

# Mining Concession requests increase as armed conflict in Cabo Delgado intensifies

## - Who are the lords of the mining licenses in Cabo Delgado?

By: Rui Mate\*

### 1. Context

As the scandal known as Panama Papers,<sup>1</sup> showed in 2016, concealing the identity of the people who actually benefit from the exploitation of natural resources carries high risks of corruption, money laundering and tax evasion in the extractive sector<sup>2</sup>. In this sense, it is necessary to prevent Mozambique from falling into such situation.

The Panama Papers showed that, generally, the real owners of the companies benefiting from mineral resource licenses hide behind corporations, mostly registered as limited liability companies (Ltd.). Therefore, in many cases, little or almost nothing is known about the ultimate beneficiaries of the licenses<sup>3</sup>. Sometimes the identity may also be hidden behind so-called “front men” who pass themselves off as the real owners of the licenses, when in fact they represent “politically exposed persons” (PEP)<sup>4</sup>.

The issue of transparency in relation to the ultimate beneficiary of the exploitation of mineral resources (Beneficial Ownership) gained ground in 2013 during the preparation of the Extractive Industry Transparency Initiative (EITI) standard, approved that year by the initiative’s members<sup>5</sup>. Eleven (11) out of 55 (fifty five) countries implementing the initiative have undertaken to implement the pilot project to publish information on the ultimate beneficiaries of licenses, and the remaining countries, including Mozambique, have undertaken to carry out independent work with a view to requesting and disclosing the beneficiary ownership of mining operations, as from 1 January 2020.

In this context, a roadmap for EITI beneficiary ownership in Mozambique was disclosed which provided, among several aspects: i) provisional disclosure of beneficiary ownership, through EITI reports, starting with the report for the financial year 2017 (until the planned disclosure mechanisms are operational); ii) general disclosure of the information by January 2020, through the mining rights database and the company register database to be created after all the data has been collected; and iii) ensuring the disclosure of the data annually and within the deadlines<sup>6</sup>.

After 8 years since the beginning of the pilot phase, and 1 year after the deadline for publication, Mozambique still does not make the publication, as defined in the roadmap of the beneficial ownership disclosed by EITI Mozambique. In an analysis of the 9 EITI reports for Mozambique, it appears that only in the fifth (5<sup>th</sup>), referring to the financial year 2012 and in the sixth (6<sup>th</sup>), referring to the financial years 2013 and 2014, there is some information about the beneficial ownership. However, the EITI International Secretariat considered the information disclosed in these two reports as not being of

1 PanamaPapers is a set of 11.5 million confidential documents authored by Panama law firm Mossack Fonseca that provide detailed information on more than 214,000 offshore tax haven companies, including the identities of shareholders and directors. The documents show that some of the shell companies mentioned may have been used for illegal purposes, including fraud, drug trafficking, and tax evasion.

2 <https://panamapapers.org/panama-papers-the-secrets-of-dirty-money>

3 The Sociedade Anónima (SA) is a type of commercial company, legally provided for in the Mozambican commercial code, which is usually adopted by large companies, and is characterized essentially by having a more complex organic structure, and by conferring a degree of malleability of the capital stock, insofar as the transfer of shares is not subject to a special form, and in this sense, according to the Panama Papers, are used by some people when they want to hide their participation in certain businesses. Note that their use is not illegal.

4 According to the Financial Action Task Force on Money Laundering (FATF) PEPs are considered to be individuals who are or have been entrusted with prominent public functions such as heads of state or government, senior political officials, senior government, judicial, or military positions, senior officials of public companies, and key officials of political parties. Family members or very close persons of PEPs,

5 The EITI Standard and a set of basic principles that should be followed by EITI implementing countries in order to increase transparency about payments and revenues from the extractive sector

6 [https://eiti.org/files/documents/mozambique\\_beneficial\\_ownership\\_roadmap.pdf](https://eiti.org/files/documents/mozambique_beneficial_ownership_roadmap.pdf)

beneficial ownership<sup>7</sup>. From the seventh (7<sup>th</sup>) to the ninth (9<sup>th</sup>) report, there was a regression. No more information on beneficial ownership was published.

Transparency of the beneficiary property<sup>8</sup> is relevant, not only for accountability, but also so that Mozambicans, the true owners of the natural resources in the country<sup>9</sup>, know who owns the companies that exploit these resources and who ultimately benefits from the activities of these companies. Another motivation for the need to identify the beneficiaries of mining operations is related to the fact that, in some cases, the legal beneficiaries of mining concessions (those listed in the legal documents of incorporation of the company) do not coincide with the effective beneficiaries (those who actually provided the capital for the investment).

