Part II

Intermezzo
Introduction

An understanding of the legal system and the administration of justice in Mozambique today must, of necessity, include a study of the nature, operations and performance of the formal and informal institutional bodies which are directly or indirectly involved in the resolution of litigation, as well as their contexts, backgrounds and main determining factors: geographical, political, social, cultural and economic.

Mozambique has the fourth largest population of the fourteen countries which form the Southern African Development Community (SADC). As figure 4.1 shows, in 2002 the four countries with the largest populations in the area (the Democratic Republic of Congo, South Africa, Tanzania and Mozambique) together made up over 70% of the approximately 208 million inhabitants of the member countries of the SADC (INE, 1999; UNDP, 2004).

However, in terms of the Human Development Index (HDI), Mozambique comes last in the SADC; on a worldwide scale it is one of the ten countries with the lowest level of human development.

This low level of human development is due to an average life expectancy at birth of 38.5 years, an adult literacy rate of 46.5%, an overall level of basic education of 41%, and a per capita GDP of about US$ 195 (UNDP, 2004).
Regional Differentiation

Map 4.1 shows the distribution of the population within the three main regions – North, Central and South – and the subdivision of the country into 11 administrative provinces.

This subdivision into three main regions was used during the colonial period, as much for geographical as for historical and economic reasons. Recently, however, the so-called mega-projects and corridors of development have also followed this subdivision.\(^4\) In political debates, regional imbalances have generated heated controversy, and the fact that the southern region is always favored in terms of investments is criticized.\(^5\)

Each of the three regions has its own specific natural resources and potential, as well as differing cultural characteristics. It should be noted, however, that 38% of the population of the country is concentrated within two provinces – Zambézia and Nampula.
In the Northern zone there is the railway line between Nacala (Nampula province) and Malawi and the port of Nacala, which has the deepest waters on the eastern coast of Africa and offers access by sea to countries such as Malawi and Zambia. Before independence, the Northern zone was heavily defined by the compulsory production of cotton and the emigration of the labor force to the plantations in Tanganyika and Zanzibar.

The Central region possesses the rich hydrographic basin of the Zambezi river, as well as the Beira Corridor (including the port of Beira, which has the capacity to handle 7.5 million tons per year, a 317km pipeline between Beira and Zimbabwe and two main road networks to Zimbabwe and the Tete province). In the colonial period this region developed an economy based mainly on the plantations, particularly in the Zambezi Valley.

In the Southern region, the Maputo Corridor is an important feature which includes the port of Maputo (with the capacity to handle 14 million tons per year), three railway networks, two road networks (one to South Africa and another to Swaziland) and the promised economic projects in collaboration with South Africa. One of the factors that has had significant economic repercussions on the area was the fact that more than a century ago thousands of workers, originally from the Gaza and Inhambane provinces, emigrated to the mines of South Africa.

1. The Processes of Economic Restructuring

Three processes for restructuring the economy and developing the country are particularly relevant to an understanding of the present-day connections between economy, development and the justice system in Mozambique. The first – which was in fact the last under Portuguese colonial rule – relates to the period between 1960 and 1974, the second covers the first decade after independence (1975-1985) and the third corresponds to the period of 1985-1994 (setting the stage for the country’s existing economic structure).

An analysis of the Mozambican economy shows the real per capita GDP was US$260 at the beginning of the 1960s, which rose to US$418 in 1973. Although 1973 had been the best economic year in the second half of the twentieth century, it was also the beginning of an unprecedented and dramatic crisis in Mozambique. Regardless of any temporary recovery, by 1993 the declining economy had reached its lowest level ever: 5.4% of the level of the real GDP and 3.6% of the real per capita level of the 1973 GDP. Since 1993 there has been a gradual recovery which is seemingly consistent with economic growth. In 1997 the real GDP surpassed the 10% limit of the 1973 level, but living conditions, measured by GDP per capita, only represented between 7% and 8% of the 1973 level.7

Table 4.1 presents the most important dates and indicates some of the most significant features of each period.

Since the mid 1960s, Mozambique has experienced colonial (1965-1974), socialist (1975-1984) and capitalist (1985-1994) economic restructuring. Although these periods encompass very different motivations, purposes, strategies and economic systems, they share many common aspects. Firstly, in all of them it was argued that the main failings of the economic strategies were due to unfavorable political, national and international factors, in particular external factors beyond the country’s control. Curiously, the political and government leadership involved in each of the three restructuring processes reacted with a common rhetoric to justify the poor results and the failure of the economic models and development strategies they had introduced. In the first restructuring, the Portuguese colonial administration blamed the imperialistic aspirations of the then communist Soviet Union. In the second, the Mozambican government blamed military destabilization by the apartheid regime in South Africa and natural disasters. In the third restructuring, debt and the population's
high incidence of poverty have been attributed to globalization. Secondly, the purpose and the ideals of modernization that inspired the three economic restructuring processes all manifested a strong disregard for the historical circumstances, socio-cultural diversity and human development challenges of Mozambique. They were all incapable of establishing strong, healthy and sustainable links and flows between economic growth and human development.

