from some entity to exercise this right.

The current Constitution of the Republic (2018) guarantees the right to freedom of cultural creation for all citizens. It also ensures that the State protects the rights related to intellectual property and encourages the practice and dissemination of literature and letters. Likewise, as it is presented in international texts to which Mozambique is a signatory, cases of the Universal Declaration of Human Rights (UDHR), of 1948 that establishes in its article 27:

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific progress and its benefits.
2. Everyone has the right to the protection of moral and material interests linked to any production.

And the African Charter on Human and Peoples' Rights (ACHPR), on its article 9:

1. Every person has the right to information.
2. Everyone has the right to express and disseminate their opinions within the framework of laws and regulations.

As provided for in the Constitution and, implicitly, in the UDHR as well as in the ACHPR, any act aimed at limiting or censoring artistic freedom is illegal.

Important to remember that, artistic freedom presupposes among others: existence of freedom of expression; artistic activity; absence of censorship (formal or informal) and means of dissemination of artistic production.

The Constitution of the Republic that has been cited, on its Chapter II, about Rights, Duties and Freedoms, enshrines, on paragraph 3 of article 48, that freedom of the press includes, namely, the freedom of expression and creation for journalists, access to sources of information, protection of independence and professional secrecy and the right to create newspapers, publications and other means of dissemination. The paragraph 6 of the same article, establishes that the exercise of these rights is regulated by law based on the imperatives of respect for the Constitution and the dignity of the human person.

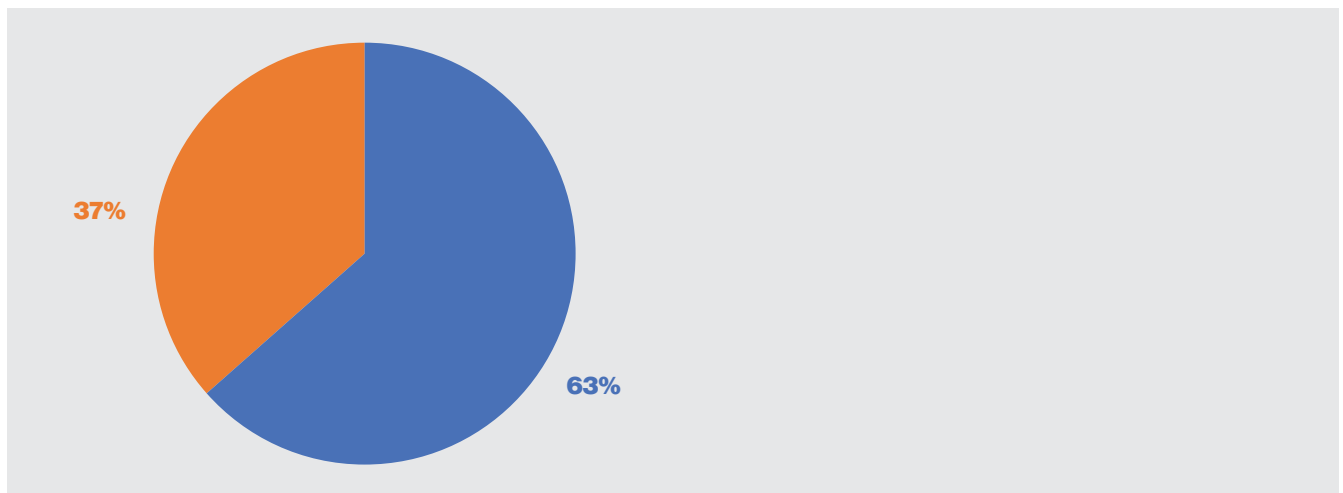
In this case, not having a law does not limit the rights, as it results from a universal principle, the application of basic rights is immediate and does not necessarily require additional laws. Nevertheless in the country, there are cases in which ordinary laws that operationalize and materialize fundamental rights. Law 18/91 from the 10th of August, known as the Press Law, is an example, as it defines the principles that govern the activity of the press, and establishes the rights and duties of its professionals, materializing the provisions of number 6 of article 48.

On the current context, there are tendencies to limit the creation artistic works, we can refer to examples such as: the prohibition of the use of the uniform of the national defence and security forces on performance by cultural groups, the capture of images in some public institutions and in areas of the ongoing terrorism armed conflict, and some artists have seen their freedom being limited. Based on what has been said, having a law whose object is the protection of artistic freedom of expression, could unequivocally foster a better creative environment for the practitioners, allowing them to freely create. It would also forbid the limitation or censorship of artistic works.