Data from the mining cadastre of Cabo Delgado show that in 14 years, from 1992 to 2016, the year before the beginning of the armed conflict in Cabo Delgado, 67 mining concession licenses were attributed in that province, that is, on average about 5 licenses were attributed per year. However, from 2017 to February 2021, after the beginning of the armed conflict, in only 4 years 46 licenses were granted, that is, 68% more than the licenses granted in 14 years, an average of 12 licenses per year. It was expected that with the armed conflict, which may extend throughout the province, there would be a reduction in applications for mining concessions, following the logic of a rational investor who reduces his investments when uncertainties, especially the war, increase. However, the data show a completely different situation in Cabo Delgado.

In the case of Cabo Delgado, on the one hand, the war was not enough to curb the “appetites” of the mining interests, and on the other hand, an increase of land conflicts, mainly in the districts of greater mineral exploitation, with greater intensity in the districts of Palma and Montepuez, as stated by the Coordinator of the Land Department in Cabo Delgado, José Alberto, in an interview on Zumbo FM radio<sup>10</sup>.

In a context where the province is struggling with an armed conflict, with about 800,000 people displaced to new resettlement areas, an increase in requests for mining concessions and land conflicts in mineral resource exploitation areas, there is a central question that can be raised:

## **Who are the beneficiaries/owners (individuals and companies) of the mining industry in Cabo Delgado? And, because, despite the conflict, the requests for concession and acceptance by the Government have not reduced?**

To answer these questions more securely, it is important that Mozambique publish the actual beneficiaries of mining concessions that can help understand the dynamics of the sector, related to the power of influence of the holders of mining concessions, and, perhaps, the phenomenon of land conflicts in the region.

The analysis presented in this text for the first question establishes, in general, that there is a concentration of mining concessions in the company Mwiriti Mining, Limitada, owned by Raimundo Domingo sPachinuapa and Asghar Fakhralee in the company Nairoto Resources Holding, registered outside of Mozambique, which makes it difficult to identify the effective beneficiaries. As for the second question, the available data are not sufficient to give a conclusive answer but it is clear that one cannot establish a causal relationship between mineral exploration and the war in Cabo Delgado since the districts taken over by the insurgents do not have the mineral resources being explored. However, the question remains open for further research.

In this context, this text presents an analysis of the legal beneficiaries<sup>11</sup> of the mining concessions in Cabo Delgado. The identification of the legal beneficiaries presented was based on data obtained from the National Mining Institute (INAMI) and the Government Gazettes (BR).

The information contained in this analysis will be available for public consultation in the database of mining license beneficiaries created by the CIP <https://www.cipmoz.org/pt/2021/07/06/concessoes-mineiras-cabo-delgado>, since the data on the mining cadastre website does not provide relevant details for this purpose. In a first phase, the information refers to mining concessions in Cabo Delgado province and, at a later stage, data on other provinces will be included in order to make the base more comprehensive.

<sup>7</sup> [https://eiti.org/files/documents/eiti\\_-\\_validacao\\_de\\_mocambique\\_-\\_relatorio\\_sobre\\_a\\_recolha\\_de\\_dados\\_inicial\\_e\\_consulta\\_as\\_partes\\_envolvidas.pdf](https://eiti.org/files/documents/eiti_-_validacao_de_mocambique_-_relatorio_sobre_a_recolha_de_dados_inicial_e_consulta_as_partes_envolvidas.pdf)

<sup>8</sup> Beneficial Ownershippeminglês

<sup>9</sup> Cf. paragraph e) of article 97 on the Fundamental Principles of the Economic and Social Organization of the Republic of Mozambique and number 1 of article 98 on State Property and the Public Domain, both of the Constitution of the Republic of Mozambique,

<sup>10</sup> <http://zumbofm.com/index.php/noticias/item/1011-cabo-delgado-distritos-de-palma-e-montepuez-lideram-em-conflitos-de-terras>

<sup>11</sup> legal beneficiaries are those individuals who appear as partners or owners in the companies' registration documents and who legally exercise control in the company, beneficial owners are those individuals who ultimately own or control the company, even if they do not legally appear in the registration documents.

# Beneficial ownership analysis of mining operations in Cabo Delgado

## Mwiriti Mining, Limitada, owned by Raimundo Domingos Pachinuapa and Asghar Fakhraleali holds the largest number of concessions in Cabo Delgado.

