

U4 Expert Answer



Overview of corruption and anti-corruption in Mozambique

Query

What is the status of corruption and anti-corruption in Mozambique?

Purpose

Our agency is refocusing and strengthening its development cooperation strategy towards natural resource management and energy. This document will be used in the planning of cooperation in order to identify any risks and ways to mitigate these.

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Summary

In Mozambique prevalence of corruption remains an area of concern for both the public as well as donors, who support almost half of the state's budget. Corruption manifests itself through various forms, including political, petty and grand corruption, embezzlement of public funds, and a deeply embedded patronage system. Checks and balances are weak, as the executive exercises strong influence over the legislative and the judiciary.

Corruption also affects several sectors in the country, such as the police, public administration, judiciary, and

public financial management. The recent gas and oil discoveries and the potential of mining industries in increasing state revenues have raised discussions around the importance of establishing mechanisms ensuring more transparency and accountability in the extractive industries.

The government has introduced important reforms in recent years, such as the public administration reform. It has also called for a crackdown on corruption, adopting an anti-corruption strategy in 2006. Nevertheless, Mozambique's legal and institutional framework remains inadequate. Anti-corruption institutions - particularly the Central Office for Combating Corruption - lack technical expertise, financial resources, and are subject to political interference. Freedom of association and of expression is guaranteed by the constitution and civil society organisations and the media play a growing role in the fight against corruption in the country. However, their potential as effective watchdog institutions is hampered by the lack of a more detailed law on access to information.

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1 Overview of corruption in Mozambique

Background

Following independence from Portugal in 1975, Mozambique has been devastated by sixteen years of civil war involving the two main political groups in the country FRELIMO (Frente de Libertacao de Mocambique) and RENAMO. The civil war ended in October 1992 with the Rome General Peace Accords. Though the Constitution of 1990 provided for a multi-party system, FRELIMO has been the ruling political party since independence. The country is ranked as partially free by Freedom House (2011). The last elections took place in 2009, when FRELIMO President Guebuza was re-elected with 85% of the vote.

After the war, political stability, economic reforms, resettlement of refugees, as well as substantial support from international donors have led to a high economic growth rate (average of 8% per year). This has not, however, translated into better development outcomes for all. Poverty remains widespread, and post-war reconstruction efforts have been slowed down by a sequence of natural disasters. Mozambique continues to rank among the weakest states on the UNDP Human Development Index (165th of 169 countries, UNDP, 2010).

In spite of the government's strong (declared) stance against corruption and donor pressure to enhance transparency and accountability, corruption remains rampant across the country, ranging from petty corruption by low-level government officials to supplement low incomes, to grand corruption and state capture at higher levels of government (USAID, 2005).

Extent of Corruption

Most studies and indicators suggest that Mozambique remains confronted with challenges of widespread corruption:

- **Corruption Perceptions Index (2011):** Mozambique performed below average with a score of 2.7 on a 0 (highly corrupt) to 10 (highly clean) scale. The country ranked 120 out of 182 assessed countries worldwide and 24th out of 48 countries in the Sub-Saharan Africa region.

- The World Bank's **Worldwide Governance Indicators** (2010): Mozambique scored 42 on control of corruption in 2010, showing no improvement over the years (it also scored 42 in 2000 - on a 0 to 100 scale, with higher values corresponding to better outcomes).
- **Daily Lives and Corruption survey** (Transparency International, 2011): 56% of respondents believe that corruption has increased in the three years preceding the survey.
- **Heritage Foundation's Index of Economic Freedom** (2012): The country ranks 107th out of 179 countries assessed (and 15th out of 46 in Sub-Saharan Africa region), with a freedom from corruption score of 27 on a 0 to 100 scale. The judicial system is perceived as highly vulnerable to political influence and corruption.
- **Global Competitiveness Report** (2010): 17,2 % of the companies surveyed considered corruption the second most severe problem affecting the business environment, followed by an inefficient government bureaucracy (12,2%) (World Economic Forum, 2010-2011).
- **Ibrahim Index of African Governance:** Mozambique ranked 21st out of 53 Sub-Saharan countries assessed, scoring particularly poorly in the areas of Safety and Rule of Law, and Participation and Human Rights (Mo Ibrahim Foundation, 2010).

