

'I DIDN'T STRUGGLE TO BE POOR': THE INTERWOVENNESS OF PARTY, STATE AND BUSINESS IN MOZAMBIQUE

JINÉL FOURIE¹

EXECUTIVE SUMMARY

The African Peer Review Mechanism (APRM) Country Review Report (CRR) for Mozambique, published in July 2010, indicates that the interwovenness of party, government, state and business (hereafter referred to as interwovenness) is a serious issue in the country.² An increasingly common phenomenon in Africa, the interwovenness and overlapping of political party officials, government officials and the business sector needs to be addressed.

Although Mozambique – like many African countries – is saturated with anti-corruption initiatives, these are often poorly implemented and enforced. In order for the country to address the negative effects of interwovenness, additional measures need to be taken by civil society, the APRM Panel of Eminent Persons and the government.

RECOMMENDATIONS

- 1** The government should extend the Law on Public Procurement to publicise concessions undertaken in the extractive industries, thereby improving transparency around concessions and procurements and allowing increased accountability.
- 2** Civil society, including organisations based outside Maputo, needs to actively monitor business deals and push for the publication of procurements in the extractive industries and contracts awarded to foreign investors.
- 3** Civil society should monitor the implementation and enforcement of the Law on Public Integrity.
- 4** The APRM Panel of Eminent Persons should follow up on, and urge for, the domestication of the AU Convention against Corruption in Mozambique, as recommended in the CRR.
- 5** The APRM Panel should continue to push for the GCCC to be awarded adequate authority to act on and adjudicate corrupt acts. These initiatives should be supported by the international donor community, which has some influence on Mozambican policy and governance structures.

INTRODUCTION

Mozambique is one of only 12 APRM member states (out of 35) that have published both a CRR and at least one progress report on their National Programme of Action (NPOA).³ The country has ratified the AU Convention on Preventing and Combatting Corruption and the UN Convention against Corruption. Mozambique also has other anti-corruption initiatives and institutions, such as the Central Office for Combatting Corruption (GCCC), the Anti-Corruption Strategy, the Public Sector Reform Strategy, the Anti-Corruption Forum, the Administrative Tribunal and the Office of the Ombudsman – all of which were established prior to the APRM review. It has also passed the Anti-Corruption Law (decree n. 6/2004) and the Law on Procurement (decree n. 54/2005).⁴

On paper, Mozambique thus appears to have the political will to address issues relating to corruption and interwovenness in the country. In practice, however, the picture differs.

One of the legacies of Portuguese colonialism has been a political system that is overly bureaucratized. After independence in 1975, Frelimo (Frente de Libertação de Moçambique) headed the government and dominated the state apparatus by entrenching its networks and personnel in the political and social structures of the country. As a result, Frelimo's entanglement with the state has become structural in nature, with senior party officials controlling what has become a highly centralised state. Frelimo has thus captured state power. Frelimo and senior state officials exploit this state power to access resources that serve their interests – which then become the state's interests.⁵

POST-CIVIL WAR STRUCTURAL ADJUSTMENT

In 1987, towards the final years of the Mozambican civil war (1977–1992), the government introduced the Economic Rehabilitation Programme (ERP), which was aimed at reforming the state and economy. The ERP provided the first large-scale opportunity for the mass privatisation of public companies.⁶ Many Frelimo officials viewed control of the newly privatised companies as their reward for past struggles. An attitude of entitlement spread across the ruling party. Certain segments of the Mozambican population – usually with Frelimo membership cards – thus reaped the benefits of privatisation and enriched themselves, their families and friends.⁷ About 80% of privatised companies

were sold off at below-market prices, mainly to the previous managers of state-owned enterprises, veterans of the liberation struggle and (Frelimo-supporting) entrepreneurs.⁸

PURSUING PATRONAGE

Patronage and nepotism are generally not viewed as corrupt practices in Mozambique, but rather as the required norms of conducting business, state affairs and politics. This leaves Mozambique with a deeply embedded culture of patronage whereby favouritism is shown to those who support Frelimo. As a result, a network of corruption that permeates all levels of society is now entrenched in the country. Mozambicans who achieve positions of power are expected to use these to help family members and friends. The political status quo generally allows the cultivation and exploitation of strong ties among the political elite, senior state officials and the business community.⁹

Consequently, in Mozambique there are strong overlaps between political, state-bureaucratic and business elites, as the interwovenness of party, government, state and business is characterised by cronyism. According to the Mozambique CRR, 'the government does not frown on, but rather encourages, public servants to own and operate businesses to supplement their incomes'.¹⁰ Government-issued contracts are thus often awarded to companies where state officials are the owners, board members, directors or shareholders.¹¹

CURRENT INITIATIVES TO COMBAT INTERWOVENNESS

The Law on Procurement of 2005 regulates procurement officials' potential conflicts of interest, outlines requirements for competitive bidding and contains provisions for 'complaint procedures and rules for debarment of companies found guilty of violating procurement regulations'.¹² It also stipulates that tender results are to be made public. However, this does not apply to contracts awarded to foreign investors or concessions in the extractive industries.¹³ This is of concern, as the net inflows of foreign direct investment account for over 43% of Mozambique's gross domestic product,¹⁴ yet the contracts awarded to foreign investors are not made public. The extractive industries, specifically oil and gas, are also becoming increasingly strategic to the country's economic growth.