Mwiriti Mining, Limitada, legally owned by Raimundo Domingos Pachinuapa (60%) and Asghar Fakhraleali (40%), is the company with the largest number of mining concessions in Cabo Delgado, 7%. The second company with the most concessions, 4% of the total, is Cabo Delgado Inertes e Minerais, Sociedade Unipessoal, Limitada, owned by Macara Samido.

The concessions of Mwiriti Mining, Limitada are for gold exploration in the district of Montepuez and the concessions of Cabo Delgado Inertes e Minerais, Sociedade Unipessoal, Limitada are for exploration of stone and sand for construction in the districts of Palma, Mecufi, Pemba and Metuge. However, Mwiriti Mining, Lda has indirect participations in other projects, such as the exploration of Rubi, through Montepuez Rubi Mining (details in the attached map).

As can be seen from table 1 below, there are 113 mining concessions in Cabo Delgado held by 83 companies. The distribution of concessions by companies can be divided into 5 groups with two extremes standing out, namely: i) Group 1, of 65 companies, where each company holds 1 (one) mining concession, which means that each company controls 0.88% of the total concessions in the province; and ii) Group 5, of 1 company (Mwiriti Mining Limitada) holding 8 mining concessions, which means that it alone controls 7% of the total concessions in the province.

This scenario indicates the significant power of this company in the mining concessions market, which can be detrimental to the entire sector. If one company in a group of 83 has power over the market, it can influence its dynamics at will, to the detriment of the country, and its interests can be confused with the interests of all stakeholders in the sector<sup>12</sup>.

(Group, Number of companies, Number of concessions per company)

Table 1: Number of concessions in Cabo Delgado by company

Group	Number of Companies	Number of Concessions per Company	Total	%
1	65	1	65	58%
2	13	2	26	23%
3	3	3	9	8%
4	1	5	5	4%
5	1	8	8	7%
TOTAL	83	-	113	100%

Source: Author's construction based on INAMI data

## A considerable part of the identified companies is domiciled in Mauritius, a country considered a tax haven

Limited liability companies are a legal type of company incorporation, so in and of itself is not a problem. The registration of limited liability companies in BRs, by law, does not require the presentation of the legal beneficiaries' details, which is a barrier to transparency about who benefits from the exploitation of extractive resources. Since this is a legally established aspect, but does not contribute to transparency and good governance of the extractive resources, it is necessary to publish information about the beneficiaries of mining concessions in the sector's supervisory bodies, or in other bodies deemed appropriate.

<sup>12</sup> The problems of excessive power of a firm in a market are described in the economic theory of markets that can be found in the book Introduction to Economics Principles of Micro and Macro Economics(1999)

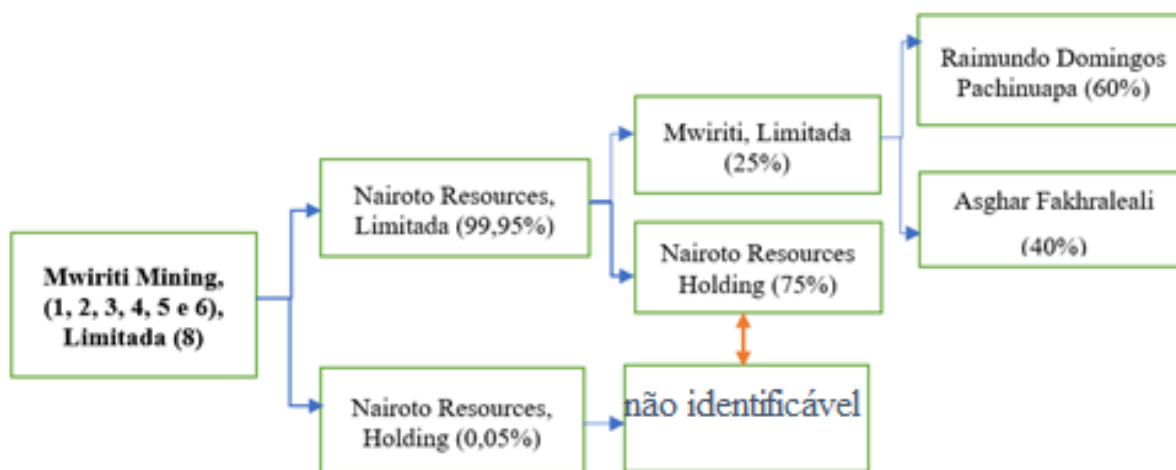
An analysis of the data shows the existence of two types of legal beneficiaries of the concessions, namely, one type with extremely low capital stock and another with almost total capital stock (see table below and more details in the attached table). In these cases, it is almost always the case that the legal registration of the major shareholder is an entity legally registered outside of Mozambique, and in many cases the company registration is done in Mauritius, a country considered to be a tax haven<sup>13</sup>.

