

African Commission on
Human & Peoples' Rights



Commission Africaine des Droits
de l'Homme et des Peuples

Kairaba Avenue
P.O. Box 673
BANJUL,
The Gambia
Tel: (220) 392962
Fax: (220) 390764
Telex: 2346 OAU B JL GV

ACHPR/PR/MOZA/XVI

16TH ORDINARY SESSION
25TH OCTOBER - 3RD NOVEMBER, 1994
BANJUL, THE GAMBIA

PERIODIC REPORT OF MOZAMBIQUE

THE REPUBLIC OF MOZAMBIQUE
MINISTRY OF JUSTICE

REPORT ON THE IMPLEMENTATION OF THE AFRICAN
CHARTER OF HUMAN AND PEOPLES' RIGHTS

CHAPTER I

Introduction

Pursuant to the obligation emanating from the provisions of Article 62 of the African Charter on Human and Peoples' Rights, the Republic of Mozambique wishes to hereby submit the Report on the Administrative and Legislative measures as provided for in its national judicial system. The provisions of the said Charter already cover areas related to defence, promotion and guarantee for human rights.

The Republic of Mozambique has, for more than a decade, been fighting a cruel war imposed on her by those who are against the principles of self-determination, social welfare and well being, peoples' rights and non-peace loving people.

The violence and the extent of war in which Mozambique has been involved is preventing her from enjoying the infrastructures and national conditions of existence required for their subsistence placing them in an almost absolute state of scarcity, violation of the peoples rights to development, and implicitly, of continuous violation of individual civil and political rights, especially in the areas most affected by the bloody war whose nature has been traumatic.

However, effort have been made by the Mozambican government with the view to minimize the absolute needs of the assaulted populations which as a result of such situations has sought refuge and security both in the neighbouring countries and in the country's capital cities where, over populated and lacking the minimum correspondence populations growth in terms of shelter, food and services, create a social unbalance and instability.

Actions taken by the Mozambican government without loosing sight of the unfavourable international economic situation focus in the implementation of projects for the rehabilitations of the social structure and of rural development, the latter being hampered by the conditions of impediments created by the war.

Out of this shady framework, an appeal has been made to the regional and international community for providing humanitarian assistance to the population and simultaneously seeking for solutions for national reconciliation, by putting an end to the war, also constitute adopted measures by the government in order to, besides the above mentioned facts, it can fulfil its obligations with the ratification of the African Charter for Human and Peoples' Rights.

CHAPTER II

HUMAN RIGHTS INT HE LIGHT OF 1990 CONSTITUTION

The Constitution of the Republic of Mozambique, adopted in 1990, establishes in Article 6 (d) as an objective to be attained in the Mozambicans State "the defence and promotions of human rights, as well as the equality of all citizens before the law."

The clear provision of such a fundamental principle makes the Constitution of Mozambique one of the few which makes references to human rights promotion.

The intention of the State in relation to "rights, obligations and fundamental freedom stated in Chapter II" where it clearly stated the fundamental principles for equality of citizens, men and women before the law in all aspects of political, economic, social and cultural life; living and physical integrity, thus preventing the application of act or inhuman and cruel treatment against detainees; the rights to privacy, freedom of expression and of press, as well as the rights to information, association and participation in political life, through the creation of political parties; the right of access to tribunals existing in the country, and to establish residence in any part of the national territory and of free movement, except the condition imposed by judicial decisions, all these constitute the fundamental principle for the building of the rule of law in Mozambique.

On the other hand, the Constitution in its Chapter IV provides for guarantees of the fundamental rights and liberties, in this area the Constitution entrusts the State with the responsibility of ensuring the exercise of civil, political and economic rights by the people, making it compulsory for the courts

to observe the fundamental principles of law as an assumption of innocence of any citizen detained, pending a judicial or administrative ruling; the prohibition of deprivation of liberty to any without retro-activity in the penal law when, against the accused; the prohibition of condemnation of an individual for inexistent crime at the time of the occurrence, any given unqualified act as crime and the condition of extradition only by judicial decision. The Constitution further stipulates that the guarantee of the fundamental rights and liberties can only be restricted or suspended in the event of a declaration of a state of war, state of siege or emergency, adding the limit of the duration of the siege or emergency whose prorogations must be effected under the provision laid out in the law.

CHAPTER III

Preparatory and Regular Legal Provisions on Human Rights Promotion

The accommodation of the fundamental principles in the execution of human rights, defence and promotion ordained in the constitution of the Republic of Mozambique was by ordinary legislation containing a consolidation of sovereign organs such as courts through the extension of a judicial network in the areas where the population concentration is stressed and the institutionalization of such an organ and the inspector of the legality - the Attorney General of the Republic, by law 6/89 of 19 September, as well as the re-enforcement of the exercise of right of defence by the citizen through the appropriate institution acting in defence of the accused and in judicial assistance to citizen, already all these are of the position of creating bars to give greater expression to the exercise of the right to defence.

The community courts established under law 4/92 have the objective of contributing to social harmony and cultural intercourse among citizens through measures enforce by those courts which converged in the reconciliation between the parties in dispute.

