

Politico's questions 14/08/2024

===

START OF THE INQUIRY RECEIVED BY EMAIL

I'm writing with a request for comment on an article to be published by POLITICO on an atrocity carried out by Mozambican soldiers on TotalEnergies' gas concession Afungi, south of Palma, in northern Mozambique from June-November 2021.

The article is based on accounts by 12 survivors of the events at Patacua and the Afungi gatehouse, and a worker from inside Afungi who witnessed the atrocity, as well as a door-to-door survey of the affected villages.

Please find below a detailed summary of the accounts, followed by questions for TotalEnergies.

Please provide written answers by August 27th.

I would also be pleased to interview Patrick Pouyanné or any other person of responsibility whom TotalEnergies would make available.

STORY SUMMARY

In late June 2021, around three months after the Palma massacre of March-April 2021, civilians living in several villages south of Palma — including Ncumbi, Mondlane and Macanja — were advised by the army to seek sanctuary at its bases because it was planning a counterattack against al-Shabab in the area. Around 500 villagers — men, women and children — walked north to Patacua, close to the entrance of the TotalEnergies concession at Afungi, where they were met by a group of Mozambican commandos, identified by their uniforms and red berets. They commandos split the civilians into two separate groups: women and children; and men. All were accused of being members of al-Shabab.

Under the pretext of searching the women for money, the soldiers began systematically sexually assaulting the women. Several were raped. One heavily pregnant woman also gave birth; the soldiers refused to allow other women to shield or clean her. The women were let go after being detained for a day or more.

The soldiers then began beating the men with thorn branches, around 180-250 of them, aged 18-60. They also threatened to kill them. They then transported them to the main gatehouse at Afungi, which was then a makeshift construction of metal shipping containers pushed together end-to-end to make a wall, with a small passage in between for vehicles controlled by a single barrier. The soldiers formed two lines and herded the men into two of the containers, facing each other on either side of the road, beating and

kicking them, and hitting them with rifle butts. All 11 survivors of these events at Afungi saw at least two men die at this point, including an old man of 60 from Patacua, whose body was taken back to his family. One survivor reported being made to bury five more bodies a few weeks later.

For the next three months, the soldiers kept the men locked in the windowless metal containers in 30 Celsius (85 Fahrenheit) heat. At first, they were so packed in, there was no room to sit. There were no toilets, forcing the men to soil themselves. The soldiers also starved their prisoners of food and water for days on end. When they relented, supplies were limited to a fistful of rice and a sip of water from a bottle cap. Several survivors spoke of having to climb on each other's shoulders to lick condensation off the roof. The commandos settled into a routine of abuse. They would work in shifts, arriving from inside TotalEnergies' compound in the morning, or from bunks set up in a neighboring container, to resume a steady schedule of beatings and torture. The soldiers held knives to their prisoners' throats and threatened to behead them. They brought them out of the containers to lie on the ground on their backs, looking up at the sun for hours. They made them strip and kiss each other. One man who tried to run was shot and beheaded, one survivor said.

The soldiers were soon also killing more of their prisoners. A plainclothes officer opened up the container doors one day and asked for volunteers to help him bury some trash. Fifteen people were selected and driven away. They were never seen again. Three days later, the same thing, with a larger group. This time, one survivor said the selected prisoners had rice sacks placed over their heads and were beaten and stabbed as they were taken away. They, too, were never seen again. These trips to the trash pile became regular events. Eventually, by September 2021, out of the original group of 180-250, only 26 survivors remained.

They were released that month when they were discovered by the Rwandan army, which had deployed to northern Mozambique a few weeks earlier. Transferred to a police base for several weeks, the villagers were driven home by the police commander's wife on November 11, 2021. She gathered villagers together, apologized to those who couldn't see their missing relatives, but told them to forget about them because "this was war, and war is like that."

After interviewing my 13 witnesses, I asked a group of six surveyors and three managers — who earlier quantified the massacre in Palma — to carry out a second door-to-door assessment in four villages most affected: Ncumbi, Mondlane, Macanja and Patacua. The surveyors took three weeks. They recorded the names, ages and genders of those killed in this fresh massacre, and the circumstances of their death. This new survey could only ever be a partial account of what happened. Many traumatized families had moved away, as had nearly all those displaced by the war who had been staying in the area. But over three weeks, my researchers recorded the identities of 22 women and 75 men, aged

18 to 58 — a total of 97 people — who had been killed or disappeared. The soldiers had beaten nine to death, shot 10, suffocated 11 in the containers, and “disappeared” 26 — people taken away and never to be seen again. The remaining 41 were missing, presumed dead after last being seen in the army’s custody. The surveyors also found one woman gang-raped by six soldiers who had somehow survived.

QUESTIONS

1. It seems probable that TotalEnergies knew about the events described, for a number of reasons:

- * TotalEnergies had a security and human rights officer present on Afungi at the time of the detention-and-execution operation, according to its own VPSHR report.

- * The atrocity was carried out on Total’s premises, by a force basing itself inside the gas concession perimeter.

- * The detention-and-execution operation was carried out in one of the most public places in the entire concession, and would have been passed by anyone leaving or entering the compound whenever they did.

- * The Afungi worker we spoke to also said what was happening — the detentions, the killings — was “common knowledge.”

- * Total had a close working relationship with the Joint Task Force, and the Mozambican military.

- * White men from the Afungi concession visited the prisoners in the gatehouse several times, trying, unsuccessfully, to give them food and water from the Afungi canteen.