Concluding, there is a need for the approval of a specific legal framework by the State, as a means to reinforce the guarantee of artistic freedom.

## 4.2 Threats to artistic freedom

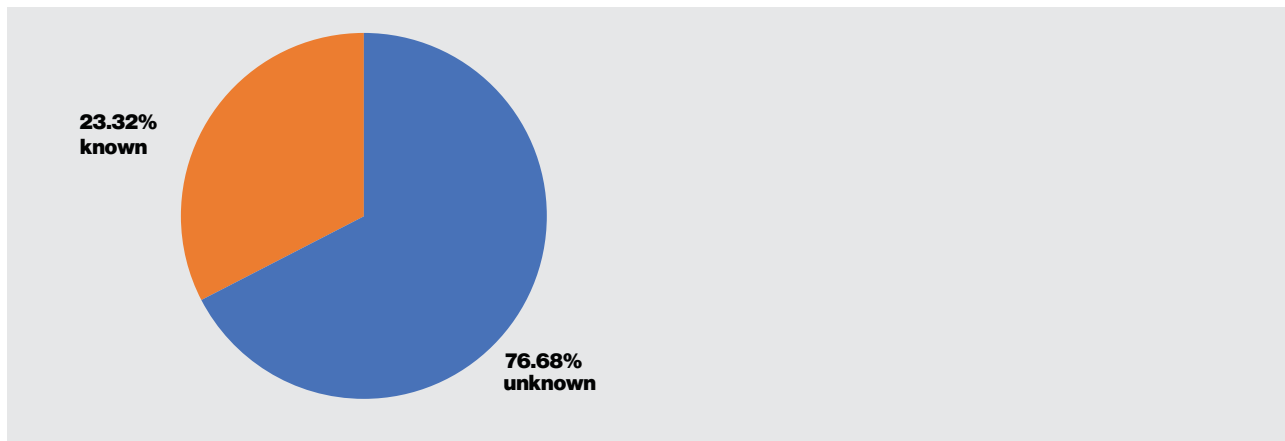
In regards to identifying threats to artistic freedom in Mozambique, by outlining obstacles to the advancement of artistic freedom, and highlighting how governments and other actors frequently fail in their responsibilities to promote and safeguard freedom of opinion and expression. Through the collection of data from respondents, it was found that 63.4% were unaware of the laws or policies that guarantee freedom of expression in Mozambique.



### *Knowledge about law or policy*

Even though the percentage of respondents who demonstrated knowledge about laws and policies that protect freedom of expression was low, those who did, showed familiarity with the subject matter as they had a thorough understanding of the relevant concepts. These individuals cited specific provisions from the 2018 Constitution, the Right to Information Act (Law 34/2014), and the Universal Declaration of Human Rights in their responses.

As for the instances where the freedom of artistic expression was restricted, almost two thirds of the respondents were able to provide examples, and the Valter Danone was highlighted, probably as being the most recent case. People also mentioned past cases like Azagaia, Refila Boy, and artists who performed as human statues in public and were taken to the police station.



*Instances where freedom of expression has been curtailed*

In regards to the main threats to artistic freedom in the country, the respondents identified the following:

- a. Insufficient legal protections and measures to safeguard artists while performing their duties.
- b. Lack of appreciation and support for arts and culture, including insufficient financial resources for the production of arts and culture goods and services.
- c. Censorship of artistic content that promotes critical thinking.
- d. Political and partisan interference with artistic expression.
- e. Lack of information about rights and benefits for artists.
- f. Ineffective implementation of laws and measures to protect artists, lack of venues for cultural events.
- g. Censorship of artists for criticizing the government or authorities.

The analysis of legal instruments for the creation of public or private sector media in Mozambique, does not reveal any provisions that authorize censorship or the banning of artistic works. Such provisions would be in violation of the Constitution of the Republic.

In Mozambique, it is believed that there is a form of informal censorship practiced particularly by public institutions, where individuals involved in the media industry are aware of certain unspoken guidelines and filters to use when creating or presenting content. Nonetheless, there have been no formal cases of censorship against an artist, or any legal action taken against an artist for the content of their artwork. This lack of formal cases and persecution supports the idea that censorship in Mozambique takes place informally, rather than through formal laws or government actions.

This form of informal censorship may include self-censorship, where media professionals including private organizations, choose to abstain from certain controversial topics or subjects, in order to avoid backlash or negative consequences. This is done by keeping certain content seen as harmful to the country, society or the status quo, out of air.