The new organic law of the judicial courts existing by promulgations of law 10/92, repealing the former law of 1978, confers a new framework and content in accordance with institutional and social reforms in favor of consolidation of the democracy in the country.

The recent promulgation of the law establishing the labour courts, revoked the former legislation relating to the competent organs in the appreciation of labour matters, has created a labour jurisdiction sovereign organ which is adequate and re-enforces the mechanism which guarantee the labour legality, thus standing as judicial obligation mainly for the workers.

The principle which has always governed the conduct of Mozambican State, that of the participation of the citizens in a political life was adequate for the realization of democracy in its new face through the institutionalization of political pluralism, materialized by the promulgation of the law 7/91 of 23 January, therein been entailed basic rules for the formation of political parties and compliance with the principle of legality and procedures under which a party can be registered.

Another constitutional principle with regard to rights to free association thus translating the basic guarantee for personal realization of individuals in social life in favor of democratic participation in a civil society has been accommodated under law 8/91 of 18 July, law for the creation of more lucrative associations, proclaiming the general principle to be observed in the act of constitution or its legal recognition, as well as specific rules for registration.

Parallel to the above-mentioned principles, there is need to refer to that of liberty of meetings enshrined in the general rights of citizen and related to the formation of public opinion contemplated in law 9/91 of 18 July, establishing the procedure to be taken into consideration in such an exercise.

Law 18/91 of 10 August, ordained the rights for freedom of expression and press, as well as information materializes and attributes greater value to the individual rights already mentioned and provided for in the 1990 Constitution.

Law 23 and 27/91 of 31 December concerning Trade Union freedom and employers association rights, respectively feature as legal support in exercising the right for freedom of association, aiming at defending the social interest, and the organizational substructure observed in the criteria established under the law, in favor of consolidation of democracy and the affirmation of the rule of law in Mozambique.

The defence of the handicapped and the aged as provided for in the 1990 Constitution is also covered by the creation of the institute for social welfare thus greatly materializing the protection of human rights in a civil society.

It should be pointed out that the growing number of none lucrative associations in the country, reflects the exercise of the rights of free association, assisting the State in undertaking development activities through the execution of socio-economic projects and programmes.

Furthermore, in the area of protection and guarantee of children rights - this is an implicit topic in the principles of human and peoples' rights contained in this chapter - besides the existence of a specific United Nations International Convention, the Mozambican government has promulgated Decree 5/89, regarding the adoption and tutelage of the child, with the view to guarantee the survival and uplacking of the abandoned and orphan child as a result of war.

In the penal area, beside the abolition of the death penalty, as a principle enshrined in the 1990 Constitution, the Mozambican State has granted pardon and clemency to those who committed crimes against the people and the State and to those citizens committing small scale common offences.

The preparation of the electoral law and other various legislative diplomas which reproduces the materialization and guarantee of fundamental principles established in the 1990 Constitution based on freedom of expression, opinions, participation in political life, free choice of representative political organs in the territorial area, are all under process.

CHAPTER IV

The Role of Public Administration and its Agents in the Defence of Human Rights

In the public administrative sectors, training courses and seminars with topical contents on human rights have been introduced at prison and civil defence forces levels throughout the country. By law 5/92, the organic law of administrative tribunal was established. This is an organ which controls the legality of administration agent and as an organ which imposes legality, judging of interposed resources of the decision of the State organ, guarantees the defence of the rights and interest of the workers and citizens in general, thus contributing to the formation of the rule of law.

Notwithstanding, the considerable advancement achieved, with the view to fulfilling the constitutional rule in regard to promotion, defence and guarantee of human rights, as well as the protection of fundamental liberties, efforts should be redoubled in the struggle against the violations of citizens, civil and political rights still obtaining in the country, through the implementation of educational and consciencialization of law enforcement agents.

Maputo 30 September, 1992

CONSTITUTION OF THE REPUBLIC OF MOZAMBIQUE

(This is the full text of the Constitution adopted by the Mozambican parliament in November 1990. The English translation is by AIM)

PREAMBLE

At zero hours on 25 June 1975, the Central Committee of the Mozambique Liberation Front (FRELIMO) solemnly proclaimed the total and complete independence of Mozambique and its Constitution as the People's Republic of Mozambique.

This was the culmination of a centuries long process of resistance to colonial rule. It was the unforgettable victory of the armed national liberation struggle, led by FRELIMO, which brought together all the patriotic sectors of Mozambican society in the same ideals of freedom, unity, justice and progress.

The Constitution then proclaimed attributed a determinant role to FRELIMO as the legitimate representative of the Mozambican people. Under its leadership, the uplifting process of the exercise of state power as an expression of the people's will was begun.

The state that we have created has made it possible for the Mozambican people to deepen democracy and, for the first time in their history, to exercise political power and organise and direct social and economic life at a national level.

The way in which state institutions have functioned and the democratic practice of citizens impose new definitions and developments.