- * The commandos themselves broadcast a version of their activities — in which they said they had killed 156 insurgents ‘in battle’ — on Mozambican state TV on July 3. In the broadcast, the commander identified his mission as protecting Afungi and the project of Total.

What did Total know about the Afungi massacre? What different parts of Total — in Afungi, in Maputo, in Paris — knew what? Given that the entire concession staff was reportedly aware, did they attempt to stop these evident war crimes? Given that internal Total procedure for such large-scale loss of life is for it to be reported to Total in Paris, did TotalEnergies HQ make an attempt to stop these events at an executive-to-government level?

2. TotalEnergies’ internal records show it knew the army was capable of such an atrocity, and the likelihood of such an event can be judged by how:

** The Mozambican army has a well-documented record of human rights abuses and summary executions, as well as criminality.*

** Total's awareness of the army's record was implicit in its deal with the JTF, which specified that the company's bonuses to the soldiers would be withdrawn if they committed abuses and required them to undergo human rights training.*

** Internal Total documents from the time, obtained under a Freedom of Information request by Recommon, an Italian environmental NGO, show Total knew Mozambican soldiers in and around the concession were regularly committing abuses. The gas project's environmental and social reports for the last two quarters of 2021 record "allegations of torture and intimidation of civilians by military members" and "intimidation and extortion events." Though Total claimed such incidents were declining, in its first report of 2022, it noted that soldiers appeared to have beaten to death two fishermen on the north shore of the Afungi peninsula, killings which might have "implications for the project" because of their proximity to its jetty.*

** The army's use of shipping containers as prisons was also well known. Our reporter witnessed it on a trip to Cabo Delgado in September 2021.*

** Total's own human rights advisers — LKL Consulting, and Jean-Christophe Rufin and Ingrid Glowacki -- have also given the company unequivocal, public warnings in 2020 and 2023 on how the army's misconduct could implicate it.*

Total has "a responsibility to address potential impacts to which it is directly linked through its business relationships (e.g. with public security forces)." The highest risks to civilians were from al-Shabab, and "interactions with the JTF [Joint Task Force]." Moreover, "the nature of the relationship with the JTF puts the project in a position of potentially contributing to adverse impacts on human rights that are caused by members of the JTF." (LKL Consulting).

*In the context of a rebellion "rooted in strong inequalities," "lack of trust in the state" and "many abuses committed by the armed forces and the police," TotalEnergies' links to the army were a liability. "In the event of human rights violations, this link directly engages the responsibility of the consortium," they added. The relationship "would have the effect ... of making the project **a party to the conflict**. Any direct link between the consortium and the Mozambican army should be cut off." [Authors' emphasis.] (Rufin and Glowacki)*

Given the evident danger of such an event, what were TotalEnergies' reasons for entering a relationship with the Mozambican military? What measures did TotalEnergies take to prevent the military committing an atrocity? Why were they ineffective? Why did TotalEnergies continue working with the Mozambican military even after the Afungi atrocity? Why did that relationship continue after early 2022 when its own internal records show it knew Mozambican soldiers had likely killed two fishermen?

3. TotalEnergies' CEO and chairman Patrick Pouyanné told a French Senate inquiry in May that Mozambican security is rightly the responsibility of a sovereign state. The situation "is clear," he said. "I can ensure the security of whichever industrial premises on which I might operate. But the security of Cabo Delgado [province] is not the responsibility of TotalEnergies. It's the responsibility of the state of Mozambique."

Afungi is an industrial premises operated by TotalEnergies. Does Total assume responsibility for the Afungi massacre? Would Total reconsider its trust in the Mozambican state after the revelation of these war crimes? Does TotalEnergies recognise that, under international law, a state forfeits its sovereignty when its soldiers commit atrocities?

4. ACLED (the Armed Conflict Location & Event Data Project) has confirmed an official count of those shot and beheaded in the Palma massacre of March-April 2021 of 801. Does TotalEnergies still deny the massacre of Palma of March-April 2021 occurred, even after ACLED has confirmed an official count? Hitherto, TotalEnergies has claimed no project workers died in the attack. Does Total now recognize that 55 project workers died in the attack? Does it recognize any project worker deaths in the attack?

5. The soldiers who carried out the atrocities were commandos who operated from the gas concession and carried out their war crimes on its premises. Their commanding officer told Mozambican state TV that his mission was to defend Total. "The enemy came with intent of attacking, entering and occupying Afungi, the project of Total," he said. "We advanced to hit back at the enemy [who] was still in the bush and seeking shelter in their hiding places." Mozambique's commandos were regular members of the JTF, and feature in Total's human rights literature from Afungi.

Were the soldiers who carried out the Afungi massacre part of the JTF, or merely operating out of Afungi? Is it possible to operate out of Afungi without being part of the JTF?

6. What is TotalEnergies's response to the French state prosecutor's announcement of a preliminary investigation into Total's conduct, and accusations of negligence made by its contractors, during the 2021 Palma attack?

7. What are the implications of the Afungi massacre for TotalEnergies under international law on war crimes, crimes against humanity, or under French law under the principle of universal jurisdiction? Does Total recognize that principle?

8. How does TotalEnergies respond to the view that by giving 2.75% of state government gas revenue, which is itself 15% of the all revenues, to the province of Cabo Delgado, the gas project is fueling the conflict in the province?

9. When does TotalEnergies plan to restart operations at Afungi? What measures has it taken to ensure no repeat of such an atrocity on its premises, or associated with the gas project?

===

END OF THE INQUIRY RECEIVED BY EMAIL