

POLITICAL CONSTITUTION

OF

MOZAMBIQUE

PART I - FUNDAMENTAL GUARANTEES

Article 1. Mozambique is a federated, independent and sovereign Republic, formed by an indissoluble union of the States which compose it.

Article 2. The national territory is that which currently belongs to it.

Article 3. Mozambique has no expansionist ambitions, nor shall it transfer any portion of territory over which it exercises sovereignty. However, it shall have the right to take measures for the adjustment of its frontiers by means of international accords approved by the National Congress.

Article 4. The extent and boundaries of international waters and of air space shall be defined by law.

Article 5. The Nation shall consist of all citizens of Mozambique residing within or without the national territory. A special law shall regulate the means of acquiring and of losing citizenship.

Article 6. Without prejudice to respect for international agreements freely concluded, aliens resident within the territory of Mozambique shall be subject to federal and state laws in force at the time.

Article 7. No restriction shall be imposed upon the right of freedom of movement within the entire national territory, but the citizen shall remain subject to the laws of the State in which he shall happen to be.

Article 8. All citizens are equal before the law, and no one shall be privileged or disabled because of social condition, ancestry, birth, sex, race, language, origin, religion, or religious convictions.

Article 9. No one shall be denied justice and legal protection. Ordinary laws shall guarantee procedures capable of permitting access to the courts for all citizens to defend their rights, regardless of the economic condition of the petitioners.

Article 10. Laws shall always have a general abstract character, and may not limit the extent and reach of the essential content of constitutional provisions.

Article 11. Constitutional legal provisions pertaining to fundamental rights must be integrated and interpreted in accordance with the spirit of the Universal Declaration of the Rights of Man.

Article 12. Suspension or restriction of individual guarantees, whether total or partial, may take place only in cases of a state of siege, emergency, or belligerency, it being necessary to specify by means of a proclamation the duration and scope of the suspension or restriction.

Article 13. Only when recourse to public authority would be impossible, as in the case of imminent aggression, shall it be permissible to repel force with force.

Article 14. The right to life, physical integrity, and personal and moral security is inherent in the human person and under no circumstances may be violated.

Article 15. The following rights, liberties and individual guarantees shall be applicable to all citizens of Mozambique and to aliens resident in the country:

- a) the right to institute criminal prosecu-

tion against any instance of racial prejudice.

b) No one shall be imprisoned unless his guilt is proven, or suffer any limitation upon his personal liberty, except in cases of presumption or suspicion based upon a previous felony record, and within the limits prescribed by penal law.

c) Imprisonment without proven guilt, when permitted by law, shall yield to judicial corroboration, and within the time limits established for such corroboration.

d) No one shall be punished criminally unless by virtue of a previous law which defines the deed and declares it to be punishable.

e) There shall exist no punishments nor methods of restraint causing deprivation of liberty which are of a perpetual nature, nor of unlimited or indefinite duration. Methods of restraint are applicable only to dangerous and abnormal individuals.

f) In all trials for crimes the punishment for which could be imprisonment, there shall be an opportunity for contradictory testimony.

g) No one shall be sentenced or deprived of liberty except by judicial authority.

h) In the application of punishments the principle "In dubio pro reo" shall be in force.

i) The right to the review of condemnatory sentences, under the terms and conditions to be fixed by law, shall be guaranteed to everyone.

j) The right to work, to private property, to free initiative, to public assistance, to education at all levels, to a place to live, to free association for cooperative purposes, to protection for children, the family, the conditions of fatherhood and motherhood, to one's good name and reputation, to the free expression of thought in any form, to protection in old age, to choice of profession, type of work and to the free alienation of property.

1) The right to free association shall be guaranteed, provided the regulations indispensable to public tranquillity are observed.

m) The establishment of armed, military or paramilitary associations, except for federal or state security forces, shall not be permitted.

n) No one shall be imprisoned for failure to pay taxes, court costs, or any other financial obligation.

o) The right to the free disposition of property, both in life and for testamentary purposes, shall be guaranteed, provided such disposition be consistent with civil law.

p) The confiscation or expropriation of property shall be prohibited, except where the public interest may be prejudiced. In the latter case, a judicial procedure shall be held and indemnification paid.

q) For every injury suffered there shall exist the corresponding right to be compensated for the damage suffered, thus permitting the injuries in the moral order to be atoned for monetarily.

r) There shall exist no obligation to pay taxes whose imposition does not come about by law.