Whereas the trend of registering companies outside Mozambique is found in a considerable part of the identified companies (see examples in the table below) whose tax domicile is Mauritius, a country considered to be a tax haven, it is questionable that Mozambican citizens, focused on the country's development, open companies with fiscal domicile in a foreign country, but operating in Mozambique. This may reveal a deliberate intention to conceal their identity in relation to their interests in the exploitation of mining resources, which may arise from conflicts of interest already provided for in the law on public probity and, as a way of circumvention, they choose this route.

The registration of companies in a tax haven goes against the provisions of Article 7(2) of Law No. 20/2014 of 18 August (Mining Law), which provides for the indication of legal beneficiaries and makes it difficult to comply with the EITI standard, which Mozambique joined in 2009 and in 2012, after a positive assessment by the Board of Directors of the EITI, was declared a compliant country<sup>14</sup>.

Take the example of the company Mwiriti Limitada, holder of the largest number of concessions through its companies Mwiriti 1, 2, 3, 4, 5, and 6. When tracing the beneficiary ownership of the company, through the BR's, the search is not effective because there is no publication of the beneficiaries of Nairoto Resources Holding which holds 99.95% of its capital (See figure below).

Figure 1: Screening of the beneficiary property of Mwiriti Mining 1,2,3,4,5 and 6 Limited



Source: Author's construction based on INAMI data

According to BR No. 202, III series, of 21 October 2019, the company Nairoto Resources Holding is a company incorporated under the laws of the Republic of Mauritius, and represented in Mozambique by Victoria Rumbidzai Sande. Now, the lack of more information about the beneficiaries, in situations like the one described above, raises doubts about who actually benefits from the resources exploited in the province, especially when the registration of the same is in a jurisdiction considered to be a tax haven, such as Mauritius.

In cases where the entities are registered outside of Mozambique, it becomes difficult, without information published in domestic bodies,<sup>15</sup> identify the beneficiaries of the concessions, which can be Mozambicans in conflict of interest with the right to be a beneficiary of mining concessions or even with power and political capacity to influence the dynamics of the sector for their own benefit or for the benefit of a restricted group<sup>16</sup>. This finding once again reinforces the need to publish the beneficiaries of mining concessions for public consultation in institutions linked to the mining sector in Mozambique such as the National Mining Institute (INAMI) and the Ministry of Mineral Resources and Energy (MIREME), institutions that hold the sector.

13 <https://www.pwc.pt/pt/pwcinfisco/guia-fiscal/2020/paraissos-fiscais.html>

14 The Standard provides for the publication of the legal and beneficial owners of mining concessions

15 Article 7, number 2 of Law 20/2014 of August 18 (Mining Law), provides for the indication of legal beneficiaries.

16 Article 33 of Law 16/2012 of August 14

Table 2: Example of companies whose identification of legal beneficiaries is not possible through the BR's

Company	Constitution of the Society		Current situation		Legal Beneficiaries of the Companies that own the concession	No. Concessions
	Legal Beneficiaries	Year	Legal Beneficiaries	Year of change		
Mwiriti Mining, Limitada	Raimundo Domingos Pachinuapa (30%) Asghar Fakhr Ale Ali (20%) Mwiriti, Limitada (50%)	2017	Nairoto Resources, Limitada (99,95%) Nairoto Resources, Holding (0,05%)	2020	Nairoto Resources, Limitada: (Nairoto Resources Holding (75%) e Mwiriti, Limitada (25%)) Nairoto Resources Holding: (nãoindetificável) Mwiriti, Limitada (Raimundo Domingos Pachinuapa (60%) e Asghar Fakhr Ale Ali (40%))	8
Grafite Kropfmuehl de Moçambique, Lda	Denominação anterior: Grafite Kropfmuehl - Sociedade Unipessoal, Limitada Socios: Thomas Beckmann (100%) Denominação actual: Grafite Kropfmuehl de Moçambique, Lda Socios: Thomas Beckmann (2%) Geert Hendrik Klok (0,5%) Graphit Kropfmühl AG (97,5%)	2010	Graphit Kropfmühl de Moçambique, Limitada: Geert Hendrik Klok (0,5%) Graphit Kropfmuehl Mauritius Ltd (95,5%)	2013	Graphit Kropfmuehl Mauritius Ltd (95,5%) - nãoindetificável	3
Damodar Ferro, Lda	Dipak Manhallal Rajani (85%) Bhavik Dipak Rajani (15%)	2005	Dipak Manhallal Rajani (1%) Resources International (99%)	2012	Resources International: nãoindetificável	2
Africa Rare Metal Mining Development Co, Limitada	Li Jianhong (60%) Zhou Wencui (40%)	2011	Wu tao (1%) Hong Kong Rare Metal Mining development Company, Limited (99%)	2019	Hong Kong Rare Metal Mining development Company, Limited (99%) - nãoindetificável	1
Helin Mining CO.Lda	Dai Liming (1%) Jiangyin Huaxi Helin Mining Co, Limitada (99%)	2014	Dai Liming (1%) Jiangyin Huaxi Helin Mining Co, Limitada (99%)		Jiangyin Huaxi Helin Mining Co, Limitada (nãoindetificável)	1
Patel Mining Privilege, Limitada	Rupen Patel (2%) Patel Mining Limited (98%)	2008	Rupen Patel (2%) Patel Mining (Mauritius), Limited (98%)	2013	Patel Mining (Mauritius), Limited (nãoindetificável)	1