High-level public officials are required to declare their assets annually. These include ‘assets, liabilities, current and past functions in public and private companies, as well as the patrimony of spouses’.¹⁵ However, these declarations are not made public and there is a lack of clarity about which body or mechanism should monitor them.

The GCCC was established in 2005 to investigate allegations of corruption. However, the GCCC has only been awarded limited prosecution powers under the Anti-Corruption Law of 2004. Additionally, the office is only partially independent from the state, as appointments to it are made by the attorney general, who is appointed by the president. The office is also under-staffed and under-resourced. The Ombudsman’s Office, responsible for seeking justice in the functioning of public administration, faces similar challenges, as the ombudsman is appointed by Parliament. The legislature is predominantly controlled by the ruling party, with 144 of the 250 parliamentary seats occupied by Frelimo members, and can thus be influenced by officials’ interests. Both the ombudsman and the GCCC are therefore influenced by the party while at the same time being responsible for investigating and prosecuting political and economic elites.¹⁶

Former rebel group Renamo (Resistência Nacional Moçambicana), currently the main opposition party, has been holding weekly parliamentary meetings on interwovenness with the ruling party since 2013. On 23 June 2015 the ‘Declaration of Principles’ was signed by both Frelimo and Renamo. This declaration is an attempt to address interwovenness in the country. It proposes prohibitions on political parties having branches in public institutions, on public servants engaging in political party activities during working hours and on filling government positions by appointment (a tender process is the suggested alternative). However, the declaration still needs to be debated in the assembly, which is dominated by Frelimo. There are also concerns about Frelimo’s public statement that the declaration is redundant and irrelevant, and that it only signed the declaration in the interests of ‘keeping peace’.¹⁷

ADDRESSING INTERWOVENNESS

The APRM CRR made various recommendations to the government of Mozambique on how to address the issue of interwovenness. These included vigorously condemning cases of ‘big corruption’ by publishing

senior officials’ declarations of assets and approving a code of ethical rules to regulate the business interests of senior public officials, their families and close friends.¹⁸ The APRM NPoA for Mozambique also recommended that the GCCC be given the authority to act on and adjudicate corrupt acts.

In response to the APRM’s recommendations, the Mozambican government submitted an ‘anti-corruption legislative package’ to Parliament. Included in this was the proposal for a Law on Public Integrity. This law was passed in 2012 and, among others, prohibits government officials from having external incomes or from acting as board members of institutions that are not educational or charitable. This resulted in 27 officials quitting their positions in state-owned companies in 2013 alone.¹⁹

Initiatives such as the Law on Public Integrity, and the additional recommendations made by the APRM, could help to reduce interwovenness and related corruption, but only partially. This is due to the lack of political will to address the structural problems. The conflicts of interest demonstrated by many Frelimo officials exacerbate this issue. Additionally, without the proper implementation, monitoring and enforcement of existing laws and initiatives, no significant progress can be made. Civil society needs to actively monitor the initiatives adopted under the anti-corruption legislative package, focusing on the implementation and enforcement of the Law on Public Integrity and pushing for the government to give due authority to the GCCC.

With local and foreign investors paying increasing attention to the country’s growing extractive industries, the state needs to extend the Law on Public Procurement to publicise concessions in the oil and gas sectors and contracts awarded to foreign investors. As the credibility of the country’s anti-corruption institutions is debateable, civil society in Mozambique, which is reasonably vibrant – albeit largely limited to the capital city, Maputo – needs to proactively monitor business deals and push for the publication of information on concessions undertaken in the extractive industries, and by foreign investors.

However, the current trend in Mozambican civil society is to focus on socio-economic issues, which are prioritised by the donor community. And the donor community holds significant financial influence in Mozambique: in 2012 39.6% of the country’s national budget was financed by these international donors.²⁰

As a result, not enough experts are monitoring how the government spends national funds and awards procurement contracts. Civil society and the media in particular are vocal about corruption, but should actively pursue the goal of increased monitoring of public procurements.

CONCLUSION

Mozambique is caught between entrenched Frelimo interests and a culture of interwovenness, with insufficient pressure from civil society to hold the government and business accountable. Addressing the issue of interwovenness and the related corruption is essential if Mozambique is to expand its middle class and increase local economic activity, extending opportunities to non-Frelimo members in the process. The recommended measures need to be implemented to give the country a chance to pursue its national development goals in an inclusive manner by limiting the spread of interwovenness and high-level corruption.

ENDNOTES

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- 3 Correspondence with APRM Continental Secretariat, 11 November 2015.
- 4 Business Anti-Corruption Portal, 'Mozambican Public Anti-Corruption Initiatives', <http://www.business-anti-corruption.com/country-profiles/sub-saharan-africa/mozambique/initiatives/public-anti-corruption-initiatives.aspx>, accessed 29 September 2015.
- 5 APRM, *op. cit.*
- 6 Castel-Branco CN, 'Growth, capital accumulation and economic porosity in Mozambique: Social losses, private gains', *Review of African Political Economy*, 41, S1, 2014, pp. S26–S48.
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- 8 Castel-Branco CN, *op. cit.*
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- 11 *Ibid.*
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- 16 Business Anti-Corruption Portal, *op. cit.*
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