Forms of Corruption

Petty and bureaucratic corruption

In recent years, in an effort to reduce bureaucratic corruption and improve the business environment, the Mozambican government has implemented a series of reforms aimed, among other things, at reducing regulatory burden on companies. These reforms include measures such as simplifying company establishment procedures, reducing permit requirements as well as the establishment of 'one-stop-shops' (e.g. The Investment Promotion Centre). There has also been an extensive customs reform. While

these reforms are considered to be an important step in reducing corruption opportunities, there are still improvements to be made (Centro de Integridade Publica, 2006).

According to the business community, particularly small and medium size enterprises, corruption and bureaucracy remain the main impediments to their operations. For instance, tax declarations require 37 different payments during the year, which consume an average of 230 hours annually (Bertelsmann Foundation, 2010). Moreover, the current system relies on patronage and personal relationships with members of the ruling party (Bertelsmann Foundation, 2010).

Nevertheless, the percentage of companies surveyed within the framework of the World Bank and IFC 2007 Enterprise surveys reporting that they are expected to make informal payments or give gifts to public officials 'to get things done' is lower than the world average (14,5% against 25,7) and much lower than the Sub-Saharan Africa average (36,6%)¹ (World Bank and IFC, 2007).

On the other hand, citizens' experience of corruption to access public services is high in Mozambique, with more than two out of three people reporting paying a bribe to one of nine service providers in the 12 months preceding the survey (Transparency International, 2011).

Political Corruption

According to a report published in 2010 by Transparency International, while Mozambique has one of the most comprehensive legislative frameworks governing political party financing in Southern Africa, these laws are not enforced in practice. The legislative framework also remains below international minimum standards of transparency in party finance.

The law requires political parties to disclose information on their expenditures in election campaigns, which should be published in the largest circulation newspaper in the country. However, this provision has not been respected in any of the elections held since

democratization. Moreover, in spite of legal provisions requiring the National Electoral Commission to publish its conclusions over party accounts, this has not happened in practice and no party has ever been prosecuted or sanctioned for financial irregularities (Centro de Integridade Publica -NURU report on Mozambique, 2010).

Moreover, vote buying, inappropriate use of state resources for campaigning, electoral fraud, and sourcing campaign finance from inappropriate/illegal sources seem to be recurrent practices during election campaigns (USAID, 2005).

Cronyism and Patronage Networks

Paternalism and patronage networks still play an important role in Mozambican society. As a result, behaviours which are usually considered conflicts of interest, nepotism, and favouritism are not generally viewed as corrupt practices in the country. Instead, Mozambicans who achieve 'important' positions are commonly expected to use their position to help family members and friends (USAID, 2005).

The tendency to favouritism and patronage is also confirmed by the Afrobarometer results (2008). For instance, only 23% of the respondents strongly agree that since leaders represent everyone, they should not favour their family or own group. Moreover, 38% of urban Mozambicans agree that 'people are like children and therefore, the government should take care of them like a parent' (Afrobarometer, 2008).

Moreover, the political elite in the country has strong ties with the business/economic community – the current President has extensive business interests (USAID, 2005). Party loyalty has also influenced appointments to the Executive. For instance, an assessment conducted by USAID in 2009 states that *"the desire by the head of state to appoint entrepreneurs and others friendly to business interests was a characteristic of the early years of the Guebuza government. The ability to attract lucrative investment opportunities from the private sector, be they a new cell phone company, extractive mining industries, or deep sea petrol exploration, all were seen to be attributes of the early Guebuza executive branch appointees who were expected to demonstrate loyalty to the chief of state"* (USAID, 2009, p. 30).

¹ Please see:

<http://enterprisesurveys.org/Data/ExploreEconomies/2007/mozambique#corruption>

Sectors Most Affected by Corruption in Mozambique

Evidence suggests corruption pervades many of the country's key sectors and institutions. According to the perceptions of Mozambican citizens, the police is perceived to be the sector most affected by corruption (scoring 4,3 on a 1 to 5 scale) in Transparency International's Daily Lives and Corruption survey, followed by public officials and political parties (4,0), education (3,9), judiciary and the business sector (scoring 3,0) (Transparency International, 2011).

Public administration

Mozambique's public administration is undergoing a series of reforms with the aim of strengthening and expanding the public sector. However, corruption, lack of transparency and accountability, and an inefficient public administration still have a negative impact on the quality of the services provided. The poor are especially affected as most of the services do not reach them (Bertelsmann Foundation, 2010).