After 15 years of independence, the Mozambican people, using their inalienable right to sovereignty, determined to consolidate the nation's unity and to respect the dignity of Mozambicans, adopts and proclaims this Constitution, which shall be the basic law for all political and social organisation in the Republic of Mozambique.

The fundamental rights and freedoms enshrined in the Constitution are gains of the Mozambican people in their struggle to build a society of social justice, where the equality of citizens and the imperatives of the law are the pillars of democracy.

We, the Mozambican people, determined to deepen the arrangement of political life in our country, in a spirit of responsibility and pluralism of opinion, are decided to organise society in such

a way that the will of the citizens may be the greatest value of our sovereignty.

PART 1 BASIC PRINCIPLES CHAPTER 1 THE REPUBLIC

Article 1

The Republic of Mozambique is an independent, sovereign, unitary and democratic state of social justice.

Article 2

1. Sovereignty is vested in the people.
2. The Mozambican people shall exercise their sovereignty in the manner provided for in the Constitution.

Article 3

1. The territory of the Republic of Mozambique is a single whole, indivisible and inalienable, comprising the entire land surface, territorial waters and air space delimited by the national boundaries.
2. The breadth, limits and legal order of Mozambique's territorial waters, the exclusive economic zone, the contiguous zone and seabed rights shall be fixed by law.

Article 4

1. The territory of the Republic of Mozambique shall be subdivided into provinces, districts, administrative posts and localities.
2. Urban zones shall be classified as either cities or towns.
3. The definition of administrative divisions, the creation of any new units, as well as the power to decide on politico-administrative organisation shall be fixed by law.

Article 5

1. In the Republic of Mozambique, Portuguese shall be the official language.

2. The State shall esteem national languages and promote their development and increasing use as spoken languages and in the education of citizens.

Article 6

The fundamental aims of the Republic of Mozambique shall be:

- a) The defence of independence and sovereignty;
- b) The consolidation of national unity;
- c) The building of a society of social justice, and the achievement of material and spiritual well-being for its citizens;
- d) The defence and promotion of human rights and of the equality of citizens before the law;
- e) The strengthening of democracy, of freedom and of societal and individual stability;
- f) The development of the economy, and scientific and technological progress;
- g) The affirmation of the Mozambican personality, of its traditions and other social and cultural values;
- h) The establishment and development of relations of friendship and cooperation with other peoples and states.

Article 7

1. The Republic of Mozambique shall uphold the values of the heroic struggle and centuries of resistance by the Mozambican people against foreign rule.

2. In the building of the Mozambican nation, in the strengthening of national unity, and in the promotion of the democratic participation of citizens, the State shall retain as a national heritage the decisive role played by the Mozambique Liberation Front (FRELIMO) in the victory over colonialism and in the winning of national independence.

Article 8

1. The Republic of Mozambique shall acknowledge and esteem the sacrifices made by those who gave their lives to the national liberation struggle and to the defence of the country's sovereignty.

2. The state shall guarantee the special care and protection of those who suffered permanent injury in the national liberation struggle, in the defence of independence, sovereignty and territorial integrity, as well as the orphans and other dependents of those who died in this cause.

Article 9

1. The Republic of Mozambique shall be a lay state.

2. The activity of religious institutions shall be subject to the law.

3. The State shall respect the activities of religious denominations in order to promote a climate of

social understanding and tolerance, and to strengthen national unity.

Article 10

The symbols of the Republic of Mozambique shall be the national flag, emblem and anthem.

CHAPTER 2

NATIONALITY

SECTION 1

NATIONALITY BY ORIGIN

Article 11

1. The following are Mozambicans, as long as they were born in Mozambique:

- a) The children of a father or a mother who was born in Mozambique;
- b) Children whose parents are unknown, stateless or of unknown nationality;
- c) Those who were domiciled in Mozambique at the time of independence;
- d) Those who established their domicile in Mozambique within 90 days of the proclamation of independence;
- e) Those to whom the President of the Republic has previously granted nationality by origin.

2. Persons referred to in 1.c) above, insofar as they are children of a foreign father and a foreign mother, do not have Mozambican nationality, if, within 90 days of the proclamation of independence, they declared for themselves, if over 18 years of age, or through their parents or guardian, if younger than this, that they did not wish to be Mozambican.

Article 12

1. Persons born in Mozambique after the proclamation of independence are Mozambican nationals.

2. This rule shall not apply to children of a foreign father and a foreign mother, if either of them is in Mozambique in the employ of the government of his or her country.

3. The persons referred to in 1) above, if born of foreign parents, shall only have Mozambican nationality if they declare, for themselves if over 18 years of age, or through their parents or guardians if younger than this, that they wish to be Mozambican.

4. The time limit for the declaration referred to in the previous paragraph is 90 days, to be counted from the date of birth where the declaration is made by a parent or guardian, or the eighteenth birthday where the declaration is made personally.

Article 13

Persons not covered by other legal provisions who took part in the national liberation struggle and who

...e declared that they wish to be Mozambican, and
...ve expressly renounced any other nationality, are
...ozambicans.