Article 16. Habeas corpus shall be instituted against the abuse of power and illegal imprisonment or detention. It shall be regulated by a special law and its availability shall be assured to every citizen before a judicial or military tribunal. The tribunal so petitioned must announce its decision within ten days from the date of the petition.

Article 17. Freedom of religion and worship shall be recognized and protected, but shall be so limited as not to offend against the free will or physical or moral integrity of individuals.

Article 18. The media of communication shall enjoy freedom, and their mission to educate and inform the public shall be recognized.

Article 19. Health, welfare and educational services furnished by the State shall always be free.

Article 20. Employers and workers shall possess assurance of freedom of association through guilds and labor unions.

Article 21. The establishment of national political parties for the democratic expression of the popular will shall be permitted, and their operation shall be subject to law.

Article 21 (a). The right of popular initiative, under conditions and circumstances provided for by law, shall be recognized.

THE ECONOMIC ORDER

Article 22. The economic organization shall be adaptable to the circumstances and situation of each period so as to bring about a just balance among private property, capital and labor, always aiming at greater productivity and development which will provide all citizens with improved material and social well-being.

Article 23. The economy in all its areas shall be defended from all parasitic activities and simple speculation. At all times, the involvement of labor in the production, profits and control of business shall be a prime goal.

Article 24. Collective bargaining agreements shall be arrived at through negotiations between labor unions and employers' groups, if such shall exist. Strikes shall be permitted, but may only take place as a final recourse and under conditions set forth in a special law which shall regulate their use. Whenever in a certain State there shall not exist free associations of workers or employers' organizations, labor contracts shall have a personal character and be subject to the limitations imposed by law.

Article 25. The accumulation of projects by public and private businesses shall be considered impediments to, and counterproductive of, an economic climate of full employment.

Article 26. Regional cooperatives shall benefit from the incentive and support of the State.

Article 27. The intervention of the public powers in a direct manner in carrying out particular projects shall take place when they participate in such projects with public capital, or in order to obtain social benefits superior to those obtainable without their intervention.

Article 28. Private initiative and entrepreneurial participation shall be encouraged in those areas which, by law, are not reserved for the exclusive activity of the State.

Article 29. Federal legislation shall promote the effective development of different sectors of the economy, such as agriculture, ranching, mining, energy, highways, railways, harbors, ocean and river transportation, fisheries and cinegetics, with a view to the coordinated and accelerated increase in the national wealth.

Article 30. Lawsuits arising from labor contracts, in localities where their volume justifies it, may be settled in special courts. In the rest of the territory they shall be decided in the ordinary courts.

NATIONAL DEFENSE AND PUBLIC ORDER

Article 31. The existence of military forces of land, sea and air for the necessities of defense of the integrity of the federal territory of Mozambique, as well as military forces essential to the maintenance of order and public peace shall be assured.

Article 32. The military organization shall be one for the entire territory. The forces for the maintenance of order shall be organized into two echelons, one with a federal field of action,

and the other of state activity. A unitary hierarchy shall be applicable, however, to both.

Article 33. Military service shall be universal and obligatory for all citizens, to be effected in a manner to be determined by law.

PART II - POLITICAL ORGANIZATION OF MOZAMBIQUE

Article 34. All power emanates from the Nation, and is exercised in its name upon the Organs of Sovereignty.

Article 35. The Federated Republic of Mozambique shall consist of the following States: Rovuma, Niassa, Macuana, Zambezia, Tete, Sofala, Inhambane, Gaza, and Maputo.

Article 36. The city and its limits, which shall serve as the capital of the Federation, shall enjoy the special status of a Federal District.

Article 37. The organs of sovereignty are: the President of Mozambique, the National Congress, and the Courts.

THE PRESIDENCY

Article 38. The Presidency of the Federated Republic of Mozambique shall be exercised by the Chief of State, who shall be invested with the executive power and who shall be elected by the Nation through the intermediary of an electoral college made up of members of the National Congress, state deputies, state Governors, members of Municipal Assemblies, members of the Chambers, and Councilmen of the local Juntas.

