

MOZAMBIQUE

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CONSTITUTIONS OF THE COUNTRIES OF THE WORLD

Editors

ALBERT P. BLAUSTEIN & GIBERT H. FLANZ

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by ERIC B. BLAUSTEIN

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CONTENTS

CONSTITUTIONAL CHRONOLOGY

THE CONSTITUTION

ANNOTATED BIBLIOGRAPHY

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CHRONOLOGY

M O Z A M B I Q U E

- 1498-1600 As a minor phase of Portuguese exploration and colonialism, ships landed on the eastern coast of Africa in what is now Mozambique. By the time of their arrival, however, some of the coast was already controlled by Arab traders and the area was under the cultural influence of the Arabian middle east. The Arabs maintained their headquarters at Keliva which served as a sultanate capital.
- 1600-1700 While Lisbon considered Mozambique as a foothold in developing a commercial empire surrounding the Indian Ocean, exploration was at a minimum.
- 1700-1800 Portuguese influence on the east coast of Africa was still restricted to what is now northern Mozambique. Toward the end of the century, Mozambique was considered a colonial failure and the Portuguese focused their principal overseas efforts on Brazil and Angola.
- 1885 When African territories were partitioned among the European colonial powers at the Berlin Conference, both France and Germany recognized Portuguese supremacy in Mozambique.
- 1891 Portugal and Britain signed a treaty defining the boundaries of British and Portuguese territories on the African east coast and agreed upon the creation of the Mozambique and Nyasa companies for the development of the area. The Mozambique Company was to exercise sovereign rights over the territories of Manica and Sofala until 1942 when they were to be placed under direct Portuguese administration. The Nyasa Company was to turn over direct control of the territory north of the Lurio River to Portugal in 1929.
- 1919 Under the Treaty of Versailles which ended

World War I, that part of German East Africa between the mouth of the Ruvuma River and Cabo Delgado (the Kionga or Quiongo triangle) was added to Portuguese East Africa.

- 920- Some local autonomy existed in the colony
930 under the Portuguese Republic, and this was increased in 1920. However, following the Portuguese Revolution in 1926, Mozambique was denied even internal controls. The Colonial Act of 1930 centralized power in Lisbon.
- 951 Mozambique was designated an overseas province of Portugal.
- 964 Samora M. Machel, who was to become Mozambique's first President in 1975, was one of the cadre which began the Mozambican war of liberation in Cabo Delgado on September 25. This date is celebrated as the birth of the Front for the Liberation of Mozambique (FRELIMO). Leader of Frelimo at that time was Dr. Eduardo Chivambo Mondlane. Frelimo's efforts were in opposition to the governmental structure of Mozambique as a Portuguese overseas province. The provincial government was entrusted to a Governor-General as the highest executive official. He carried out his functions assisted by a Secretary-General (who was in charge of the political and civil administration) and eight Provincial Secretaries. The latter were entrusted with (a) Health and Assistance; (b) Communications; (c) Lands and Settlement; (d) Planning, Economic Integration, Revenue and Accounts; (e) Economy; (f) Public Works; (g) Education; and (h) Labor and Social Welfare. In addition, there were two Councils presided over by the Governor-General: the Economic and Social Council which functioned in an advisory capacity, and the Legislative, which consisted of 29 members elected for a four-year term. The Province was divided into nine Districts which bore the names (North to

South): Niassa, Cabo Delgado, Mozambique, Zambézia, Tete, Manica and Sofala, Inhambane, Gaza and Lourenco Marques. Each of these were administered by a District-Governor falling directly under the Governor-General.

1967-
1969

Samora Machel became Frelimo's Secretary of Defense when Dr. Mondlane, first President of Frelimo, was assassinated. Following a short period when a triumvirate (including Machel) presided over Frelimo, Machel was named President at the Second Congress in 1968.

1974

The Portuguese coup of April 25 toppled the former right-wing regime and brought into power a military government opposed to colonialization. On September 23, Mario Soares, Portuguese Minister of Foreign Affairs declared before the United Nations that his country supported "the rapid and reliable decolonization of the territories under Portuguese administration, to be carried out in accord with the legitimate representatives of the will of the respective peoples and leading necessarily to independence."

Meeting in Lusaka, Zambia, on September 7, Portuguese Foreign Affairs Minister Soares and Frelimo President Machel signed an agreement establishing a transitional government in Mozambique and setting June 25, 1975, as the date for complete independence. As he signed for Frelimo, Mr. Machel declared that the agreement was not only a victory for the people of Mozambique who had suffered under colonial domination but also for the young army officers who realized the folly of the war and turned the tide of events with the April coup. The formal agreement also included a cease fire accord to take effect at midnight, September 8, signalling the end of ten years of war and 400 years of Portuguese occupation.