Article 14

The children of a Mozambican mother or father
who took part in the national liberation struggle,
even if born abroad before the proclamation of
independence, are Mozambicans.

Article 15

Persons who, although satisfying the prerequi-
sites for nationality by origin, did not acquire such
nationality due to a choice made by their parents or
guardian, are Mozambicans provided they per-
sonally declare, within a year of reaching the age of
13, that they wish to be Mozambican.

Article 16

Those persons not covered by previous articles
who had been living in Mozambique for at least 20
years prior to the date of independence are Mozam-
bicans, provided that they declared, within 90 days
of the proclamation of independence, that they
wished to be Mozambican.

Article 17

Those persons not covered by previous articles
who were less than 40 years old at the time of
independence, and who were domiciled in Mozam-
bique for a period of time longer than half their life,
are Mozambicans, provided that they declared,
within 90 days of the proclamation of independence,
on their own behalf if they were older than 18, or
through their parents or guardians if younger, that
they wished to be Mozambican.

Article 18

The children of a Mozambican mother or father
working for the Mozambican state outside the
country are Mozambicans, even if born abroad.

Article 19

Even if born outside the country, the children of
a Mozambican mother or father are Mozambicans
provided that they expressly renounce, on their own
behalf if they are older than 18, or through their
parents or guardians if younger, any other
nationality to which they may be entitled.

Article 20

Persons to whom the President has already
granted nationality by origin for relevant services to
the cause of national liberation are Mozambicans.

SECTION 2 NATURALISATION

Article 21

A foreign woman who has married a Mozambican
citizen acquires Mozambican nationality if she
meets all of the following conditions:

- a) that she renounces her previous nationality;
- b) that she declares that she wishes to acquire
Mozambican nationality;
- c) that she establishes domicile in Mozambique;
and
- d) that she meets the other requirements set by
law.

Article 22

Mozambican nationality may be granted by
naturalisation to foreigners who, at the time of their
request, meet all the following conditions:

- a) that they renounce their previous nationality;
- b) that they have lived habitually and regularly in
Mozambique for at least ten years;
- c) that they are over 18 years old;
- d) that they meet the other requirements set by
law.

Article 23

Mozambican nationality may be granted by act of
naturalisation to the unmarried children, under 18
years of age, of a naturalised citizen.

SECTION 3 LOSS OF NATIONALITY

Article 24

Mozambican nationality shall be lost by any per-
son who:

- a) voluntarily acquires a foreign nationality;
- b) without authorisation from the Government,
agrees to provide services to a foreign state which
may violate the higher interests of the nation or the
sovereignty of the State;
- c) being also a citizen of another state, duly
declares, that he or she does not wish to be Mozam-
bican, or, having attained the age of majority, be-
haves in fact as a foreign national;
- d) having as a minor obtained Mozambican
nationality by virtue of a parent's or guardian's
declaration, renounces, in accordance with the re-
quisite procedures, and within one year of reaching
the age of majority, his or her Mozambican
nationality, provided he or she can demonstrate
possession of another nationality;
- e) expressly renounces Mozambican nationality.

SECTION 4
REACQUISITION OF NATIONALITY

Article 25

1. Mozambican nationality may be granted to persons who have first lost and now reclaim such nationality, if they meet all the following conditions:

- a) that they renounce their previous nationality;
- b) that they establish domicile in Mozambique;
- c) that they meet the other requirements set by law.

2. Such reacquisition of nationality shall restore the legal status obtaining prior to the loss of nationality.

Article 26

1. A Mozambican woman who has lost her nationality through marriage may reclaim it:

- a) if she has not acquired any other nationality, by furnishing ordinary proof of this;
- b) if she has acquired another nationality, by the express renunciation thereof.

2. Such reacquisition of nationality shall restore the legal status obtaining prior to the loss of nationality.

SECTION 5
MISCELLANEOUS PROVISIONS

Article 27

No other nationality of persons who are Mozambican nationals under the terms of Mozambican law shall be recognised or have any legal effect in the Republic of Mozambique.

Article 28

The registration and proof of acquisition, loss and reacquisition of Mozambican nationality shall be regulated by law.

Article 29

1. Naturalised citizens shall not be eligible for access to a career in the diplomatic service or the armed forces or any such equivalent.

2. The law shall define conditions under which naturalised Mozambican citizens and foreigners may exercise public functions or private functions of public interest.

CHAPTER III
PARTICIPATION IN THE POLITICAL LIFE OF
THE STATE

Article 30

The Mozambican people shall exercise political power through elections of their representatives by universal, direct, secret and periodic suffrage, through referenda on major national issues, and through permanent democratic participation by citizens in the affairs of the nation.

Article 31

1. Parties are expressions of political pluralism. They shall compete to form and proclaim the will of the people, and shall work as fundamental instruments for the democratic participation of citizens in the government of the country.

2. The internal structure and the operation of political parties must be democratic.

Article 32

1. In profound respect for national unity, political parties shall be bound by the principles enshrined in the Constitution and in the law.