Source: Author's construction based on INAMI data

In Table 2, it can be seen that one of the names identifiable as the beneficiary of the largest number of concessions, through the company Mwiriti Mining, Limitada, is the retired general Raimundo Domingos Pachinuapa, a senior member of the Frelimo party and part of its Political Commission, with a strong capacity to influence the dynamics of the sector. The lack of transparency in the disclosure of information on the legal holders of mining concessions is worrying because it limits the analysis and perception of the origin of the tensions that involve the communities and the Government.

In the attached table one (that can also be consulted through the <https://www.cipmoz.org/pt/2021/07/06/concessoes-mineiras-cabo-delgado>) can identify names such as, Basília Miguel Chipande (Atalaia Ruby Mining, Limitada), N'naite Joaquim Chissano (CMS - Consolidated Mining Services, S.A), Margarida Adamugi Talapa (Lurio Ruby Mining, Lda), Teodoro Andrade Waty (Lurio Ruby Mining, Lda) and Nkutema Namoto Alberto Chipande (Mavanda Minerals, limited). These names, easily identifiable with the country's political elite, show that the ownership of a good portion of the concessions is owned by politically exposed people or directly linked to influential individuals from the Frelimo party, in power since Mozambique's independence.

## Mining concessions concentrated in 3 companies

The analysed data shows that companies holding concessions are owned or participated in by others with participations in more than one company holding concessions in Cabo Delgado, which shows the concentration of concessions in the same owners, through participations in several companies.

A large part of the mining concessions in Cabo Delgado are in the hands of 3 companies whose beneficial ownership could not be identified (see table below). Of the 113 mining concessions in the province, 8, corresponding to 7%, belong to the company Nairoto Resources, Limitada (registered in Mauritius), 6, corresponding to 5%, to Gemfields Mauritius Ltd (registered in Mauritius), and 4, corresponding to 4%, are held by Kukwira, S.A (registered in Mozambique). The remaining companies hold between 2 and 1 concession (through participations). It was not possible to identify the beneficiaries for most of the companies that hold mining concessions because most of them are registered in countries considered to be tax havens (Mauritius and the United Arab Emirates).<sup>17</sup>, which does not allow for the transparency required by both the mining law and the EITI.

<sup>17</sup> <https://www.pwc.pt/pt/pwcinfisco/guia-fiscal/2020/paraissos-fiscais.html>



This lack of transparency may be behind the land conflicts pointed out by the Coordinator of the Land Department in Cabo Delgado, José Alberto, as mentioned above, in which, because they are figures of political and economic influence in the national and/or international arena, they do not want to see their names involved.

The publication of the beneficiaries of the concessions may minimize the occurrence of the reported and future conflicts. To this end, INAMI, together with the Parliament and/or the Council of Ministers, should undertake efforts to include in the existing legislation, or create a specific one, the obligation for companies to provide data on the legal and effective beneficiaries of the share capital of the companies or the concessions awarded.