Civil society and private organizations play a vital role in promoting and defending artistic freedom of expression. Unfortunately, their effectiveness in this regard, can vary depending on various factors such as their size, resources and political affiliations. And most organizations who advocate for freedom of expression, are not specific for the arts and culture sector, in other words no organizations work specifically on this matter in the country.

Some of the leaders of these organizations, claim that they face many challenges in fulfilling their role, such as limited resources and capacity, lack of support from the government, and political interference. Another identified factor for the effectiveness of these organizations in protecting artistic freedom of expression is the lack of clear and specific legal framework.

Mozambique has a number of non-governmental organizations (NGOs) that work to promote and defend freedom of expression in the country. Some of these include the Open Society Initiative for Southern Africa (OSISA), the Human Rights League of Mozambique (LDH), and the Mozambique Human Rights NGO Forum.

In addition to these organizations, there are also regional and international organizations that are active, and work to promote and defend freedom of expression. Some of these include the Southern Africa Litigation Center (SALC), which works to protect and promote human rights in southern Africa, and the African Commission on Human and Peoples' Rights, which is the main human rights body of the African Union. The Arterial Network which operates in Mozambique, has a platform that monitors the freedom of creative expression, so far no report has been published about the country.

The effectiveness of these organizations may vary depending on the specific organization, their capacity and resources, agenda and the political environment in Mozambique.

Unfortunately, during the interviews no one was able to mention any specific organization that protects artists in conflict with authorities, in regards to artistic freedom. This opens a way for the establishment of such an entity or mechanism, as a way to safeguard this constitutional right.

#### **4.2.1 The Valter Danone case**

By the time this report was written and publicly presented for validation, this case was ongoing. It involves a video featuring children satirizing the actions of traffic police in Mozambique's Chimoio District. On December 27, 2022, the verdict for the case was scheduled for February 7, 2023 by the local court. The indictment against the video accused the defendant, Denilson Daniel, of endangering the children who appeared in and around the vehicle. However, the producer of the video, the uncle of Valter Danone, disputed this claim and stated that the prosecutor's office did not thoroughly review the video, which contained numerous cuts. The prosecutor's office argued that the children could be charged with crimes of "negligence." The case sparked controversy and the prosecutor's office initially charged three minor comedians with defamation and slander, but later withdrew the accusations and attributed the false information to the National Journalists' Union and STV.

#### **4.2.2 Other cases worth of mentioning**

The choreography *Um Solo para Cinco* by Augusto Cuvilas in 2008, was censored due to its portrayal of nudity. This censorship was not officially imposed by any government or legal authority, but rather it was a result of the abundant self-censorship on the media. The decision to censor it was met with debate and discussion within the media, with some arguing that the nudity in the performance was necessary for artistic expression, while others believed it to be inappropriate and in violation of moral and cultural norms.

Azagaia, a Mozambican rapper, has had several run-ins with the authorities due to the content of his music. In 2008, he was summoned by the Attorney General's Office to present himself in relation to his lyrical content, but he was not charged. In 2011, he was arrested, accused of drug possession (cannabis), some segments of society viewed this as political persecution, and fortunately he did not stay long in jail. Azagaia's music does not receive much airplay (both tv and radio) even though he is popular. One can infer that there is self-censorship from both public and private media.

In 2018, Yolanda Boa, an influencer, faced criticism for a photo session in which she appeared semi-nude with the national flag, with the Ministry of Culture and Tourism condemning the act as a violation of the Constitution. However, no legal action was taken against her.

Overall, while instances of censorship do occur, they are not typically carried out formally, and are often met with disagreement and debate within society. Whenever there is an incident, the debate around censorship and freedom of expression sparks. And social media has expanded the possibilities for a wider, free and more engaging debate.

### 4.3 Major associations assessments needs

Associations play a vital role in addressing the challenges faced by artists, but many are currently facing a number of challenges that are hindering their ability to effectively carry out their mission. And following challenges were identified: poor governance, human resources, facilities and equipment and funding.

The lack of good governance, leads to the lack of transparency and decision-making, without proper input or oversight from the wider organization. This fosters the lack of accountability, engagement and trust from members, and lack of effectiveness in carrying out the association's mission. There are leaders who are out of mandate, not having legitimacy, most members don't recognize them as leaders.

As for human resources the organizations confront themselves with insufficient and capable staff. It is common for organizations to be run by volunteers, not earning any compensation for the work done, and with no special management skills, or any other needed to run the daily business.