Twelve days later, on September 20, the cabinet of the new Mozambique Government, six of them black Frelimos and four of them white Portuguese, was sworn into office together with the new Prime Minister, Joaquim Alberto Chissano.

- 1974- Sporadic fighting took place between Frelimo supporters and white settlers. The
1975 attempt of white colonialists to take over the Lourenco Marques airport following the signing of the Lusaka Agreement met with failure and set off a white exodus. Approximately 150 thousand of Mozambique's 200 thousand whites fled the country in the year following the independence agreement.
- 1975 In accordance with the September 7, 1974, agreement, Mozambique independence came on June 25. Sworn in as first president, Machel reiterated his party's often-stated intentions to create a disciplined, austere state on the model of Mao Tse-tung's China. He pledged the establishment of Africa's First Communist Nation.
- 1976 Under Machel's leadership, Mozambique became the principal base for the Patriotic Front -- the external guerrilla force seeking to gain control over Zimbabwe (Rhodesia) by military action.
- 1977- Mozambique's economy continued its downward
1978 trend and the nation became increasingly dependent upon South African trade and overseas aid. Even nations as poor as India and Uganda have sent aid.
- An "official" English translation of the 1975 Constitution was made available for publication. Criticism continued that the Machel government was ignoring the human rights provisions of the constitution and that the nation rivalled Uganda in its absence of freedom.

CONSTITUTION

OFFICIAL ENGLISH TRANSLATION

THE CONSTITUTION

OF THE PEOPLE'S

REPUBLIC OF MOZAMBIQUE

SECTION 1

General Principles

ARTICLE 1

The People's Republic of Mozambique, the fruit of the Mozambican People's centuries-old resistance and their heroic and victorious struggle, under the leadership of FRELIMO, against Portuguese colonial domination and imperialism, is a sovereign, independent and democratic State.

ARTICLE 2

The People's Republic of Mozambique is a State based on people's democracy in which all patriotic strata engage in building a new society, free from the exploitation of man by man.

In the People's Republic of Mozambique power belongs to the workers and peasants united and led by FRELIMO, and is exercised by the organs of people's power.

ARTICLE 3

The People's Republic of Mozambique is guided by the political line laid down by FRELIMO, which is the leading force of the State and Society. FRELIMO lays down the basic political orientation of the State and directs and supervises the work of state organs, in order to ensure that the State policy is in conformity with the people's interests.

ARTICLE 4

The People's Republic of Mozambique has the following fundamental objectives:

- the elimination of colonial and traditional structures of oppression and exploitation and the mentality that underlies them;
- the extension and strengthening of people's democratic power;
- the building of an independent economy and the promotion of cultural and social progress;
- the defence and consolidation of national independence and unity;
- the establishment and development of friendly relations and cooperation with other peoples and States;
- the pursuit of the struggle against colonialism and imperialism.

ARTICLE 5

As an essential element of State power, the Mozambique People's Liberation Forces have a fundamental responsibility for the defence and consolidation of national independence and unity. At the same time, they are a force for production and for the political mobilisation of the masses of the people.

The activity and development of the Mozambique People's Liberation Forces are based on FRELIMO's political leadership and on close links with the people.

Participation in the Mozambique People's Liberation Forces, with its great tradition of struggle, heroism and identification with the revolutionary cause of the people, is an honour and a sacred duty for all citizens, of both sexes, of the People's Republic of Mozambique.

The Commander-in-Chief of the Mozambique People's Liberation Forces is the President of FRELIMO.

The Commander-in-Chief of the Mozambique People's Liberation Forces has the power to appoint or dismiss top level military cadres.

ARTICLE 6

The People's Republic of Mozambique, taking agriculture as the base and industry as the propelling and decisive factor, directs its economic policy towards wiping out underdevelopment and creating conditions for raising the living standards of the working people. In pursuing this aim, the State essentially relies on the creative force of the people and on the country's economic resources, giving total support to agricultural production, promoting adequate development of productive enterprises, and undertaking the exploitation of natural resources. In the process of building an advanced economic base for the People's Republic of Mozambique, the State shall proceed to eliminate the exploitation of man by man.

ARTICLE 7

In the People's Republic of Mozambique work is esteemed and protected, and is the driving force of development. Work is the right and duty of every citizen of either sex, and it is the criterion for the distribution of national wealth.

ARTICLE 8

The land and the natural resources of the soil and sub-soil, of the territorial waters and continental shelf of Mozambique, are the property of the State. The State determines the conditions of their development and use.

The People's Republic of Mozambique recognises the Charter of Economic Rights and Duties of States adopted by the 29th Session of the General Assembly of the United Nations Organisation.