According to the 2011 Daily Lives survey (Transparency International, 2011), 35,3% of Mozambicans perceive public officials/civil servants to be extremely corrupt. Government accountability and civil service performance are assessed as 'very weak' in the Global Integrity Report 2007. The public administration lacks institutional and technical capacities which, combined with the absence of a strong ethics and professionalism as well as unclear regulations, creates opportunities for excessive discretion and abuse of office (USAID, 2005). Moreover, as already mentioned, appointment to public positions is highly dependent on personal relationships and close ties with the ruling party rather than merit (Lloyd, 2011).

Public Financial Management

Budget processes

The country scores 28 out of 100 in the **2010 Open Budget Index**, one of the lowest scores in the Southern Africa region. This indicates that the government provides minimal information to the public, making it almost impossible for citizens to hold government accountable for its management of public resources (International Budget Partnership, 2010).

Following the publication of the Index, discussions between the government and civil society organisations were held with the aim of looking for alternatives which

could enhance budget transparency in the country. One of the initiatives agreed upon and recently adopted by the government was the 'Citizens Budget' (Orçamento Cidadão)². The 'Citizens Budget' is a simplified digest of the national budget intended to enable the general public to understand a government's plan. As a new initiative, it is still too early to tell whether it will bring about the expected results. CIP has highlighted the importance of conducting regular public hearings to make sure that the Citizens' Budget discusses issues of interest to the population as well as ensure public participation in the budget process (Nombora, 2012).

Public Procurement

The Mozambican procurement system is also considered a high risk area for investors. Procurement laws are not fully enforced, creating many opportunities for abuse (Global Integrity Report, 2007). Common corruption schemes in public procurement are: gifts and kickbacks, conflicts of interest, collusion bidding, false or duplicate invoices by contractors, manipulation of bidding process by public officials, purchase of personal use, among others (USAID, 2005). For instance, according to the World Bank & IFC Enterprise Surveys (2007), 37% of companies surveyed expect to give gifts to secure a government contract. Respondents have also mentioned that the value of the gift is on average 2,4% of the contract value (World Bank & IFC Enterprise Surveys, 2007).

In 2005, the government approved a new procurement law which establishes provisions on conflicts of interest and trainings for procurement officials, requirements for competitive bidding as well as rules for debarment of companies found guilty of violating procurement regulations. Moreover, the law requires the procurement procedure to be made public and the final decisions to be written by the competent authority with appropriate explanation (Transparency International, 2007). A Functional Unit for Procurement Supervision responsible for overseeing procurement processes was also created. However, the law is still not fully

² The first edition of the Citizens' Budget was published in December 2011

<http://www.dno.gov.mz/D27B891D-6A28-4852-B0D3-D7ADB3294C7F/FinalDownload/DownloadId-9755B934DC9D82F363EE0D883CBF73A2/D27B891D-6A28-4852-B0D3-D7ADB3294C7F/docs/OE12/OE%202012%20para%20cidadao.pdf>

implemented and enforced (Transparency International, 2007), particularly when it comes to procurement processes at the provincial and municipal levels (Global Integrity Report, 2007).

In addition, the procurement system in Mozambique is relatively underdeveloped since donors – who extensively provide for budget support – have procured goods and services following their own guidelines and under their close supervision (Transparency International, 2007).

Revenue Administration

Corruption in the tax and custom systems undermines the government's capacity to generate revenues. In Mozambique, the custom administration has always been considered a corruption-prone area. In 1995, a process to reform and modernize the custom services began with the aim of improving government revenue raising capacity and facilitating legitimate trade by fighting corruption and smuggling (Wulf; Sokol, 2004). So far, the reforms have contributed to increased revenue performance, which increased from 3,6% of GDP in 1997 to more than 10% of GDP in 2006 (Mosse; Cortez, 2006), as well as the number of seizures of illegal imports (Wulf, Sokol, 2004). As to corruption prevention, the reform introduced a code of conduct and a staff handbook. Customs personnel are also required to sign a personal integrity commitment (Mosse; Cortez, 2006).

Although the reform has made possible a new approach to discipline and a 'zero tolerance' policy against corruption, loopholes still exist. Corruption cases are still treated as disciplinary cases and not as criminal cases as the new Anti-Corruption Law (6/2004) envisages (Mosse; Cortez, 2006). In addition, administrative decisions are not timely which contribute to the general feeling of impunity in the country (Wulf, Sokol, 2004).