Article 39. The President shall be elected for seven years and shall carry out, by virtue of his office, the duties of Supreme Commander of the Armed Forces. In case of vacancy, the President-elect shall begin a new seven-year term.

Article 40. Any citizen of Mozambique may be elected President of Mozambique if he was born

within the national territory, is at least 35 years of age, and is in full possession of his civil and political rights.

Article 41. The candidates for the Presidency shall be proposed by a minimum of 20 members of the electoral college to the Federal Supreme Court within 60 days prior to the date set for the new election. Qualifications of eligibility shall be evaluated within 20 days. Should any irregularity in his qualifications be noted, the candidate shall be notified so that he may correct it within 5 days, following which there is a definitive evaluation, from which there is no appeal.

Article 42. The candidate who shall have obtained more than half of all validly-cast votes shall be elected President. If no one shall have obtained a majority, a second ballot shall be held within 3 days between the two candidates who obtained the most votes at the first balloting and who have not withdrawm their candidacy. Whoever shall have obtained the majority of votes at the second balloting shall be elected President.

Article 43. The President shall be invested with his office before the National Congress on the last day of the term of his predecessor or, in the case of an election to fill a vacancy, on the fifth day subsequent to the publication of the electoral results. He shall take the following oath: "I solemnly swear that I will carry out the office of President of the Federated Republic of Mozambique and that I will defend the Constitution."

Article 44. The President may absent himself from the national territory only with the consent of the Senate. This consent is given in cases of travel, transit, or voyages of an official character of less than five days' duration. The non-observance of this regulation shall automatically result in the immediate loss of office, and a new election shall be held.

Article 45. During the absence or temporary disability of the President, as well as during a vacancy in the office until the election of a new President, the duties of the President shall be

assumed by the President of the Senate.

Article 46. The President of Mozambique shall receive a salary, to be determined by the Senate prior to the election, and he may choose two properties from federal holdings for his official residence and for his private home.

Article 47. Crimes committed by the President of Mozambique shall be tried by the Federal Supreme Court of Justice. If crimes against the Constitution are involved, the indictment shall proceed from the Senate. For crimes unconnected with his official functions as President, he shall be answerable only after the expiration of his term of office.

Article 48. In the exercise of his executive power, the President is assisted by his Ministers of State whom, with the advice of the Senate, he shall freely nominate. Together with them, he shall constitute the Government of Mozambique.

Article 49. The President of Mozambique shall have the following powers, as here specified:

a) to exercise, with his Ministers of State, the federal executive power.

b) to promulgate and have made public laws and decrees.

c) to convene the National Congress and to dissolve the Chambers which make it up, when the Constitution permits it and the higher interests of the nation require it.

d) to represent the Nation and direct its foreign affairs.

e) to declare war and conclude peace, after authorization by the Senate.

f) to name ambassadors and to create or abolish the higher offices of the Public Administration.

f) to decree general mobilization or states of siege or of emergency in all or any part of the Nation.

g) to order federal intervention in the federated states.

h) to send the National Budget to Congress and to submit to the Senate subsequent changes in allotments.

i) to account to the National Congress on matters relative to the previous fiscal year within 60 days after its expiration.

j) to disclose regularly to Congress the state of the nation and the proposed programs of his Government, submitting always to the summons of the Senate when it requests his presence.

l) to moderate and commute sentences.

Article 50. In a purely advisory capacity, a Council of State shall function with the President. It shall be composed of 15 persons who shall be answerable only to the Chief of State of Mozambique and who shall advise him in matters within their special competence and which he might submit to them for their study and judgment.

These counselors shall have seats and votes in the National Congress and cannot be removed from office. Their period of office shall terminate with that of the President.

THE NATIONAL CONGRESS

Article 51. The National Congress shall be composed of two federal chambers: the Senate and the Assembly of Deputies.