2. The formation and operations of political parties are subject to the following conditions. Political parties shall:

- a) be national in scope;
- b) defend national interests;
- c) contribute to the formation of public opinion, particularly on major national issues;
- d) strengthen the patriotic spirit of citizens and the consolidation of the Mozambican nation.

3. Parties shall contribute, through the political and civic education of citizens, towards peace and stability in the country.

4. The formation, structure and operation of parties shall be regulated by law.

Article 33

Political parties shall be prohibited from advocating or resorting to violence in order to change the political and social order of the country.

Article 34

1. Social organisations, as associations of citizens having joint interests and affinities, play an important role in promoting democracy, and in the participation of citizens in political life.

2. Social organisations contribute to achieving the rights and freedoms of citizens, as well as towards raising individual and collective consciousness in the fulfilment of civic duties.

CHAPTER IV
ECONOMIC AND SOCIAL ORGANISATION

Article 35

1. Natural resources located in the soil and sub-oil, in interior waters, in territorial waters, on the continental shelf, and in the exclusive economic zone shall be property vested in the state.

2. The public domain of the State shall also include:

- a) the maritime zone;
- b) the airspace;
- c) archaeological heritage;
- d) nature conservancy zones;
- e) hydraulic power resources;
- f) energy resources;
- g) other goods and assets classified as such by law.

Article 36

The State shall promote knowledge, surveys and evaluation of natural resources, and shall determine the conditions under which they may be used and developed, in the national interest.

Article 37

The State shall promote efforts to guarantee the ecological balance, and the conservation and preservation of the environment, seeking to improve the quality of life for citizens.

Article 38

State economic policy shall be directed towards laying the fundamental bases for development, improving the living conditions of the people, strengthening the sovereignty of the State, and consolidating national unity, through the participation of citizens and the efficient use of human and material resources.

Article 39

1. The Republic of Mozambique shall treat agriculture as the basis for national development.

2. The State shall guarantee and promote rural development in order to satisfy the growing and diverse needs of the people, and for the economic and social progress of the country.

Article 40

The Republic of Mozambique shall treat industry as a dynamising factor for the national economy.

Article 41

1. The economic order of the Republic of Mozambique shall be based on the value of labour, on market forces, on the initiatives of economic agents, on the contributions by all types of ownership, and on the role of the State in regulating and promoting economic and social growth and development, in order to satisfy the basic needs of the people, and to promote social well-being.

2. The national economy shall consist of the following types of ownership, which shall complement each other:

- a) State ownership;
- b) cooperative ownership;
- c) joint ownership;
- d) private ownership.

3. The State shall ensure that economic activities conform with the interests provided for in the Constitution and in the law.

Article 42

1. In satisfying the basic needs of the people, the family farming sector plays a fundamental role.

2. The State shall support and provide incentives for family sector production, and shall encourage peasants as well as individual labourers to organise themselves into more advanced forms of production.

Article 43

The State shall promote and support the active participation of the national business sector in the development and consolidation of the country's economy.

Article 44

The State shall recognise the contribution made by small scale production to the national economy, and shall support its development as a way of making good use of the capacities and creativity of the people.

Article 45

1. Foreign investment shall operate within the framework of state economic policy.

2. Foreign ventures shall be permitted in all economic sectors, except those that are exclusively reserved for State ownership or development by the State.

Article 46

1. All property in land shall vest in the State.

2. Land may not be sold, or mortgaged, encumbered or otherwise alienated.

3. As a universal means for the creation of wealth and of social well-being, the use and enjoyment of land shall be the right of all the Mozambican people.

Article 47

1. The State shall determine the conditions under which land may be used and enjoyed.

2. The right to use land shall be granted to individual or collective persons, taking into account its social purpose.

3. The terms for the establishment of rights in respect of land shall be governed by law and shall prioritise direct users and producers. The law shall not permit such rights to be used to favour situations of economic domination or privilege to the detriment of the majority of citizens.

Article 48

In granting titles for the use of land, the State shall recognise and protect rights acquired through inheritance or occupation, unless there is a legal reservation, or the land has been legally granted to another person or entity.

Article 49

1. The State shall promote and coordinate economic activity, acting directly or indirectly to resolve the basic problems of the people and to reduce social and regional inequalities.

2. State investment shall play a dynamising role in promoting development.

Article 50

Taxes shall be imposed and altered by law, and shall be set according to criteria of social justice.

Article 51

1. Labour shall merit respect and protection, and it shall be the driving force of development.

2. The State shall promote the just distribution of the proceeds of labour.

Article 52

1. The Republic of Mozambique shall promote an educational strategy that aims at national unity, at wiping out illiteracy, at mastering science and technology, and at providing citizens with moral and civic values.

2. The State shall organise and develop education through a national educational system.

3. Education provided by collective and other bodies shall operate in accordance with the law, and shall be subject to state supervision.

Article 53

1. The State shall promote the development of national culture and identity, and shall guarantee free expression of the traditions and values of Mozambican society.

2. The State shall make Mozambican culture known internationally, and shall take action to enable the Mozambican people to benefit from the cultural achievements of other peoples.