Table 4.1: Political Context of Main Economic Restructuring (1965-1999)

<table>
<thead>
<tr>
<th>Political-</th>
<th>Types of political opposition</th>
<th>Strategic Plan</th>
<th>Economy</th>
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<tr>
<td>social regime</td>
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<tr>
<td>1960-74</td>
<td>Portuguese colonial rule</td>
<td>Frelimo – Armed struggle for liberation</td>
<td>Protectionist Plan</td>
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<td>1975-84</td>
<td>Single party system</td>
<td>MNR – National resistance movement; armed resistance</td>
<td>PPI – Indicative Prospective Plan</td>
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<tr>
<td>1985-92/94</td>
<td>Transition to multiparty system</td>
<td>Renamo – Mozambique National Resistance; civil war</td>
<td>PRE – Economic Rehabilitation Programme</td>
</tr>
<tr>
<td>1995-99</td>
<td>Multiparty democracy</td>
<td>First multiparty legislature</td>
<td>Five-Year Plan 1995-99</td>
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Law and Justice in a Multicultural Society: The Case of Mozambique

The Economic Structure under Colonial Rule
The first economic restructuring process, which was, in fact, the last under Portuguese colonial rule, failed because Portuguese colonial rule refused to promote any social progress amongst the population in general. In particular, it failed to promote a national bourgeoisie that would have been minimally capable of preventing the elimination of the colonial system which in turn led to the destruction of the capitalist market system, developed primarily to benefit the white minority.

The Socialist Experiment
The second economic restructuring, between 1975 and 1984, undertaken by the first independent Mozambican government, extended the experience and the development strategy designed by Frelimo in the course of its struggle for political independence to the whole of the country. The spirit and substance of this development strategy were explicitly laid down in the 1975 Constitution of the People’s Republic and, in fact, anticipated by Mondlane11 in the vision of the future he outlined in his book Struggle for Mozambique (1969). This was to promote broad-based economic and social progress, eliminating minority privileges and suppressing the socio-economic forces that favored minorities, (meaning not just racial minorities but the formation of privileged African groups capable of concentrating wealth and services in small areas of the country and in the hands of just a few) through strong central planning. This economic and development strategy failed, both in form and content. It failed in terms of content because the attempt to eliminate the socio-economic forces favoring minorities caused violent reactions, promoted both internally and externally, with tragic consequences for the majority of the Mozambican people. In terms of form, the system of top-down central planning proved to be economically inefficient and unsustainable.

Capitalist Economic Restructuring
The third economic restructuring, between 1985 and 1994, was based mainly on short-term objectives designed to reverse and overcome the immediate causes of the economic crisis and the war. Along with economic reform, far-reaching political, administrative and legislative reforms were also introduced, in particular the replacement of the single party system with a multiparty system.9 Here, the Frelimo government not only survived the reforms, but in fact led them and sought to take advantage of them. Ironically, the process of appropriation and state control of the economy on behalf of the people did not lead to the socialization of the country but certainly concentrated sufficient power in the hands of the political and administrative class. By leading the reforms, the members of the political-administrative powers were able to build up their economic capabilities and ensure their survival and reproduction. In this context, top-down central planning gave way to outside-inside planning, in which institutions and representatives of the international donors began to play an active role in economic leadership and management.
2. An Assessment of Economic Development over the Last 50 Years

The three major economic restructurings attempted in Mozambique since the 1960s were incapable of establishing connections and strong, healthy and sustainable flows between economic growth and human development. The weaknesses associated with the three restructuring processes appear to be directly linked to the fact that the political and economic forces that implemented them were prisoners to ideas of modernity and institutional frameworks which did not favor any effective widening of choices and opportunities for the majority of the Mozambican people, i.e., within the context of development integrated into the socio-cultural diversity of the country. Such development implies the re-conversion of the structure, functioning, performance and results of economic activity into gradually increasing benefits for the Mozambican people themselves. There is a dual significance to these benefits. There is, on the one hand, the satisfaction of internal needs and, in a wider sense, an improvement in standards of living and the gradual satisfaction of the well-being of the population. On the other hand, there is also the progressive accumulation of both material and financial wealth on the part of Mozambicans, which may accumulate in quite unequal ways according to the dynamics of the leading social groups. In short, human development, rather than economic growth, is seen as the main goal of social actions.

From the 1990s onwards, the definition of development as a process of widening individual choices with the aim of enabling people to live a longer and healthier life, have a better education and better access to the resources needed for a reasonable standard of living, has acquired widespread recognition (UNDP, 1990, 1994: 91, 199, 1996, 1997: 14-15). As Sen argues (1999), the idea of human development has triumphed as a result of a general discontent with the disparities between the lifestyles of the rich and the poor.

