

# **Ad Hoc Expert Group Meeting on Lessons Learned in Post-Conflict State Capacity: Reconstructing Governance and Public Administration Capacities in Post-Conflict Societies**

## **1. Introductory Note**

This reflection seeks to address Mozambique's public sector reform in the post-conflict period and in particular activities in the specific component "Legality, Justice and Public Order".

It starts with the political context of the peace process in Mozambique, presenting a brief diagnosis of the post-conflict public sector and the government's programme immediately after the conflict. It covers generically the global strategy for public sector reform and then describes aspects of the "Legality, Justice and Public Order" component of the reform.

## **2. Political Context of the Peace Process in Mozambique**

### **2.1 Peace, justice and freedom as political-cultural values of Mozambicans**

The historical-cultural process of Mozambican society shows that the people of Mozambique consider the values of peace, justice and freedom as an integral part of their personality. It can thus be concluded that resorting to the armed national liberation struggle was a final effort in the search for national independence in Mozambique. Proclaimed on 25 June 1975, it established the People's Republic of Mozambique as a sovereign state engaged in building democracy and social justice<sup>1</sup>.

### **2.2. The war of destabilisation**

However, the process of promoting economic and social welfare that began immediately after the proclamation of independence was abruptly interrupted by forces that, supported the then minority and racist regimes of South Africa and Southern Rhodesia, pushed Mozambique into a fratricidal 16-year war of destabilisation that had disastrous effects, including in the public administration field.

### **2.3 Signature off the General Peace Agreement (GPA)**

As the fruit of their natural devotion to the values of freedom, peace and justice, Mozambicans launched a process aiming at identifying and removing all obstacles to peace, which was seen as a common objective.

Finally, on 4 October 1992 in Rome, Italy, the government of Mozambique and Renamo signed an agreement, commonly known as the General Peace Agreement. As it embodied not only the understanding reached between the former adversaries but also the Mozambican political community as a whole it was welcomed by the Assembly of the

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<sup>1</sup> Cf. Articles 1 and 2 of the Constitution of the Republic of Mozambique, approved on 25 June 1975

Republic that conferred on it the force of law<sup>2</sup>. One of the important instruments for reconciliation in this GPA was the reorganization of the military.

It is important to note the international community's important contribution to the peace process, through its direct involvement in condemning the war in itself and also its involvement in the negotiation, celebration and implementation of the General Peace Agreement, providing human, material and financial resources.

#### **2.4 The first multiparty elections**

After two years of implementing the GPA - that involved essentially the processes of demobilization and reintegration of soldiers, and the return home or to preferred areas in the case of refugees and displaced people - there were actions aiming at establishing democratic institutions in the country.

Consequently, general and multiparty elections took place in 1994, creating the necessary conditions for the administration of the country in a democratic and peaceful environment. Parliament after the 1994 elections was a second key instrument for reconciliation. The Renamo Party won a strong minority. With representatives therefore holding a new status as members of Parliament and gaining access to the highest levels of administration, the multiparty election helped to transform the Renamo into a civilian political organization.

### **3. Public Administration in Mozambique**

The Mozambican public sector reform process has been ongoing throughout the last two decades, with a variety of programmes, some of which only sectoral programmes.

#### **3.1 Post-Conflict Public Administration**

##### **3.1.1 Brief diagnosis of the post-conflict public administration**

Public administration in the post-conflict period was characterised essentially by a shortage of qualified human resources, population flows to urban centres, a constant public finance crisis with the country's growing external debt, and World Bank control through the Economic and Social Rehabilitation Programme (PRES).

##### **3.1.2 Post-conflict programmes**

Following the GPA public administration concentrated its efforts on addressing the concerns of citizens whose expectations were decidedly far greater than during the war. Bringing government closer to the people was a fundamental policy after the GPA. The legal basis was gradually created, with new ways of working with traditional authorities, creation of cities with their own elected Mayor: LOLE, etc. It took political will – which continues into the current administration which made the districts the poles of

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<sup>2</sup> Cf Article 1 of Law 13/92 of 14 October

development – and it required many more qualified people to work at the local level.

The government of Mozambique thus prepared two programmes for the country with an equal number of phases namely: emergency and development:

- The **emergency programme** was essentially intended to create conditions for the full operation of political and military bodies. In the political field the aim was to ensure that the Assembly of the Republic and the government resulting from the general elections would function normally. In the military field the aim was to ensure effective demobilisation of the opposing forces and the creation of a new army that would function in an exemplary fashion and be a model of national reconciliation. Finally, the aim of the socio-economic component was to create all the conditions for Mozambican families to be reunited (displaced, refugees and demobilised soldiers) as a precondition for relaunching the national economy;
- The **economic and social development programme** was intended to restore the production levels of the national economy, provide citizens with basic State social services and address their needs, which implied the conception, design and development of a public sector reform strategy that was launched in 2001.

### **3.2 Public sector reform**

Public sector reform is a process that preceded the approval of the Global Public Sector Reform Strategy. It had the following strategic objectives: to professionalise the civil service, bring the administration closer to society and improve the quality of services delivered to the citizens. One of the main focus of this Public sector reform in the 1990's was human resource management since many more civil servants had to finish their schooling before we could be serious about professionalization.