While improvements in the custom administration should be acknowledged, studies have shown that custom regulations are almost never enforced uniformly, offering opportunities for well connected individuals or companies to avoid custom and excise laws (Global Integrity Report, 2007).

Similarly, the tax administration is amongst the public sectors that are commonly affected by corruption. In practice, tax officials enjoy wide discretionary powers to interpret and enforce tax laws, which are almost never

enforced uniformly and without discrimination (Global Integrity Report, 2007).

Judiciary

The 2004 Constitution guarantees individual rights and the independence of Courts, but political control and manipulation from above are still seen as critical problems of the system (Global Integrity Report, 2007). According to interviews conducted by the Open Society Foundation in 2006, judges and prosecutors have highlighted the challenges they face to stand as an independent institution. For instance, they reported that it is common to receive phone calls from members of the executive trying to 'influence' judicial outcomes (Open Society Foundation, 2006). Likewise, buying and selling of verdicts, intimidation of witnesses, freeing of key suspects as well as 'losing' evidence or case files seem to occur often in the Mozambican Judiciary (USAID, 2005).

According to the Global Competitiveness Report, businessmen gave the score of 2,9 when asked to what extent the judiciary is independent from influences from members of the government, citizens or firms, on a scale from 1 – heavily influenced - to 7- entirely independent (World Economic Forum, 2010-2011).

Administrative corruption in the justice sector is also rampant particularly due to low salaries and human resource shortages. Both judges and court officials do not always have adequate and required training (Lloyd, 2011). There are efforts on the way to address these various challenges. The Coordinating Council for Legality and Justice has increased salaries³, and launched an initiative to recruit and train more judges. However, the country still suffers from a shortage of qualified personnel in the judiciary (Open Society Foundation, 2006). For instance, in 2005 the country had only 184 judges, which means one judge per 100,000 inhabitants (Open Society Foundation, 2006).

The Higher Council of the Judiciary is responsible for monitoring the conduct of members of the judiciary and for taking the necessary disciplinary action. However, administrative proceedings mostly target court officials and proceedings against judges are still unusual. Moreover, the role and impact of the Higher Council

³ In 2006, the initial monthly salary for a judge with a law degree placed in the Capital was approximately US\$800,00, including housing stipend (Open Society Foundation, 2006).

cannot be effectively measured since there is little information available on its activities (Open Society Foundation, 2006).

Professional judges are appointed by the President upon approval of the Assembly and elected judges are appointed directly by the Assembly. At higher levels, political influence plays a larger role. The President of the Republic appoints both the President and Vice-President of the Supreme Court and according to the Bertelsmann Foundation report on Mozambique (2010), the majority of judges appointed for the Supreme Court are members of the ruling party, which may undermine the independence and impartiality of the Judiciary.

While judicial scrutiny of government corruption is still unusual, in 2010, the former transport and communication Minister and other high level officials were sentenced by a judge in Maputo to a twenty years prison term for embezzlement of public money related to the state airport company. The prison term was reduced to only four years and a half in 2011 by the Supreme Court (Business Anti-Corruption portal, 2011).

Police

In Mozambique, the police is perceived by citizens as the most corrupt institution and 47% of those who had been in contact with the police in 2010 reported paying bribes (Transparency International, 2011). Corruption is particularly high in the traffic police, as traffic violations are usually seen as opportunities for corruption by traffic police officers in Maputo (Centro de Integridade Publica – CIP, 2011)

According to an investigative study conduct by CIP⁴, while the traffic police is expected to collect between 2 to 3,000,000.00 meticaïs (approximately 70,000 Euros) in fines per month, the Department of Transit has channelled as few as a monthly average of 600,000.00 meticaïs (approximately 14,000 Euros). Officials interviewed have revealed that many fines are removed from the books without apparent justification following the order of high-level officials.

Environment, Natural Resources and Extractive Industries

Mozambique is endowed with various natural resources, such as hydroelectric power, coal, titanium, graphite, iron, gold, marble, nickel, copper, granite, emeralds, and chromium, among others. The country has recently identified reserves of natural gas and oil in commercially exploitable quantities and further exploration is under way (EITI website).