ARTICLE 9

The State promotes and plans the economy, with a view to guaranteeing the correct development of the country's wealth and its use for the benefit of the Mozambican people.

ARTICLE 10

In the People's Republic of Mozambique the State economic sector is the leading and driving factor in the national economy.

State property is given special protection, its development and expansion being the responsibility of all State organs, social organisations and citizens.

ARTICLE 11

The State encourages individual peasants and workers to organise themselves in collective forms of production, whose development it supports and guides.

ARTICLE 12

The State recognises and guarantees personal property.

ARTICLE 13

Obligations are attached to private property. Private property cannot be used to the detriment of the interests defined in the Constitution.

Income and private property are subject to progressive taxes, established on the basis of criteria of social justice.

ARTICLE 14

Foreign capital shall be authorised to operate within the framework of the State's economic policy.

ARTICLE 15

The People's Republic of Mozambique carries out a vigorous battle against illiteracy and obscurantism, and promotes the development of the national culture and personality. The State strives to make the Mozambican culture known internationally and to ensure that the Mozambican people benefit from the revolutionary cultural gains of other peoples.

ARTICLE 16

The People's Republic of Mozambique organises a health system which shall benefit the entire Mozambican people.

ARTICLE 17

The emancipation of woman is one of the State's essential tasks. In the People's Republic of Mozambique women and men have equal rights and duties, this equality extending to the political, economic,

social and cultural spheres.

ARTICLE 18

The youth have always played a decisive role in the national liberation struggle, and they have a fundamental responsibility in the construction of a new society.

The State encourages and promotes youth's initiative in the reconstruction and defence of the country.

ARTICLE 19

The People's Republic of Mozambique is a secular State in which there is absolute separation between the State and religious institutions.

In the People's Republic of Mozambique the activities of religious institutions must conform with the State's laws.

ARTICLE 20

The People's Republic of Mozambique struggles against the exploitation of man by man, against imperialism and colonialism, for the unity of African peoples and States on the basis of respect for the liberty and dignity of these peoples and States and their right to political, economic and social progress.

The People's Republic of Mozambique pursues a policy of strengthening relations of friendship and mutual help with young States engaged in the same battle to consolidate national independence and democracy, and to regain the use and control of their natural resources for the benefit of their peoples.

ARTICLE 21

The People's Republic of Mozambique gives its support and solidarity to the struggle of the peoples for national liberation.

ARTICLE 22

The People's Republic of Mozambique consolidates and develops solidarity with its natural allies the socialist countries, solidarity forged in the struggle for national independence.

The People's Republic of Mozambique establishes and develops relations of friendship and cooperation with all democratic and progressive forces in the world.

ARTICLE 23

The People's Republic of Mozambique establishes relations of friendship and cooperation with all States on the basis of the principles of mutual respect for sovereignty and territorial integrity, equality, non interference in internal affairs and reciprocal benefit.

The People's Republic of Mozambique accepts, observes and applies the principles of the United Nations Charter and the Charter of the Organisation of African Unity.

ARTICLE 24

The People's Republic of Mozambique defends the principle of the general and universal disarmament of all States.

The People's Republic of Mozambique defends the principle of turning the Indian Ocean into a non-nuclear zone of peace.

The People's Republic of Mozambique pursues a policy of peace, resorting to force only in the case of legitimate defence.

ARTICLE 25

The People's Republic of Mozambique grants the right of asylum to foreigners persecuted because of their struggle for peace, democracy and national and social liberation.

SECTION II

Fundamental rights and duties of citizens

ARTICLE 26

All citizens of the People's Republic of Mozambique enjoy the same rights and are subject to the same duties, irrespective of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position or occupation.

Any acts aimed at jeopardising social harmony, or creating divisions or privileged positions based on colour, race, sex, ethnic origin, place of birth, religion, level of education, social position or occupation, are punishable by law.

ARTICLE 27

In the People's Republic of Mozambique all citizens have the right and duty, within the framework of the Constitution, to take part in the process of creating and consolidating democracy at all levels of society and the State. In fulfilling the objectives of the Constitution, all citizens enjoy freedom of opinion, assembly and association.

ARTICLE 28

All citizens of the People's Republic of Mozambique over 18 years of age are entitled to vote and be elected, with the exception of those legally deprived of that right.

ARTICLE 29

In the People's Republic of Mozambique women and men enjoy the same rights and

are subject to the same duties. This principle shall guide all the legislative and executive work of the State. The State protects marriage, the family, motherhood and childhood.

ARTICLE 30

Active participation in the defence of the country and the Revolution is the right and the highest duty of every man and woman citizen of the People's Republic of Mozambique.