Article 52. The members of Congress shall enjoy the following immunities and privileges:

a) They shall not be answerable for their views and votes given in the exercise of their office, except in cases of defamation, slander, abuse against any citizen, offenses against public

morality, or public incitement to crime.

b) They may not act as jurors, witnesses, or expert witnesses without the permission of Congress.

c) They may not be held in custody nor imprisoned without the consent of Congress, except for felonies, and, in the latter case, only if flagrant delicto is proved, or by virtue of judicial mandate.

d) In the event of a criminal proceeding against a member of Congress, notice of the indictment shall be communicated to the President of the National Congress who shall decide whether the Deputy or Senator shall be suspended during the period of the trial.

e) The remuneration to be paid members of Congress for the execution of their duties shall be set by the by-laws of the Chambers.

Article 53. The President of the National Congress may propose to the full body the expulsion of any Senator or Deputy who acts against the integrity of Mozambique as an independent nation or who incites the population or any of the Federated States, to subversive violence. The decision will be taken by a majority of at least two-thirds of the combined votes of the two Chambers.

Article 54. The Congress shall sit in ordinary session from October 1 until April 30, and in extraordinary session whenever convened by the President of the Republic.

Article 55. Proceedings in the two Federal Chambers shall be governed by regulations voted upon by each Chamber.

Article 56. Proceedings of Congress and of each of the two Chambers shall be recorded for publication in the Congressional Record.

Article 57. No member of Congress may, during the period for which he was elected, be named

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i) the authorization of loans or other credit transactions which are not floating debts.

j) the definition of the limits of territorial waters and of laws pertaining to sea depths and air space.

l) the approval of international treaties in which Mozambique is a participant.

m) the passage of laws which entail restrictions upon the liberties and guarantees of citizens.

n) the passage of tax legislation and of laws which define the national monetary system.

o) the definition of labor legislation, local administrative organization, public safety, education, health, federal administration, labor unions, the regulation of real property and of the economy, and the determination of the criteria for the classification of public enterprises and their regulation.

Article 60. The Assembly of Deputies shall be made up of 180 deputies elected by universal suffrage and in accord with ordinary legislation.

Article 61. The Senate shall be made up of two Senators elected from each Federated State; they shall be not less than 35 years of age. Senators shall be elected by the Legislative Assemblies by secret vote from among those candidates who offer themselves for election by being nominated by a minimum of 5,000 citizen-electors of the State.

Article 62. The term of Senators shall be six years. However, in the first election the older Senator of each State shall hold office for three years only, at the end of which time new elections will be held to fill his vacancy. Subsequent to this the pattern of elections for periods of 6 years shall obtain, for each Senator, so that every 3 years there shall take place an election for one-half of the Senate.

Article 63. For each period of 6 years the Senate shall elect a Senator who shall serve as its President. In the event of his absence or incapacity, the oldest Senator shall assume this office.

Article 64. The following shall be within the exclusive competence of the Senate:

a) to determine the conformity of the acts of the President of the Republic with the constitutional and legal requirements.

b) to ratify a declaration of a state of siege or total emergency when such state exceeds 30 days' duration, or a declaration of partial emergency when such state exceeds 60 days.

c) to determine the material and organic competency of laws, and to present such findings to the National Congress, should the situation demand it.

d) to examine the general accounts of the Federated States.

e) to give advice concerning the General Budget and Accounts of the Federation.

f) to evaluate the performance reports of the General Progress Plan.

g) to give advice concerning the Annual Federated Program.

h) to examine the compliance with the laws on the part of the Executive, the Federated States, and any other public entity.

i) to try the President of the Republic, Ministers, Governors of States, members of the Federal and State Chambers, Ambassadors and other high personages in public administration as designated by law, for crimes involving their official responsibilities.

THE COURTS

Article 65. The Courts are sovereign organs with competency to exercise the judicial function.

Article 66. The Courts, in matters submitted to them for their judgment, may not apply norms which violate the Constitution. Upon exhaustion of the ordinary remedies applicable to the case in which the applicable norm has been declared unconstitutional, the Agent of the Public Minister shall request the Federal Procurator of the Republic to submit to the Senate a petition for the repeal of the norm which has been declared unconstitutional. The decision of the Senate shall have the force of interpretative law.

Article 67. The Courts shall be independent subject only to law, and may seek the assistance of adjunct jurists or other authorities.

Article 68. The decisions of the Courts shall be binding upon all public and private entities, and shall prevail over those of any other authority.