Article 54

1. Medical and health care for citizens shall be organised through a national health service which shall benefit all Mozambicans.

2. To achieve the goals of the national health system, the law shall establish the way in which medical and health care is delivered.

3. The State shall promote the participation of citizens and institutions in order to raise the level of public health care.

Article 55

1. The family is the basic unit of society.

2. The State shall recognise and protect, in accordance with the law, marriage as the institution that secures the values of the family.

3. In the context of developing social relations based on respect for human dignity, the State shall guarantee the principle that marriage is based on free consent.

Article 56

1. Motherhood shall be afforded respect and protection.

2. The family shall be responsible for raising children in a harmonious manner, and shall teach the new generations moral and social values.

3. The family and the State shall ensure an all-round education of children, bringing them up in the values of national unity, love for the motherland, human equality, respect and social solidarity.

4. Children may not be discriminated against on grounds of their birth, nor may they be subjected to ill treatment.

5. State and society shall protect orphans and abandoned children.

Article 57

1. The State shall promote and support the emancipation of women, and shall act to increase the role of women in society.

2. The State shall recognise and hold in high esteem the participation of Mozambican women in the national liberation process.

3. The State shall encourage and hold in high esteem the participation of women in the defence of

the motherland, and in all spheres of the country's political, economic, social and cultural activity.

Article 58

1. Young people, bravely upholding the patriotic traditions of the Mozambican people, played a decisive role in the national liberation struggle, and constitute a force for the renewal of Mozambican society.

2. State policy shall be directed particularly towards ensuring the harmonious development of the character of young people, to helping them acquire a taste for free and creative work, to developing their sense of serving the community, and to providing appropriate conditions for their entering into active life.

3. The State shall promote, support and encourage young people's initiatives in consolidating national unity, and in the reconstruction, development and defence of the country.

CHAPTER 5 NATIONAL DEFENCE

Article 59

The State's defence and security policy shall seek to defend national independence, preserve the country's sovereignty and integrity, and guarantee the normal functioning of institutions and the security of citizens against any armed aggression.

Article 60

1. The defence and security forces shall be subordinate to national defence and security policy, and owe allegiance to the Constitution and to the Nation.

2. The oath taken by members of the defence and security forces shall establish their duty to respect the Constitution.

Article 61

Citizens shall be encouraged to join civil defence units, particularly for the protection of economic, social and production infrastructures.

CHAPTER 6 FOREIGN POLICY

Article 62

1. The Republic of Mozambique, as a non-aligned country, shall establish relations of friendship and cooperation with other states on the basis of principles of mutual respect for sovereignty and territorial integrity, equality, non-interference in internal matters and reciprocity of benefits.

2. The Republic of Mozambique shall accept, observe and apply the principles of the United Nations Charter, and of the Charter of the Organisation of African Unity.

Article 63

1. The Republic of Mozambique shall be in solidarity with the struggle for the unity of the peoples and states of Africa in respect of their freedom, dignity, and right to economic and social progress.

2. The Republic of Mozambique shall seek to strengthen relations with countries undertaking the consolidation of their national independence and the recovery of the use and control of their natural resources for their respective peoples.

3. The Republic of Mozambique shall join with all states struggling for the establishment of a just and equitable international economic order.

Article 64

1. The Republic of Mozambique shall support and be in solidarity with the struggles of peoples for their national liberation.

2. The Republic of Mozambique shall grant asylum to foreigners persecuted because of their fight for peace, democracy, national and social liberation, and for the defence of human rights.

Article 65

1. The Republic of Mozambique shall pursue a policy of peace, and shall only resort to force in the case of legitimate defence.

2. The Republic of Mozambique shall support the primacy of a negotiated solution to conflicts.

3. The Republic of Mozambique shall support the principle of general and universal disarmament of all states.

4. The Republic of Mozambique shall advocate the transformation of the Indian Ocean into a nuclear free zone of peace.

PART 2 FUNDAMENTAL RIGHTS, DUTIES AND FREEDOMS

CHAPTER 1 GENERAL PRINCIPLES

Article 66

All citizens are equal before the law. They shall enjoy the same rights, and shall be subject to the same duties regardless of colour, race, sex, ethnic origin, place of birth, religion, educational level, social position, the legal status of their parents, or their profession.

Article 67

Men and women shall be equal before the law in all spheres of political, economic, social and cultural life.

Article 68

Disabled citizens shall enjoy fully the rights enshrined in the Constitution, and shall be subject to the same duties, except those rights and duties which their disability prevents them from undertaking.

Article 69

All acts intended to undermine national unity, to disturb social harmony, or to create divisions or situations of privilege or discrimination based on colour, race, sex, ethnic origin, place of birth, religion, educational level, social position, physical or mental ability, the legal status of one's parents, or profession, shall be punished according to law.

Article 70

1. All citizens shall have the right to life. All shall have the right to physical integrity, and may not be subjected to torture or to cruel or inhuman treatment.

2. In the Republic of Mozambique there shall be no death penalty.

Article 71

All citizens shall have the right to their honour, good name and reputation, as well as the right to privacy and to defend their public image.