When it comes to facilities, there are few exceptions for the organizations created around the 80s, who own buildings. The ones funded after are struggling in having proper working spaces, most are renting or are on borrowed facilities. There is a common understanding on the need of equipment provision, as the majority is struggling in having proper working equipment including furniture, computers, equipment for creativity and specialized software.

The lack of funding is compounded by the previous challenges, including members not paying membership fees, claiming that there are no benefits in supporting their association. In this case, sustainability is compromised, as the entities are not self-sufficient, hence due lack of capable staff and proper working conditions are not able to properly fundraise or carry out initiatives to support their existence.

According to the leaders of associations, the current state of artists is in need of improvement. Many are calling for core funding to be provided, similar to the way it is provided to other non-governmental organizations (NGOs). They claim that this would allow them to focus on their craft rather than constantly struggling to make ends meet. In their opinion, it would also enable them to have more stability and sustainability in their work, and be able to address more effectively the challenges faced by the artistic community.

They also believe that, by providing support and resources, it will help to cultivate a vibrant and dynamic artistic community, which will continue to inspire, enrich and positively contribute to the society. Enhancing that, the benefits will not be only for the artistic community, but also the society at large, as they will provide access to a diverse range of artistic expression and cultural experiences.

There is also a call for the revision of statutes, to better reflect the needs and realities of artists in the current era. There is a belief that it will ensure that the associations are better equipped to address the challenges faced by the artistic community.

The overall state of most associations at the moment is one of struggle. Without proper governance, transparency, staffing, and funding, it is difficult for these organizations to make a real impact on the issues that they are working to address, including freedom of speech, representation and advocacy for the artistic community, and providing resources and support for artists to grow and thrive in their craft.



## 4.4 Gender representations in associations

The Mozambican government has made efforts since to address gender inequalities, government programs have sought to introduce a gender perspective in their development plans and policies, but so far no specific action was taken for cultural and creative industries.

One of the main sources of gender inequality identified by the informants is the lack of specific gender policies/ guidelines, on the organizations of the sector. They all agreed that, at present, might be the biggest constraint, and to their knowledge not one single organization has it.

Other identified sources were: lack of gender diversity and sensitivity within the organizations (most being male-dominated), and women being relegated to supportive roles rather than being given leadership opportunities.

Joana (a programs officer in a cultural organization) defends that, it is not important to focus on the numerical representation of women in the cultural and creative industries, but rather the quality and effectiveness of their contributions. Claiming that the industry has not prioritized gender in the past, and as a result, women have often been relegated to supporting roles in a sexist and hostile environment. Women are sometimes only included in projects as a way to appeal to donors, rather than for their skills and expertise. Harassment is a never present problem in this industry, stating that: "It rains harassment in this industry".

For Ricardo (a general secretary of an organization), it is important to ensure that any discussions about gender, includes a diverse range of perspectives, including those of qualified professionals. Having a diverse group of people with different backgrounds and experiences can lead to more well-rounded and effective discussions and decision-making.

Generally speaking, all respondents agree that it is important to raise awareness and educate people about gender issues, and incorporate them in their organizations agendas. Some organizations claim that they are already doing, giving an example that they have female vice presidents, seeing it as a good starting point.

## 4.5 The copyrights situation in Mozambique

In order to understand the current status of the collective copyright management in Mozambique, it is key to know that, during the colonial era, copyright was administered from Lisbon, Portugal. This was done under the jurisdiction of the Copyright Code and the Civil Code, with no recorded instances of Mozambican artists receiving royalties for the use of their works.

The matter of copyright was later enshrined in the constitutions of 1990, 2000, and 2004, through articles 79, 79, and 94, respectively. These articles, guarantee citizens the right to freedom of scientific, technical, literary, and artistic creation, and protect the inherent rights of intellectual property, including copyright, providing that, all citizens have the right to freedom of scientific, technical, literary and artistic creation, and giving the state the role to protect the inherent rights of intellectual property, including copyright.

The Law nr 4/2001, from the 27th of February, also known as Copyright and Related Rights Law, was created to ensure the defence and enhancement of the activity of intellectual creators and companies, in the face of advances in technological means of creation and illicit use of goods from cultural industries and the growing economic importance within the scope of international trade. It was in force until its repeal by Law nr 9/2022, of June 29th, without having been regulated, when it should have been within the deadline 6 months after its enactment, this in February 2001.

Despite this fact, combined with the absence of certain matters such as the publishing contracts, the law guaranteed the protection of artistic works, authors and granted the authors the faculty of associating and creating associations for the collective management of their rights. In fact, it was this law that made the creation of the Mozambican Association of Authors (SOMAS) possible.