The country's natural resources are relatively under exploited. For instance, in 2006 the mining sector contributed just 1,6% of GDP⁵ (EITI website). However, extractive industries are rapidly expanding and developing in the country. The so-called mega-projects (large investments which have mobilised more than nine billion dollars)⁶ are considered as great opportunities for economic growth and might become the major source of revenue in the future. In this context, the country has to develop mechanisms to ensure transparency and accountability in the sector and to guarantee that the revenues benefit society as a whole and not only a few companies and the political elite.

Therefore, given the growing importance of the sector and the great potential for corruption, the Government, after conducting a study, committed itself to following the Extractive Industry Transparency Initiative (EITI). The main objective is to improve state revenue through deterring fiscal/tax evasion and promoting a transparent and credible framework for revenue collection (Centro de Integridade Publica, 2010). In 2009, Mozambique was accepted as a candidate country to the EITI, and will only become a compliant country after meeting all the necessary requirements, which is not yet the case.

In August 2011, the EITI Board declared that, despite improvements, the country failed to meet 5 of the 18 requirements, particularly the ones related to materiality, auditing standards and coverage. The candidacy of the country was not accepted and

⁴ Please see: http://www.cip.org.mz/D27B891D-6A28-4852-B0D3-D7ADB3294C7F/FinalDownload/DownloadId-BCAC9EF45BEAECDD1A4BA649BB41044AB/D27B891D-6A28-4852-B0D3-D7ADB3294C7F/cipdoc/63_CIP_Newsletter_9.pdf

⁵ EITI Website Country Page on Mozambique
<http://eiti.org/Mozambique>

⁶ Please see: <http://www.afrika.no/Detailed/20220.html>

Mozambique has now to address the recommendations made by EITI (Centro de Integridade Publica).

Nevertheless, the first reconciliation report comparing payments made by mining companies with receipts reported by government was published in 2010. The report appeared to show that the Government had declared that it received much less than the value declared by the companies. The Coordinating Committee undertook an investigation into what happened to the difference of approximately four million meticaís (Seleman; Nombora, 2011).

From the report, it can also be concluded that the fiscal contribution of the six companies assessed represents so far less than 1% of the state budget and, more importantly, that the government does not have mechanisms of its own to assess the quality and quantity of minerals extracted, sales price, operational costs, among others (Seleman; Nombora, 2011).

Experts on the sector have also highlighted the importance of improving transparency and accountability in the management of natural resources beyond the basic criteria determined by the EITI (Centro de Integridade Publica, 2010). For instance, in-kind payments made to the government are still not monitored. There is little information available related to payments made in kind, such as the 2,528,854 GJ of natural gas paid by Sasol in 2008, that the government has never accounted for (Seleman; Nombora, 2011).

Moreover, many if not all of the contracts signed between the government and companies in this sector are still not publicly available. Companies which signed the contract previous to the Law n. 13/2007⁷ also enjoy great fiscal benefits, which should now be reviewed (Seleman; Nombora, 2011). Other issues and social questions which go beyond the framework of the EITI, such as land use, fisheries and forestry, etc, must be considered to allow for a sustainable growth.

⁷ Several laws were approved in 2007 regarding the extractive industries. The Law 11/2007 updated the tax legislation, especially concerning mining; Law 12/2007 updated the tax legislation related to the oil sector; and the law 13/2007 introduced changes to the tax incentive scheme. Please see: <http://www.iese.ac.mz/lib/noticias/2010/IndustriaMineiraSociedadeCivilTete26Out2010.pdf>

Currently, the government and members of civil society organisations are discussing a preliminary draft of a bill regulating the mega-projects as well as public-private partnerships (Seleman, 2010). Additionally, several civil society organisations in Mozambique have got together and formed a coalition to deal with issues related to transparency and accountability in the extractive industries. The coalition is linked to the global movement *Publish What You Pay*. Primarily, it aims at ensuring the implementation of EITI in the country, and secondarily, at investigating and monitoring the extractive industries to guarantee they benefit the Mozambican people as a whole (Centro de Integridade Publica, 2010).

China and Extractive Industries in Mozambique

Recently, China has become the largest buyer of Mozambican timber. Chinese logging companies have been operating in the provinces of Zambesisa, Nampula, Cabo Delgado, Niassa and Inhanbane. However, there are concerns about the impact of the activities conducted by Chinese companies on sustainable development (Roque, 2009).