Article 72

All citizens shall have the right to live in a balanced natural environment and shall have the duty to defend the same.

CHAPTER 2

RIGHTS, DUTIES AND FREEDOMS

Article 73

1. All citizens shall have the right and the duty to participate in the process of extending and consolidating democracy at all levels of State and society.

2. Citizens 18 years of age and over shall have the right to vote and to be elected, with the exception of those legally deprived of this right.

3. The right to vote shall be personal and shall constitute a civic duty.

Article 74

1. All citizens shall have the right to freedom of expression and to freedom of the press, as well as the right to information.

2. The exercise of freedom of expression, which consists in the ability to make known one's opinions by all legal means, and the exercise of the right to information, shall not be limited by censorship.

3. Freedom of the press shall include in particular the freedom of journalistic expression and creativity, access to sources of information, protection of professional independence and confidentiality, and the right to establish newspapers and other publications.

4. The exercise of the rights and freedoms referred to in this article shall be regulated by law based on the necessary respect for the Constitution, for the dignity of the human person, and for the mandate of foreign policy and national defence.

Article 75

All citizens shall have the right to freedom of assembly within the terms of the law.

Article 76

1. All citizens shall enjoy freedom of association.

2. Social organisations and associations shall have the right to pursue their aims, to create institutions designed to achieve their specific objectives and to own assets in order to carry out their activities, in accordance with the terms of the law.

Article 77

1. All citizens shall have the freedom to form and participate in political parties.

2. Party membership shall be voluntary, and shall derive from the freedom of citizens to associate on the basis of the same political ideals.

Article 78

1. All citizens shall have the freedom to practise or not to practise a religion.

2. Religious denominations shall have the right to pursue their religious aims freely, and to acquire assets for realising those aims.

Article 79

1. All citizens shall have the right to freedom of scientific, technical, literary and artistic creation.

2. The State shall protect rights related to intellectual property, including copyright, and shall promote the practice and dissemination of science and art.

Article 80

1. All citizens shall have the right to present petitions, complaints and claims before the relevant authority to obtain the restoration of rights that have been violated, or in defence of the public interest.

2. All citizens shall have the right not to comply with orders that are illegal or which infringe upon their rights.

Article 81

All citizens may contest acts that violate their rights recognised under the Constitution and other laws.

Article 82

All citizens shall have the right of recourse to the courts against any act which violates their rights recognised by the Constitution and the law.

Article 83

1. All citizens shall have the right to take up residence in any part of the national territory.

2. All citizens shall be free to travel inside the national territory and abroad, except those legally deprived of this right by the courts.

Article 84

1. It shall be a sacred duty and honour for all Mozambican citizens to participate in the defence of the country's independence, sovereignty and territorial integrity.

2. Military service shall be rendered according to terms established by law.

Article 85

1. All citizens shall have the duty to respect the Constitutional order.

2. Acts contrary to the Constitution shall be subject to sanction in accordance with the law.

CHAPTER 3 ECONOMIC AND SOCIAL RIGHTS AND DUTIES

Article 86

1. The State shall recognise and guarantee the right to ownership of property.

2. Expropriation may only take place on grounds of public need, usefulness or interest, as defined by law, and there shall be just compensation.

Article 87

The State shall recognise and guarantee, within the terms of the law, the right of inheritance.

Article 88

1. Work shall be a right and a duty of all citizens, regardless of sex.

2. All citizens shall have the right to a free choice of profession.

3. Forced labour shall be forbidden, with the exception of work performed in the context of penal law.

Article 89

1. All employees shall have the right to just payment, to rest and to holidays.

2. Employees shall have the right to protection, safety and hygienic conditions at work.

3. Employees may only be dismissed in accordance with the law.

Article 90

1. All employees shall have the freedom to organise professional associations or trade unions.

2. The exercise of trade union activity shall be regulated by law.

Article 91

1. Employees shall have the right to strike. The exercise of this right shall be regulated by law.

2. The law shall limit the exercise of the right to strike in essential services and activities, in the interests of the overriding needs of society.

3. Lockouts shall be prohibited.

Article 92

1. In the Republic of Mozambique education shall be a right and duty of all citizens.

2. The State shall promote greater and equal access to the enjoyment of this right by all citizens.

Article 93

1. Citizens shall have the right to physical education and to sport.

2. The State shall promote, through sporting and educational institutions, the practise and dissemination of physical education and sport.

Article 94

All citizens shall have the right to medical and health care, within the terms of the law, and shall have the duty to promote and preserve health.

Article 95

1. All citizens shall have the right to assistance in the case of disability or old age.

2. The State shall promote and encourage the creation of conditions for achieving this right.

CHAPTER 4

GUARANTEES OF RIGHTS AND FREEDOMS

Article 96

1. Individual rights and freedoms shall be guaranteed by the State, and shall be exercised within the framework of the Constitution and the laws.

2. The exercise of rights and freedoms may only be limited if public order or individual rights, freedoms or guarantees are endangered, or if the use of force is implied or threatened.