The fundamental lines for implementing the reform had already been established in the CRM (Constitution of the Republic of Mozambique), the crucial point being the establishment of local power through the 1996 revision of the constitution.

#### **3.2.1 Global Public Sector Reform Strategy**

The Global Public Sector Reform Strategy was approved in 2001 and marks a crucial point in the reform that had been started earlier. In addition the sectors, including the police, had seen a variety of reform activities.

So what was missing was not reform itself but rather a strategy that could integrate the necessary activities and permit the more rational use of the resources allocated to the development of Mozambican public administration.

The strategy comprised two phases: the first covering the period 2001-2005 and the second the period 2006-2011. They were based on the following features: the rationalisation and decentralization of service delivery structures and processes;

improving the public policy formulation and monitoring process; the professionalisation of civil servants; improving financial management and accountability; good governance and fighting corruption; and the overall management of the reform. Only after 9 years after the GPA, Mozambique was ready to approve an overall civil service reform strategy. Since 2001, significant progress has been made, particularly for financial management (SISTAFE, procurement reform, strengthening of audit institutions).

Although the Global Public Sector Reform Strategy covers various areas, this reflection focuses on good governance, legality and justice, and more specifically on the “**Security and Public Order**” and on the “**Justice Reform**” components.

## **4. Security and Public Order**

### **4.1 Background to the reform of the Mozambican Police (PRM)**

The conclusion of hostilities and the approval of the Law 19/92 of 31 December were determining factors in the need to reform the PRM as the corporation had to be adapted to:

- a context with a clear separation between crime and acts of war, between military actions and police actions;
- the principles of the rule of law and the absence of party political influence in the police force;
- the growing crime rate in the country in 1995-1996.

### **4.2 The PRM Reform Programme**

Consequently, in response to the government's appeal in 1996, the international community expressed its willingness to support capacity building and reform of the police. In July 1997 a cooperation agreement was signed covering organization, training, infrastructure and the acquisition of equipment.

Indeed:

- The organisation of the PRM had to be adapted to the new challenges of order and public safety as well as the administration of justice and the need to professionalise the police function. This resulted in approval of the Organizational Statutes of the PRM<sup>3</sup> and the Police Statutes<sup>4</sup>;
- The focus in reforming the police and the public administration in general was their professionalization. This was a big challenge as many Mozambicans had very little education, and few had even completed 8 or 10 years of schooling in 1992 due to colonial education policies and the 16 year war. The police forces had to be trained (refresher courses) in order to change attitudes in the light of the new legal- constitutional and peace framework;

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<sup>3</sup> Decree 27/99 of 24 May

<sup>4</sup> Decree 28/99 of 24 May

- New recruits had to receive appropriate training, resulting in the creation of the police academy (ACIPOL)<sup>5</sup> and the revision of basic training curricula;
- There was an urgent need to build and rehabilitate the seriously deteriorated infrastructure and provide it with appropriate equipment for the new operational requirements.

#### **4.3 The need for a strategy: approval of the PRM Strategic Plan**

Irrespective of the positive results achieved through the police reform programme, on 31 May 2004 the Council of Ministers approved the strategic plan of the PRM that is based essentially on four aspects - organisation, operations, support services and the social field - sub divided into nine programs<sup>6</sup>.

The criteria for the identification of these four main components was that they were essential for producing a global impact on police institutions and would result in:

- the professionalisation of its members through training that provides them with the necessary knowledge, capacity and skills for their mission of guaranteeing order and safety and that means that they do not see law breakers as enemies;
- the creation of a police organisation that is appropriate to the challenges of the moment and to the evolution of public administration in general;
- the rehabilitation of the institution's image in its relations with the community.

The Strategic Plan of the PRM is a natural complement to the Integrated Strategic Plan of the Justice Sector, including areas such as crime prevention, criminal investigation and domestic violence. Although they fall under the responsibility of the PRM, these components are indispensable ingredients of a penal justice system.

### **5. Justice Reform**

The Justice reform focuses on the constitutional guarantee of access to justice for all citizens, encompassing various rights such as access to courts, knowledge of the law, the right to a fair trial, the right to legal assistance and representation and the right to a timely and effective decision.

#### **5.1 The programme financed by Danida**

The reform and institutional capacity building programme for the justice sector began in 1991, financed by Danida. It targeted essentially support for the judiciary, legal training, documentation and law reform.

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<sup>5</sup> **Organization:** Programme 1 (organisation); **Operations:** Programme 2 (operations), Programme 3 (community policing) and Programme 4 (women and children); **Support Services:** Programme 5 (personnel and training), Programme 6 (logistics and finance), Programme 7 (public relations and communication) and Programme 8 (international cooperation); **Social Area:** Programme 9 (Social Assistance for the police).

<sup>6</sup> Cf. Article 3 of Decree 34/97 of 21 October

In 1999 UNDP, UNICEF, Norway, Finland and Portugal joined the DANIDA efforts with a programme that also contemplated components of infrastructure and reform of the prison system.