According to a study conducted by Roque (2009) China's exploitation of wood in Mozambique starts with an untypical 'partnership' with locals communities. Chinese companies pay for Mozambicans to issue a logging licence which allows logging to take place in pre-determined areas in small quantities. Licensed Mozambicans then transport the logs to small harbours where the Chinese are awaiting for shipping it. The problem is that the government still lacks the capacity to monitor the whole coast in terms of illegal logging and corruption (Roque, 2009). According to the Ministry of Environment, the government also does not have proper information on which areas are under exploration, lacking an adequate and updated inventory of the forests which could facilitate monitoring (Roque, 2009).

For instance, in 2008, inspection teams investigating corruption among customs officials discovered more than 750 containers of illegal logs, which belonged to Chinese companies, in a port in the province of Nacala. While the customs tribunal issued a fine of \$556,000 to the responsible companies, they were still allowed to export the wood, worth \$7 million. Illegal exports of unprocessed wood have also been found in other provinces (Roque, 2009).

2 Anti-corruption efforts in Mozambique

Overview

Poverty reduction is one of the government's first priorities. As mentioned, the country remains one of the poorest in the world and the government's ability to address this problem is seriously limited by corruption and bad governance. In this context and also due to donor pressure, the country has since democratisation created both enabling legislation and institutional mechanisms to combat corruption. However, implementation is slow as is enforcement of the laws in place. There are still many loopholes allowing members of the government and the elite to continue extracting rents from the state.

Donors have showed dissatisfaction with the pace which the government has implemented its anti-corruption strategy, which led to a 'donor strike' in early 2010.⁸ The government acknowledged that fighting corruption remains a great challenge in the country and proposed a new anti-corruption law in 2011. Promises of improving the working conditions of anti-corruption institutions in the country were also made.

In 2001, the Government launched the **Public Sector Reform Strategy**. This is a ten-year strategy which includes the adoption of measures to improve the management of public finances and to reduce corruption opportunities, such as a new public financial management system (SISTAFE), and the National Poverty Reduction Plan (PARPA I and II).

The Poverty Reduction Strategy 2006-2009 (PARPA II) is based on **six pillars** aimed at promoting human development and creating a favourable environment for rapid, inclusive and broad-based growth. Good governance, defined as a more transparent, accountable and efficient public service, is one of the pillars. In this context, the government developed

several key areas of intervention for promoting good governance, including: implementation and dissemination of the anti-corruption law, strengthening of the **Central Office for Combating Corruption (GCCC)**, information gathering and promotion of research on governance and corruption issues, and the implementation of an effective anti-corruption strategy (Poverty Reduction Strategy, 2006).

National Research into Governance and Corruption was conducted by the Technical Unit for Public Sector Reform in 2004 to inform the design of the **Anti-Corruption Strategy**. The strategy for 2006-2010 aimed specifically at (i) improving the quality and efficiency of public services; (ii) improving participation and monitoring of local communities in order to promote transparency and accountability; (iii) encouraging transparency culture, integrity and responsibility in public sector; (iv) improving the management system of public finance.

In the following year an Action Plan for the implementation of the Anti-Corruption Strategy in five sectors which were considered as critical and vulnerable (justice, education, health, finance and interior) was adopted. Moreover, for facilitating the implementation of the strategy, a consultation forum – **Anti-Corruption Forum** - involving the private sector, civil society organisations and members of the government was created by a governmental decree. Only two sessions were held as in 2007 the forum was dismissed after the Constitutional Court declared the initiative unconstitutional (Lloyd, 2011). Overall, the effectiveness of the strategy in reducing corruption and improving the quality of public services, as well as promoting integrity within the public administration, was still not assessed.

Legal Framework

The Government adopted the first ever corruption-specific legislation in 2004 – **The Anti-Corruption Law** (Law n. 6/2004). Two definitions of corruption were established (i.e. passive corruption and active corruption), but practices such as embezzlement of public funds, traffic of influence, money laundering and illicit enrichment, although frequent in Mozambican public administration, were left out.

⁸ Please see: <http://mg.co.za/article/2010-07-01-donors-put-brakes-on-mozambique-aid>

In July 2011, the Council of Ministers adopted the “**Anti-Corruption Package**”, and this legislation has formally been submitted in full to parliament last November. The package aims at correcting the flaws and strengthening the existent legal framework. Mechanisms to combat conflict of interests, protect whistleblowers, guarantee ethical behaviour in the public administration, as well as criminalise corruption practices which are currently not criminalised are part of the ‘package’. It was supposed to be analysed by parliament in March 2012, but it has already been announced that due to the complexity of the law, the discussions will be postponed (Centro de Integridade Publica, 2012).