Table 3: Companies legally benefiting from mining concessions in Cabo Delgado

Ord.	Company	Participation	Share capital	No. Concessions	Legal Beneficiary
1	Nairoto Resources, Limitada	Mwiriti Mining 01, Limitada	99,95%	3	Not Identifiable (Mauritius registration)
		Mwiriti Mining 02, Limitada	99,95%	1	
		Mwiriti Mining 03, Limitada	99,95%	1	
		Mwiriti Mining 04, Limitada	99,95%	1	
		Mwiriti Mining 05, Limitada	99,95%	1	
		Mwiriti Mining 06, Limitada	99,95%	1	
2	Gemfields Mauritius Ltd	Campos de Joia, Limitada	98,75%	1	Not Identifiable (Mauritius registration)
		Eastern Ruby Mining Limitada	80%	1	
		Megaruma Mining, Limitada	75%	1	
		Montepuez Ruby Mining, Limitada	75%	2	
		Novo Megaruma Mining, Limitada	75%	1	
3	Kukwira, S.A	Moz Gems Montepuez, Limitada	60,00%	1	Not Identifiable (Mozambique registration)
		Moza Minerals Montepuez, Limitada	70,00%	1	
		Namanhumbire Gems, Limitada	70,00%	1	
		Ancuabe Mining, Limitada	40,00%	1	
4	Graphit Kropfmuehl Mauritius Ltd	GK Ancuabe Graphite Mine S.A.	95,50%	1	Not Identifiable (Mauritius registration)
		Grafite Kropfmuehl de Moçambique, Lda	95,50%	3	
5	Fura Services DMCC	Mozambican Ruby, Limitada	99,00%	1	Not Identifiable (United Arab Emirates)
		SLR, Mining, Lda	1,00%	2	
6	GLG - Grupo de Gestão e Logística, Limitada	12-Stony Limitada	75%	1	Not Identifiable (Mozambique registration)
		Gal Resources, Limitada	75%	1	
7	Primeiro de Maio Mining, Limitada	Ancuabe Mining, Limitada	30,00%	1	Not Identifiable (Mozambique registration)
		Moza Minerals Montepuez, Limitada	1,00%	1	
Total				29	

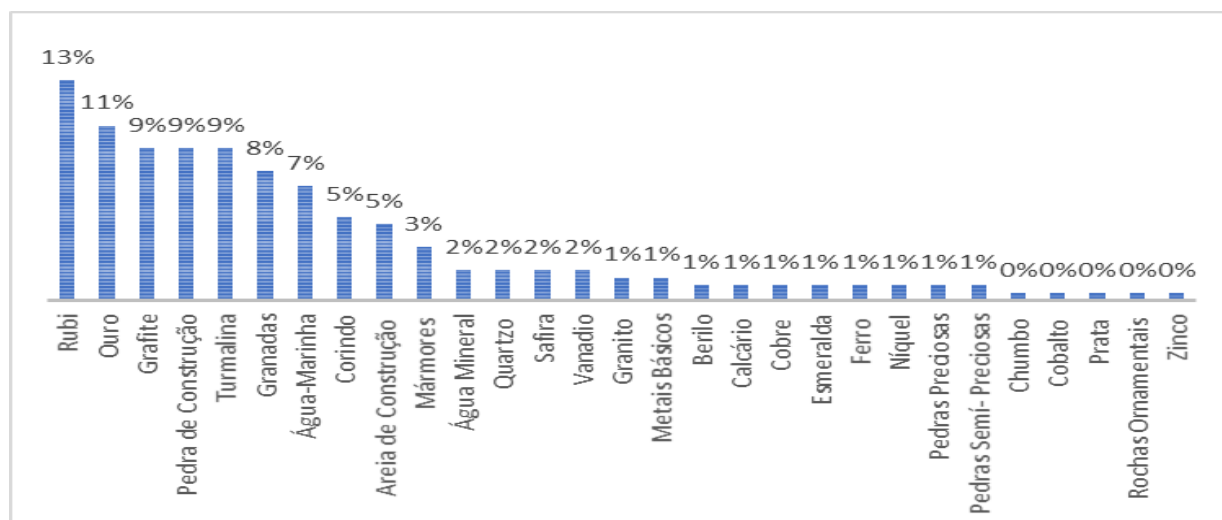
Source: Author's construction based on INAMI data

## It was not possible to establish a causal relationship between mineral exploration and armed conflict

According to information provided by the National Mining Institute (INAMI)<sup>18</sup>, By February 10, 2020 there were 113 mining concessions in Cabo Delgado province, of which 49 were in force (43%), 20 extinct (18%) and 44 applied for (39%). The data provided shows that ruby is the mineral in greatest demand, representing 13% of the total minerals requested for exploitation, followed by gold with 11% and graphite, building stone and tourmaline with 9% (see graph number 1).