SOMAS was also created in the light of Law 8/91, of the 18th July, known as the Associations Law. A group of Mozambican artists created this organization, on May 15th 2000. SOMAS is a non-profit organization with the objectives of guaranteeing the unity and cooperation of authors, stimulating the production of intellectual works, defending

holders of copyright and related rights, managing, negotiating, and publishing tariffs, granting authorizations, collecting and distributing related remuneration to copyright, related rights, and administering moral rights.

The current copyrights act, Law 9/2022, from the 29th of June, extended the scope of protection by incorporating literature, science and other forms of knowledge and creation, as well as in the material scope, including, among others, gastronomy, and publicity. This Law also provides for the right of resale, establishing that after initial disposal, the author of an original work of art that is not architectural or applied art, has the right to participate in the price obtained from the sale of that work, carried out through the intervention of any agent acting professionally and stably in the field of art. According to this law, this right is non-waivable, inalienable, unavailable, and essential (article 41). Regarding the advent of new technologies, the Law provided for technological measures and electronic management of rights (Article 72).

The Law ensures legal protection against the neutralization of technological measures of protection for holders of copyright and related rights, in particular against acts of altering, suppressing, modifying or rendering unusable, in any way, existing technological measures. It also ensures legal protection for holders of copyright and related rights in relation to the electronic management of the following rights:

- i. Delete or change, without authorization, any information for electronic management.
- ii. Distribute, import for distribution, issue, communicate or make available to the public, without authorization, materials and copies knowing that the information on rights management, coded signs and technical devices have been suppressed or altered without authorization.

Notwithstanding everything that has been mentioned about the repealed and current law, reality shows that there are no cases of authors who have resorted to judicial bodies for violating their rights. However, there are records, still few, of cases submitted to the collective management of copyrights as well as those discussed in the press.

From a structural perspective, SOMAS challenges include lack of proper facilities, staff trained in the field of copyright and related rights, equipment and vehicles. Other challenges include the lack of awareness and understanding of the organization among artists, and lack of a strong and dynamic representation at the country level.

Additionally, it does not have a strong and dynamic representation at the country level; most of the users of copyrights in the country are not paying contributing to the degradation of the artistes condition, as very little royalties amounts are paid out to the artists; and no legal proceedings have been instituted against entities that do not pay royalties, despite the legitimacy conferred by law.

According to Article 93 of the Copyright Law, authors can create various entities for the collective management of copyright. So far, in the country SOMAS is the only copyright society, making it the primary institution for the defence of copyrights in Mozambique. Unfortunately, in practice it does not meet the expectations of its members, due the reason previously mentioned.

With proper collective copyrights management, there is great potential and opportunities, as in fact that by the year 2021, the country will have about 20 (twenty) television channels. In the same period, there was an increase of registered radio stations from 129, in 2020, to 163, in 2021, according to data from the National Institute of Statistics. Here we are not mentioning other public users like supermarkets, hotels and restaurants.

Actions to disseminate this law among artists and advocate for the Government to regulate it were recommended, as a starting point to make it more effective and guarantee the collection, and consequently the payment of royalties to the creators.

# Artistic Rights First



## 5. Recommendations

This section presents recommendations for both civil society organizations and the Mozambican state, with a focus on capacity building and the protection of freedom of expression for artists.

### 5.1 For civil society organizations

For the civil society organizations fighting for the defense of the interests of artists (such as associations, federations and others), following actions were recommended:

- Continually advocate for the defense of artists and their rights, by increasing awareness of the importance of the arts in the society.
- Work towards obtaining the approval of a specific law that protects the freedom of expression of artists, just like the journalists who have one.
- Ensure that those who hold leadership positions in the cultural sector organizations are well-trained or have significant experience in the field, in order to prevent a lack of understanding or appreciation for certain cultural or artistic expressions due to a lack of knowledge and sensitivity.
- Carry out capacity building activities like workshops, conferences and debates for artists and authorities, to inform all parties about their freedoms. Thus engaging in dialogue, raising awareness and advocating for the protection of artists when necessary.
- Stand up to censorship, defend artists against persecution, and remain steadfast in their convictions regardless of threats from government officials or partisan agendas. Create a support system for artists who are facing threats to their freedom of expression.
- Support initiatives developed by practitioners, and have closer ties with the artists to encourage them, create internal and external partnerships to support the development of the arts, and strengthen the capacity of artists.
- Promote the legal recognition of associations.