With regard to **public procurement**, progress has been made over the past years, particularly with the adoption in 2005 of the Law on Procurement (Decree n. 54/2005) which establishes, among other things, that the results of tenders are to be made public (Transparency International, 2007). An internet portal was also created to publicise all the tenders announced by the government (www.concursopublico.gov.mz). Yet contracts with foreign investors and concessions undertaken in the extractive industry are not published (Centro de Integridade Publica, 2008).

There is a need to address the culture of secrecy which still permeates the Mozambican public administration. While there is a general law on **access to information**, this right cannot be fully exercised in practice particularly due to bureaucratic inefficiency (Lloyd, 2011, Global Integrity Report, 2007). **Conflict of Interest** is only partially regulated. While there is no comprehensive regulation on conflict of interest, some rules forbid high ranking state officials from paid activities in their areas of responsibility (Global Integrity Report, 2007). But the law does not forbid, for instance, that a Minister or Member of the Government becomes a shareholder or an executive in a company that he himself privatised or licensed. Neither does it provide for any mechanism to prevent deputies from lobbying for the approval of a law that benefits themselves or companies in their interest (Centro de Integridade Publica, 2008).

Asset declaration is mandatory for high level public officials. The annual declarations should include assets, liabilities, current or past functions in public and private companies, as well as the patrimony of spouses. However, the law does not clearly specify which body is responsible for monitoring and enforcing the legislation

(Centro de Integridade Publica, 2008). Moreover, the declaration is not made public which prevents civil society organisations and the media from investigating potential corruption cases (Lloyd, 2011).

There is no **Code of Conduct** for public officials. The customs service was the first to introduce a code of conduct for its officials as part of the modernisation reform which started in the 1990s. More recently, with the support of the Center for Public Integrity – Transparency International's national chapter in Mozambique, a code of conduct for the teachers' union has been developed.

The Anti-Corruption Law states that *‘no complainant or whistle blowers may be subject to disciplinary proceeding or prejudiced in his professional career or be prosecuted in any form because of the complaint against or denunciation of the crimes envisage in the present law’* (Article, 13, Law n. 6/2004). However, the country still has not established concrete measures to protect **whistleblowers**. In fact, the results of the first government assessment on corruption showed that more than 60% of public officials surveyed do not denounce acts of corruption because of fear of reprisals. The same holds true for 49,9% of companies and 46,8% of households surveyed (Centro de Integridade Publica, 2008).

International cooperation in the prevention and combating of corruption has also been expanded; Mozambique ratified the **United Nations Convention Against Corruption** in 2008, and the **African Union Convention on Preventing and Combating Corruption** in 2006.

Institutional Framework

While laws and regulations exist on paper, few control mechanisms are established or operate effectively in practice to ensure that this framework functions transparently and to the benefit of the public good. The mandate and organisation of these institutions is still rather unclear and there is a lack of coordination among them.

Central Office for Combating Corruption (Gabinete Central de Combate à Corrupção, GCCC)

The Central Office for Combating Corruption (Gabinete Central de Combate à Corrupção, GCCC)⁹ was established within the Attorney General's Office in 2005, replacing the anti-corruption agency created in 2003 (Anti-Corruption Unit). According to the Global Integrity Report (2007), the GCCC is not fully independent as appointments to the office are made by the Attorney General, who himself is appointed by the President of the Republic. Besides the lack of independence, activities carried out by this anti-corruption office are limited by a lack of funds and qualified staff (Transparency International, 2007).

The agency is responsible for investigating corruption-related complaints, but it does not have the mandate to prosecute them. Moreover, in a recent decision ruled by the Supreme Court, it was determined that, since the anti-corruption law does not criminalise embezzlement, the GCCC does not have jurisdiction to investigate this practice (USAID, 2009).

The number of investigated cases has increased over the last couple of years. By December 2009, the GCCC had 403 cases of corruption and theft of state property investigated. Prosecutors brought charges in 104 of the cases, 19 were judged and 34 were dropped¹⁰. Nevertheless, the performance of the Public Prosecution Service in successfully prosecuting cases of alleged corruption amongst government officials has been poor, particularly in grand corruption cases (Open Society Foundation, 2006; Transparency International, 2007). In 2010, however, several high-level officials were prosecuted after a big corruption scandal involving the Minister of Interior reached the media.¹¹ In 2011, two prosecutors working for the GCCC were also

brought to court accused of accepting bribes and of misusing GCCC's funds¹².