Article 69. Court sessions shall be public, except when the appropriate Court shall decide to the contrary for reasons obviously justifiable in order to safeguard personal dignity or public morality, or in order to guarantee its normal functioning.

Article 70. Judges are appointed for life, may not be removed, and are regulated by a single statute in which are covered questions of transfer, suspension, retirement, and dismissal.

Article 71. Save for the exceptions provided for by law, judges shall not be held responsible for their decisions.

Article 72. Judges in the exercise of their office may not engage in any other public or private activity for which they receive remuneration.

Article 73. The nomination, appointment,

transfer and promotion of judges and the exercise of disciplinary action against them lie within the competency of the Federal Supreme Court, whose members shall always be elected by a secret vote of all judges.

Article 74. There shall exist ordinary courts of the first and second instance and a Federal Supreme Court. The creation of courts of the first instance to deal with specialized matters shall be permitted by act of the Congress.

Article 75. Courts of the first instance are district courts and specialized courts. Those of the second instance are the Registry courts. The Federal Supreme Court functions as a court of instance in those cases which the law shall determine and is the highest organ in the hierarchy of judicial tribunals.

Article 76. The creation of special courts to render judgment for a specific category of crimes is prohibited.

Article 77. The territorial jurisdiction of courts of the first and second instance shall be defined by law.

Article 78. The creation of military courts for the trial of crimes essentially military in their nature and of administrative courts shall be permitted. These shall be permitted to sit in specialized divisions with fiscal, customs and commercial jurisdictions.

Article 79. Assigned to each court shall be an Agent of the Public Ministry acting as defender and guardian to insure observance of legal formalities and representative of the State and of other interests assigned to him. The National Congress shall pass legislation pertinent to the regular functioning of this parallel magistrate, who shall be independent of the judicial magistracy.

Article 80. Incriminations which are translated into acts of direct physical violence shall be banned, and no one shall be found guilty twice for the same crime.

STATE AND AUTARCHICAL ORGANIZATION

Article 81. The following States shall make up the Union: Rovuma, Macuana, Niassa, Tete, Zambézia, Sofala, Inhambane, Gaza and Maputo.

Article 82. Only upon the initiative of the State in question and with the approval of two-thirds of the National Congress shall it be possible to alter the original boundaries of any State or to form a new State from any part of a previously existing State.

Article 83. Each State shall possess a State Legislative Council made up of state Deputies elected by citizen electors for a term of four years by universal direct secret ballot. Their number shall be calculated on the basis of two for each municipality, plus an additional one for the capital city of the State.

Article 84. An ordinary law of the Congress shall regulate the functioning of the State Legislative Councils and their spheres of competence.

Article 85. The Executive Power shall be exercised in the States by their respective Governors. Governors shall be chosen by the President of the Republic from among candidates proposed to him by the Legislative Assemblies after a hearing by the State Council and the approval of the Federal Senate.

Article 86. The "Law of the States," to be proposed by the Senate and approved by the Congress, and consistent with the provisions of this Constitution, shall regulate the governmental and autarchic activity of all States of the Union.

Article 87. Within each State the municipalities and the regulados shall constitute the local autarchies. They shall have as their organs of power the Municipal Assemblies and the local Juntas respectively. The Executive shall be represented by the Municipality Administrator and by the traditional regulos.

Article 88. For purposes of progress, for economic, social, transportation, and other reasons, special laws shall regulate planned improvements in the various regions of the national territory which affect more than one State.

Article 89. State legislation, of both public and private nature, shall not derogate the rules of law established by federal judicial norms.

Article 90. States and local autarchies shall possess their own assets and public funds, and shall at no time be empowered to collect from citizens imposts or taxes which have not been previously approved by the proper legitimate public entity in proper legal form.

Article 91. The States shall have general classes of officeholders and technicians who shall enjoy the status of public servants so that they may carry on their activities on behalf of the states and autarchies.

Article 92. Upon the States are conferred all those powers which, explicitly or implicitly, are not denied them by this Constitution.

Article 93. No aid shall be granted to any State or Municipality without the previous delivery to the appropriate federal agency of a plan for the use of such aid, except in the event of a catastrophe or for another urgent reason.