### 5.2 For the Mozambican State

A mixture of structuring and structural suggestions to the Mozambican State, were presented by our interviewees, where the following stand out:

- Continue accepting differences of opinion as long as they do not pose a threat to the state, and create concrete policies for the development of the arts as a whole, starting at the grassroots level, ensuring that there is equal opportunity for all, including artists with disabilities in these efforts.
- Recognize the work of artists and create clear laws that protect and defend their freedom of expression, and to put these laws into practice rather than just having them on paper.
- Recognize that art can help to develop the country much more than is commonly thought, and that it is not the enemy of the Mozambican State. Artists are able to see and suggest alternative measures for the benefit of the entire population, and all opinions deserve to be heard.
- Allow artists to express themselves as they see fit, as they are the voice that people have against any kind of atrocities, and embrace them as they can also be the voice of the government to the people.
- Fully implement the laws regarding freedom of expression, and to ensure that these laws are disseminated to the general public, through media campaigns and similar actions, including in remote areas, as many artists and audiences in these areas may not be aware of these laws.

It was also recommended, in general terms, the establishment of a fund or grants program specifically for artists. This would provide financial support for artists to create and exhibit their work, as well as allow them to participate in professional development opportunities. And to ensure the success of this initiative, the proponents suggest that it should have clear guidelines, a transparent application and review process, and evaluations to track the impact and identify areas for improvement.

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## 6. Conclusion

In Mozambique, freedom of expression, including artistic freedom, is guaranteed by the country's Constitution and international treaties to which Mozambique is a signatory. However, there are no specific laws in the Mozambican legal system that protect artistic freedom. Thus, bringing the need of putting in place a legal mechanism, that will provide security and protection for artists, as there have been instances of censorship and limitations on artistic expression in Mozambique.

This study showed that most of the respondents were unaware of laws or policies that guarantee freedom of expression in the country. While those who were familiar with the subject demonstrated a thorough understanding of the relevant concepts, many were able to provide examples of instances where artistic expression was restricted. The participants identified several factors that threaten artistic freedom in Mozambique, including insufficient legal protections for artists, a lack of appreciation and support for the arts, censorship of content that promotes critical thinking, political interference, and a lack of information about rights and benefits for artists. Additionally, they stated that no specific organization protects artists in conflicts with authorities regarding freedom of expression, leading to the suggestion that such an entity be established to safeguard this constitutional right.

Most artists' associations are facing a number of challenges, including issues with governance, understaffing, and a lack of funding. These challenges make it difficult for these organizations to effectively carry out their mission and address the needs of their members. Providing core funding, revising statutes to better reflect the needs of contemporary artists, and providing resources such as equipment and infrastructure, could help to improve the situation and create a more vibrant and dynamic artistic community.

In the Mozambican cultural and creative industries, gender inequality is a major issue, with a lack of specific gender policies and guidelines being one of the main sources of inequality. Other sources include a lack of gender diversity and sensitivity within organizations and women being relegated to supportive roles rather than given opportunities. Respondents agreed that it is important to raise awareness and educate people about gender issues, and to incorporate them into their organizations' agendas. Some organizations have already taken steps to address these issues, but more needs to be done to ensure that women are able to fully participate and contribute to the industry.

As for the new Mozambican copyright act, Law nr 9/2022, in comparison with the previous law, it provides legal protection for a wider range of artistic and intellectual works, including literature, science, gastronomy and publicity. It also includes provisions for the electronic management of rights and a non-waivable right of resale for authors of original works of art. The law ensures legal protection against the neutralization of technological measures of protection and in relation to the electronic management of rights.

Recommendations for both civil society organizations and the Mozambican state in regards to the protection of freedom of expression for artists and capacity building, were proposed. For civil society organizations, it is recommended that they continually advocate for the defense of artists and their rights, work towards putting in place a specific mechanism, that protecting the freedom of expression of artists, ensure that those in leadership positions in cultural sector organizations are well-trained or experienced, carry out capacity building activities, stand up to censorship and defend artists against persecution, support initiatives developed by practitioners, and promote the legal recognition of associations. The state, is ought to continue accepting differences of opinion as long as they do not pose a threat to the state, create concrete policies for the development of the arts at the grassroots level, recognize the work of artists and create clear laws protecting and defending their freedom of expression, allow artists to express themselves, fully implement laws regarding freedom of expression. A fund or grants program specifically for artists with clear guidelines and a transparent application and review process was also recommended. This fund would provide financial support for artists to create and exhibit their work, as well as participate in professional development opportunities.

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