The Inter-Ministerial Commission for Public Sector Reform (Comissão Interministerial da Reforma do Sector Público - CIRES)

The Commission was established in 2000 and its main responsibility is to implement and monitor the Anti-Corruption Strategy as well as the Global Strategy of Public Sector Reform¹³.

The Administrative Tribunal

The Administrative Tribunal (Autoridade Tributária) is responsible for auditing government expenditures. It is formally an independent body, but according to the Global Integrity Report (2007), appointments to the Tribunal may be influenced by personal relations and party affiliation. The audit institution, in spite of the support received from donors, still struggles with the lack of qualified personal and inadequate funding (Transparency International, 2007).

The institution publishes comprehensive reports within the defined deadlines. Recently, it has expanded its investigative powers. Reports now focus on performance rather than only on compliance, which may be helpful in discovering wrongdoings (Centro de Integridade Publica, 2009).

The Ombudsman's Office

The Ombudsman's Office was established by the 2004 Constitution with the responsibility of handling complaints against the public administration (Article 256). However, the Ombudsman's office is not yet operational and no Ombudsman has been appointed or elected (Global Integrity Report, 2007; US Department of State, 2010).

⁹ Please see:

<http://www.acauthorities.org/aca/country/mz>

¹⁰ Please see:

<http://noticias.sapo.ao/info/artigo/1034242.html>

¹¹ Please see:

<http://www.google.com/hostednews/afp/article/ALeqM5hGwTYaCcwWxs5ePs6H1qs0ZMHSiQ?docId=CNG.b86506f095cbf61164e88f98b0d5d21c.8b1>

¹² Please see:

http://www.menafn.com/qn_news_story.asp?storyid={fbae5bb4-533b-40c3-a81e-a9970dfe73d7}

¹³ Please see:

http://www.portaldogoverno.gov.mz/docs_gov/programa/ref_sec_pub_fll_06_11/Programa_Reforma_Sector_Publico_Fase_II.pdf

Other stakeholders

Media

The Constitution as well as the 1991 Press Law provides for freedom of expression and of the press, but there is still space for restricting journalists' work. For instance, in 2000 an investigative journalist was assassinated after reporting on the major bank fraud that accompanied the privatisation of Mozambique's largest bank in 1996 (Lloyd, 2011).

Freedom of the press has nevertheless improved over the past years. According to the 2011-2012 Reporters without Borders Index, Mozambique ranks 66 out of 179 assessed countries, an evolution of more than ten ranks in comparison to the previous assessment.

The government owns and operates much of the print, radio, and television media. Radio is one of the most important sources of information for Mozambicans throughout the country, since adult illiteracy is fairly high (approximately 50%). There is also a vibrant private media, and privately owned newspapers (e.g. Savana, Zambese, Magazine Independent) are also available (USAID, 2009; Lloyd, 2011). Reports also show that while public media often criticises the government, in many circumstances, and particularly during elections, pro-government bias becomes evident (Lloyd, 2011).

Civil society

Freedom of association is guaranteed in the Mozambican Constitution (Article 34) and since democratisation, civil society organisations have grown in number and importance. In 2007, according to a Transparency International study, there were more than five thousand civil society organisations in the country working on a variety of issues and subjects. The great majority of them are funded by donors and international NGOs, which could limit their agenda to issues of interest for donors (Transparency International, 2007).

There are a few organisations working on anti-corruption and governance issues and, according to the Global Integrity Report (2007), the government does not create great barriers to their work. The most active ones are Etica Mozambique and the Center for Public Integrity (CIP)¹⁴ (Transparency International, 2007).

According to the CIVICUS Civil Society Index (Foundation for Community Development, 2007), civil society plays a fundamental role in governance and development in Mozambique. Nevertheless, the study concludes that Mozambican civil society is still weak in terms of structure and values, and operates in a constrained environment. With regard to structure, the main weaknesses are due to limited human and financial resources. As to values, the weaknesses relate to transparency, gender equity and diversity. In terms of the environment in which they operate, while this has improved over the past year, citizens are often held back in the exercise of their rights, particularly due to an inefficient bureaucracy (Foundation for Community Development, 2007).

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