ARTICLE 31

In the People's Republic of Mozambique work and education are the right and duty of every citizen. Combating the situation of backwardness created by colonialism, the State promotes the necessary conditions for extending enjoyment of those rights to all citizens.

ARTICLE 32

All citizens have the right to assistance in the event of disablement and in old age.

The State promotes the creation of bodies which guarantee the exercise of that right.

ARTICLE 33

Individual freedoms are guaranteed by the State for all citizens of the People's Republic of Mozambique. These freedoms include the inviolability of the home and the secrecy of correspondence, and they cannot be limited except in cases specially provided for by the law. In the People's Republic of Mozambique the State guarantees the freedom of citizens to practice or not to practice a religion.

ARTICLE 34

The State ensures special protection for the orphans and other dependents of FRELIMO militants who died while fulfilling missions, as well as for those maimed or disabled in the liberation struggle.

ARTICLE 35

In the People's Republic of Mozambique no one can be arrested or tried except under terms of the law. The State guarantees accused persons the right to legal defence.

ARTICLE 36

All citizens of the People's Republic of Mozambique have the duty to respect the Constitution and the law. The State prohibits any misuse of individual rights and freedoms prejudicial to the people's interests. The State severely punishes all acts of treason, subversion, sabotage and, in general, acts carried out against FRELIMO's objectives and against revolutionary people's order.

SECTION III

State Organs

CHAPTER I

People's Assembly

ARTICLE 37

The People's Assembly is the supreme organ of the State in the People's Republic of Mozambique. The People's Assembly is the highest legislative organ of the People's Republic of Mozambique. Pending further definition of the composition and requirements for the election of members of the People's Assembly, it shall comprise the following members:

1. The members of FRELIMO's Central Committee;
2. The members of FRELIMO's Executive Committee;
3. The Ministers and Vice-Ministers of the Government of the People's Republic of Mozambique;
4. The Provincial Governors;
5. Members chosen by FRELIMO's Central Committee from among the cadres of the Mozambique People's Liberation Forces;
6. Two representatives per province of democratic mass organizations, designated by FRELIMO's Central Committee;
7. Members chosen by the Central Committee from among FRELIMO cadres;
8. No more than ten reputable citizens chosen by FRELIMO's Central Committee.

ARTICLE 38

The People's Assembly shall have no more than two hundred and ten members. The People's Assembly may deliberate only if the majority of its members are present. Decisions of the People's Assembly are taken by an absolute majority vote of members present.

ARTICLE 39

An electoral law shall duly establish the conditions, method and date of general elections. The first general elections shall take place within a year of the holding of FRELIMO's 3rd Congress.

ARTICLE 40

The functions of the People's Assembly of the People's Republic of Mozambique are as follows:

- (a) To legislate on basic matters related to internal and external policy;
- (b) To approve the report on the implementation of the past year's budget, the general State budget and national economic plans;
- (c) To determine the basis of the taxation policy;

- (d) To ratify or denounce international agreements and treaties;
- (e) To approve the report on Government activities;
- (f) To ratify legislative acts of the Permanent Commission of the People's Assembly;
- (g) To grant amnesties;
- (h) To sanction the suspension of constitutional guarantees when a state of siege or emergency is declared;
- (i) To authorise the President of the People's Republic of Mozambique to travel abroad.

ARTICLE 41

Legislation may be initiated by the following:

- (1) FRELIMO's Central Committee;
- (2) FRELIMO's Executive Committee;
- (3) The President of the Republic;
- (4) The Permanent Commission of the People's Assembly;
- (5) Organs of the People's Assembly;
- (6) The Council of Ministers.

ARTICLE 42

The People's Assembly is convened and presided over by the President of the Republic. The People's Assembly meets in ordinary sessions twice a year, and in extraordinary sessions when so required by FRELIMO's Central Committee, the President of the Republic, the Permanent Commission of the People's Assembly, or by at least one-third of the members of the People's Assembly.

ARTICLE 43

No member of the People's Assembly may be arrested, except when caught in the act, or tried, without the consent of that organ or of its Permanent Commission.

CHAPTER II

ARTICLE 44

The Permanent Commission of the People's Assembly consists of fifteen members elected by the People's Assembly from among its members, on the proposal of FRELIMO's Central Committee.

ARTICLE 45

It is the duty of the Permanent Commission of the People's Assembly to assume the functions of the People's Assembly in the periods between meetings of that body, submitting its legislative acts for ratification at the following meeting of the People's Assembly. The Permanent Commission of the People's Assembly is answerable to the People's Assembly.

ARTICLE 46

The Permanent Commission of the People's Assembly is presided over by the President of the Republic.