<sup>18</sup> Information was provided to CIP after a request

Chart 1: Percentage distribution of the minerals required for exploration in Cabo Delgado province (until Feb 2020))



Source: Author's construction based on INAMI data

In terms of concentration of concessions: i) ruby is concentrated in the districts of Montepuez, Mueda, Namuno and Ancuabe; ii) gold is concentrated in the districts of Montepuez, Namuno and Meluco; and iii) graphite, building stone and tourmaline are concentrated in the districts of Montepuez, Mueda, Palma, Meluco, Pemba, Mecufi, Ancuabe, Chiure and Metuge. (see figure number 2)

Figure 2: Distribution of the main minerals exploited per district in Cabo Delgado (ordered by number of concessions)



Source: Author's construction based on INAMI data

Out the 17 districts in Cabo Delgado, only 4 do not have mining concessions, namely: Ibo, Mocimboa da Praia, Nangade and Quissanga.

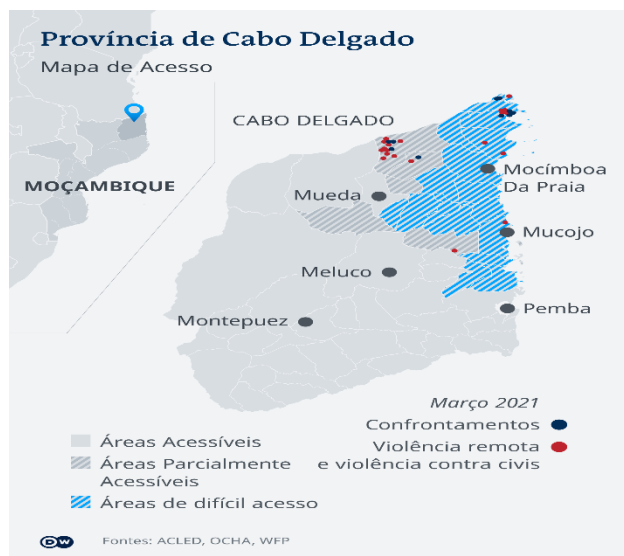
Considering the above data, and the “Map of provincial access”, made by the United Nations Office for the Coordination of Humanitarian Affairs, Project on Armed Conflict Location and Event Data and World Food Program, presented in figure number 3, below<sup>19</sup>, it was not possible to establish evidence of a causal relationship between mineral exploration and

<sup>19</sup> <https://www.dw.com/pt-002/veja-quais-s%C3%A3o-as-%C3%A1reas-de-seguran%C3%A7a-altamente-vol%C3%A1til-em-cabo-delgado/a-57524508>

armed attacks in Cabo Delgado because all districts taken over by insurgents do not have concessions for the exploration of mineral resources. These are the districts of Ibo, Mocimboa da Praia, Nangade and Quissanga.

Although most of the districts that have already suffered attacks by insurgents do not have mining concessions licenses, the districts of Nangade and Mocimboa da Praia border the district of Palma, where one of the largest gas exploration projects in the country is located. The implementation of the project in Palma implies the physical and economic displacement of people, so the possibility of a link between the armed conflict and the exploitation of natural resources cannot be ruled out.

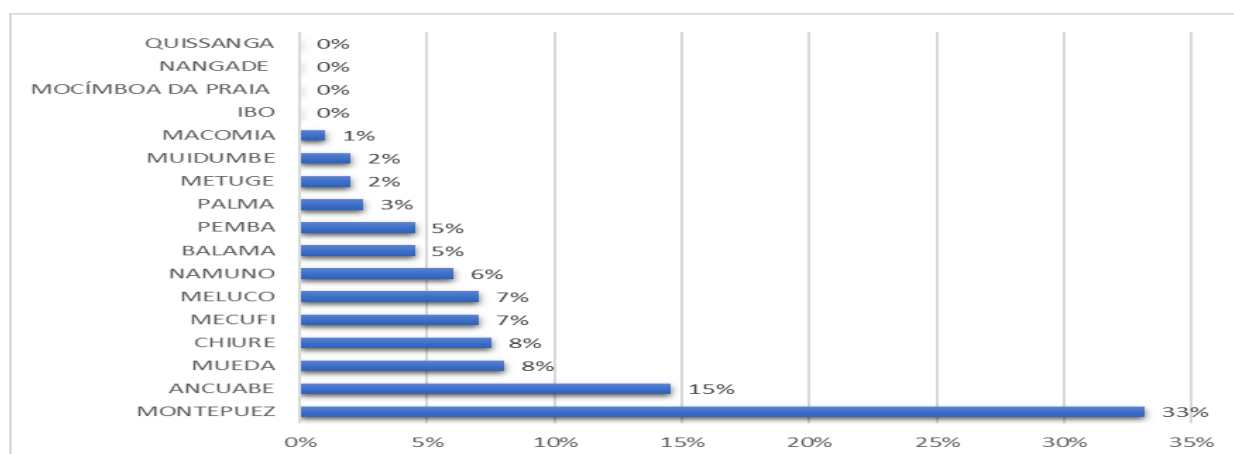
Figure 3: Security situation in Cabo Delgado