Rapid Economic Development – Low Human Development

This vision of human development in Mozambique is useful for two main reasons. Firstly, it helps us to understand the connections between the ends and means of the main aspects of progress. Assuming that the people themselves – including the satisfaction of their needs, aspirations and choices – must constitute the worthy target of all for development efforts, economic growth should be seen as an indispensable and decisive means for the fulfillment of this objective (UNDP, 1990, 1996; Ramirez et al., 1998; Ranis and Stewart, 1999). Secondly, although human development and economic growth in Mozambique have figured among the main objectives of all the post-Independence governments, their materialization has remained far removed from the stated expectations and intentions.

Today Mozambique has accumulated three valuable public assets: positive economic growth, high market optimism, and peace and political stability. Yet Mozambique has also three extremely heavy liabilities: more than half the population living in absolute poverty, an unsustainable external debt and one of the lowest development indexes in the world.10
The fragility of the Mozambican economy will persist as long as the country continues to depend, as it does now, on loans and external aid to minimize the severe imbalances and the deficit in the balance of payments, sustain recent positive economic growth and improve the human development of the population. In the last instance, overcoming this fragility will depend on developing the socio-economic potential of the national minorities who are dominant at present and, in particular, on an ability to develop the economy in accordance with the diverse social and cultural needs of the country.

The type of economy developed in Mozambique over the next decades will be crucial to the long-term stability of the country. Will it be an economy aligned with an internal minority and predominantly aimed at the requirements of external demand, or a progressively structured economy aimed at satisfying the needs of the population and, in particular, the growth of the internal market and the gradual satisfaction of the internal demands of the population as a whole? Here, precisely, lies the great challenge faced by the governments emerging out of the context of the multiparty legislature.

Contrary to the ideological fantasy of the global free market, the country certainly needs more, rather than less, governing and state administration. The problem lies not in being in favor of active state and government intervention in the economy and in development, but rather in the nature, ends and methods of this intervention. In the long term, the stability of the national minorities that are currently the object of development efforts will, itself, be determined by two main factors. On the one hand, it will involve the real ability of these minorities to replace debt and external dependency with a strong internal market and full investment in increasing internal demand, production and national productivity. On the other hand, it will involve the strengthening of existing ties and strong, sustainable flows between economic growth and the human development of the Mozambican population in general.

Conclusion
Mozambique has several options, very much depending on the nature and type of institutions that will eventually prevail. It can move toward an economy which is not only open to the exterior but also, in fact, predominantly extractive and determined by external interests and priorities, in the hope that rapid economic growth will eventually improve the human development of the majority of the population. However, the implications of this option, which has already been tried in many parts of the world – including Mozambique – are notorious for their tragic consequences.

Over the past decade or so, the growing national elite has managed to establish relative political stability in Mozambique, although this stability is not necessarily efficient and sustainable as far as the overall well-being of the population is concerned. In this respect, it remains to be seen whether, or when, the growing Mozambican elite will become more virtuous and creative than the colonial and assimilated bourgeoisie that ruled the country until its independence in 1975. This statement is far from an
expression of nostalgia for the past, or a suggestion that political independence is useless and unsustainable.

For the time being, the issue at stake is that one can simply hope, without any serious guarantee or confidence, that the existing political and economic elites (who at present control resources and institutions) will eventually make an effort to become more worthy than the national and foreign elites have been in the past. In the long run, this will depend not so much on the goodwill of political leaders but, most probably, on the nature and type of political and economic institutions to be developed and which will eventually prevail.

Notes

1 SADC, expressed in millions of inhabitants.
2 Gross Domestic Product.
3 The initial value was 1,050 US dollar PPP, where PPP stands for Purchasing Power Parity. The PPP is a method used to calculate an alternative exchange rate between the currencies of two countries, based on the principle that the exchange rates of their currencies are in equilibrium only when their purchasing power is the same. PPP exchange rates are used in international comparisons of standards of living.
4 In the Southern region, namely in the Maputo and Gaza provinces, for example, there are the aluminum foundry projects in Mozal, the iron and steel industry in Maputo, the construction industry in Ponta Dobela and the project for extracting heavy sands (titanium). In the Center region, namely in the Sofala province, there is an aluminum foundry project in Beira, iron projects and the Beira Free Zone.
5 For example, in a Mozambican newspaper Aloni (1999: 4) questioned the government’s decision to build the Dobela port in the extreme south of the Maputo province. Aloni argued that Zambézia, one of the richest provinces in the country, was still facing serious problems in distributing its products. The columnist considered that this port was an example of a return to the colonialist projects of the 1960s, which mainly benefited the neighboring interests of the Southern African ‘hinterland’.
6 In the 1960s, Tanganyika and Zanzibar formed the United Republic of Tanzania.
7 The internationally comparable Penn World Tables (PWD 6.1, 2002) depict a similar trend, although not so sharply, due to the conversion of US dollars to purchasing power parity (PPP).
8 Eduardo Mondlane was the first president of Frelimo – the Mozambique Liberation Front (Frente de Libertação de Moçambique). Mondlane was assassinated in 1969.
9 See chapters 1 and 2.
10 As part of the Indebted Poor Countries (HIPC) Initiative, Mozambique has benefited from the cancellation, in 2005, of its debt to the International Monetary Fund (IMF), the World Bank, and the African Development Fund.