This program had the following results:

- Construction of a Legal and Judiciary Training Centre<sup>7</sup>, focusing on professional training for judges and prosecutors, court clerks, justice officers and other justice officials;
- Preparation and approval of the country's prison policy involving the unification of the prison system and its inclusion in the Ministry of Justice;
- Creation and operation of the Technical Unit for Law Reform responsible for the integrated management of the law reform programme. This Unit contributed to the much needed Law Reform since most of Mozambican legislations reflects the colonial legal philosophy. One of the Law reform undertaken so far has been the reform of the Family Law and the new Commercial Code.

## **5.2 The programme financed by the European Union and UNDP**

In 2004 the government of Mozambique and the European Union signed a financial agreement for the implementation, through UNDP, of the project Supporting Citizens' Access to Justice, with the objective of maximizing the effect of support for the most vulnerable and needy sections of the population. It focused on improving the culture of legality, promoting human rights, service delivery and good governance in Mozambique in critical areas such as penal justice and decentralisation.

The following were identified as priority components: the administration of justice, the correctional system, organisation against crime, human rights and women rights, and legal aspects of HIV/AIDS.

The implementation of this project was based on experience gained in previous programmes and had the special characteristic of focusing on the creation of the essential foundations of a closer and more coordinated penal justice system, safeguarding the principle of separation of powers and based on the notion that the services provided by State powers have a common recipient: the citizen.

In addition, the project emphasised the involvement of civil society in various ongoing actions such as the component on the promotion of human rights, involving the Human Rights League. And it establishes partnerships with legal sciences in higher education institutions, thus helping to introduce students to justice administration activity.

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<sup>7</sup> Article 1 of Decree 22/2002 of 27 August

### **5.2.1 Model of the Palaces of Justice**

This programme features the conception of a single standard design of a building to house the court, public prosecution, criminal investigation police and the Institute for Legal Assistance and Representation. The model is based on the idea that inefficient coordination between actors in the system, combined with the high cost of the geographical distance between them, is an obstacle to access to justice by vulnerable and needy citizens.

The model tries to reduce distances and time in the search for information and presentation of petitions or judiciary actions, to facilitate inter-institutional articulation, to maximize synergies as well as material, financial and human resources.

In this perspective, there is a need to:

- address the quantity and quality of human resources and provide the Palaces of Justice with a contingent of professionals with the knowledge, skills, values, attitudes and motivation to achieve the institutional objectives;
- provide the Justice Palaces with capacities and skills to articulate with the non-formal justice system, acting as facilitators in the process of interaction between the two dimensions of Mozambican justice.

### **5.2.2. The National Action Plan for Building the Capacity and Integrity of the Judiciary sector (NAPCIJ)**

The capacity and integrity of the judiciary sector are key elements in the success of the Mozambican justice reform process, which requires profound diagnosis in order to identify the main problems within the professional classes as it is understood that human resources have a fundamental role to play.

Consequently, the NAPCIJ is intended to contribute to increasing the social prestige of judges and prosecutors as well as justice officials through specific measures that build capacity and integrity to combat corruption.

### **5.2.3. The Institute for Legal Assistance and Representation (IPAJ)**

The Institute for Legal Assistance and Representation has an important role in the Palaces of Justice as it acts on behalf of the citizen, guaranteeing citizens' guided access to the courts, operating as a one-stop-shop in the premises and providing the necessary legal monitoring of cases involving needy citizens.

## **5.2.4 Registration and Notary Services**

The Government's main objective in this sector is to promote closer relations between these services and citizens and celerity in dealing with a person's request in the field of civil, real estate, commercial and automobile registration. Efforts are thus underway to bring birth registration services closer to the interested parties. In addition, efforts are also being made to accelerate commercial registration procedures by computerising the sector. This process is already well advanced, with the establishment of Registry Offices for registering legal entities, helping to improve the business environment in the country as a complement to the labour law reform.

## **5.2.5 Correctional system**

Work is under way in the unified correctional system in order to implement the prison policy fostering social reinsertion in providing professional training, education for detainees, income generating activities, improvement in prison conditions and reduction of overcrowding in prisons. The activities include in particular: construction and rehabilitation of prisons to provide inmates with minimum accommodation conditions; improvement in the penal control system; conducting of a study on alternatives to imprisonment; and vocational training for inmates.

## **Conclusion**

Re-building State capacity takes time. First we had to focus on reconciliation (army, Parliament), reconstruction of the country, do pilot experiences or partial public administration reforms (police, justice, health, education ministry, provincial governments, etc.) and promote civil servant's basic education before we could approve an overall civil service reform strategy.

In conclusion, here are few key points of the Mozambican government in rebuilding its post-conflict public order and justice system:

- The Government of Mozambique has declared that "Good Governance, Legality and Justice" is a priority for the country's political, social and economic development;
- Current activities are based on promoting coordination and articulation between actors at all levels in justice and public order, considered fundamental for addressing citizens' concerns in an honest and rapid manner.
- The government's integrated approach is complemented and supported by sector approaches in each of the institutions involved.
- The government's integrated approach promotes participation by the justice institutions concerned throughout the process and at all levels of reform management, thereby promoting a sense of institutional ownership in the reform process.

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