Source: DW Africa

The district of Montepuez has the largest number of concessions, about 33%, followed by the districts of Ancuabe, with 15%, and Mueda and Chiure, with 8% each. As can be seen in figure 2, three of the most concessioned minerals (ruby, gold and tourmaline) are concentrated in the west of Cabo Delgado province, and exactly the district of Montepuez, which according to the Coordinator of the Land Department in Cabo Delgado, José Alberto, is one of the places where land conflicts are more intense. These conflicts can be explained by the abundance of mineral resources, requiring an intervention by the Government so that they do not take alarming proportions.

Chart 2: Percentage distribution of concessions for mineral resource exploration in Cabo Delgado province (until Feb. 2020)



Source: Author's construction based on INAMI data



## There is no specific law in Mozambique regulating the beneficial ownership of mining operations

Mozambique, as a member of the Extractive Industry Transparency Initiative (EITI), is obliged, at least from January 1, 2020, to request the publication of information on the data of individuals and/or the real owners of companies that hold the licenses for exploitation of mineral resources (beneficial ownership), as established by the EITI Board. However, as pointed out by the 9th EITI report (2020), Mozambique still does not have a specific law regulating the matter concerning the mandatory publication of beneficial ownership information. Although there is no specific legislation for this matter, Article 7(2) of Law 20/2014 of 18 August, Mining Law, provides for the indication of legal beneficiaries<sup>20</sup> which may be different from the beneficial owners, which already demonstrates some obligation to publish some information about the beneficial ownership.

Under the Commercial Code, the corporate acts of commercial companies<sup>21</sup> are subject to registration and publication under the terms of the law. With regard to the act of incorporation of the company, article 247 of the Commercial Code mentions that it must be published in the BR by means of a simplified extract where, among several pieces of information, it is mandatory to indicate the form of distribution of the capital stock among the partners as well as their identification. Article 246 also establishes that any interested party may obtain a copy of the memorandum of association from the Registry of Legal Entities. In this sense, it means that in relation to the legal beneficiaries there is a register publicly available for access, but there is nothing in relation to the publication of the beneficial owners.

Both the 9th EITI report and the site of the sector's regulatory entity, the National Mining Institute (site: <https://www.inami.gov.mz/> consulted on 27/04/2021 at 1.25 pm) do not indicate the existence of a publication of the beneficiary ownership of mining operations in Mozambique.

As described in the above-mentioned report, while legal beneficiaries are those individuals who appear in the companies' registration documents as partners or owners, and who legally exercise control in the company, beneficial owners are those individuals who ultimately own or control the company, even if they do not legally appear in the registration documents. In this sense, for the sake of transparency in the management of the extractive sector, it is necessary that the beneficial owners and legal beneficiaries are clearly identifiable, and the law should provide for this.

## Conclusion

The largest ultimate beneficiaries of the mining concessions in Cabo Delgado are individuals who are not identifiable through existing public records in Mozambique. The analysis identifies evidence of deliberate concealment of the legal beneficiaries of mining concessions in this province. This situation points to the need for a specific legal obligation to publish the real beneficiaries of mining concessions in Mozambique.

The concentration of concessions in a small number of companies, whose tax registration is outside of Mozambique, and the existence of land conflicts in the areas of greatest resource exploitation, raise the hypothesis that the beneficiaries of these concessions, due to their power to influence the dynamics of the sector, opt for this practice so that they are not associated with existing land conflicts, and take advantage of this situation.

The analysed data from the mining concessions showed that it was not possible to establish a causal relationship between the exploitation of mineral resources and the armed conflict because the districts until then taken over by the insurgents are those without concession licenses for the exploitation of resources in the province. However, because the districts of Nagande and Mocimboa da Praia border the district of Palma, which hosts a gas exploitation project whose implementation implies the physical and economic displacement of people, a possible link between the armed conflict and the exploitation of natural resources cannot be ruled out.

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20 "...when submitting the application, attach the company's constitution document, including the identification of the holders of shares and the respective value of the subscribed share capital..." no2 article 7, Law 20/2014 of August 18

21 Most common vehicles for mining activities

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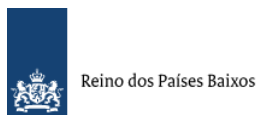
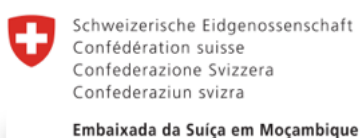
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