Article 97

The State shall be liable for damages caused by illegal acts of its agents, committed in the exercise of their functions, without prejudice to the right of appeal in accordance with the law.

Article 98

1. In the Republic of Mozambique no-one may be arrested and put on trial except within the terms of the law.

2. Persons charged with an offence shall enjoy the presumption of innocence until final judgement has been passed.

Article 99

1. No-one may be punished for an act that was not considered a crime at the time it was committed.

2. Criminal laws may be applied retroactively only in favour of the accused.

Article 100

1. The State shall guarantee the access of citizens to the courts. It shall guarantee to persons charged with an offence the right to defence and the right to legal assistance and aid.

2. The State shall make provision to ensure that justice is not denied for lack of resources.

Article 101

1. Preventive imprisonment shall only be permitted in cases provided for by the law, which shall limit the duration of such imprisonment.

2. Citizens held in preventive imprisonment shall be brought within the period fixed by law before the judicial authorities who alone shall have the power to decide on the validity and continuation of imprisonment.

Article 102

1. In case of illegal imprisonment or detention, citizens shall have the right to interpose a writ of habeas corpus.

2. The writ of habeas corpus shall be interposed before a court, and the procedures shall be fixed by law.

Article 103

1. Extradition may only take place by court decision.

2. Extradition for political motives shall not be authorised.

3. No Mozambican citizen may be expelled or extradited from the national territory.

Article 104

The home and the correspondence or other forms of private communication of citizens shall be inviolable, except in such cases as specifically stipulated by law.

Article 105

1. The right to information, the freedom of the press, and the independence of the media, as well as broadcasting rights and the right of reply, shall be guaranteed by the Supreme Council for Mass Communication.

2. The law shall regulate the jurisdiction, composition and operation of the Supreme Council for Mass Communication.

Article 106

1. Individual freedoms and guarantees may only be temporarily suspended or limited in the event of the declaration of a state of war, a state of siege, or a state of emergency.

2. A state of siege or a state of emergency may not exceed six months, and any extension must be made in the terms of the law.

3. The law shall define rules for a state of war, a state of siege and a state of emergency, and shall establish judicial guarantees to protect the rights of citizens that are to be safeguarded.

PART 3
ORGANS OF STATE

CHAPTER 1
GENERAL PRINCIPLES

Article 107

1. Public elective officers shall be chosen through elections in which all citizens shall have the right to participate.

2. The election of public officers shall take place through universal, direct, secret, personal and periodic vote.

3. Results of elections shall be established according to the system of majority vote.

4. The electoral process shall be regulated by law.

Article 108

1. Legally constituted political parties may compete in elections.

2. Political parties shall hold public office in accordance with the results of the elections.

Article 109

The sovereign public offices are the President of the Republic, the Assembly of the Republic, the Council of Ministers, the Courts and the Constitutional Council.

Article 110

Central State offices are the sovereign public offices, governmental bodies as a whole, and such central institutions as are responsible for guaranteeing the precedence of national interests and the realisation of a unitary state policy.

Article 111

1. Central offices shall, in general, have power to act in exercise of sovereignty, to regulate matters in accordance with the law, and to define national policies.

2. The central offices shall have exclusive powers in the following matters: representation of the State, definition and organisation of the territory, national defence, public order, supervision of borders, issuing currency, and diplomatic relations.

Article 112

1. Central offices shall take action directly, or through appointed heads or agents of the administration, who shall supervise central activities within a particular territorial area.

2. The law shall determine the form, organisation and powers for the exercise of public administration.

Article 113

The representative of central authority at the provincial level is the Provincial Governor.

Article 114

1. The Provincial Government is the body charged with ensuring the implementation, at provincial level, of centrally defined government policies.

2. The Provincial Government shall be directed by the Provincial Governor.

3. Members of Provincial Governments shall be appointed centrally.

4. The composition, powers and operation of Provincial Governments shall be defined by law.

Article 115

1. Democratically elective bodies may be set up at provincial level.

2. The law shall regulate the organisation, composition, powers and operation of the bodies mentioned in the previous clause.

Article 116

At the various territorial levels, local State bodies shall guarantee that citizens may participate and decide on matters of interest to their respective communities.

CHAPTER 2

THE PRESIDENT OF THE REPUBLIC

Article 117

1. The President of the Republic is the head of state, embodying national unity, representing the nation domestically and internationally, and overseeing the correct operation of the State offices.

2. The head of state shall be the guarantor of the Constitution.

3. The President of the Republic shall be the head of the government.

4. The President of the Republic shall be Commander-in-Chief of the armed and security forces.

Article 118

1. The President of the Republic shall be elected by direct universal suffrage, and personal and secret ballot.

2. The election of the President of the Republic shall take place on the basis of a majority vote system.

3. All Mozambican citizens may be candidates for the post of President of the Republic, if they fulfil all the following conditions:

a) that they possess nationality by origin;

- b) that they are children of parents who held Mozambican nationality by origin;
- c) that they are at least 35 years of age;
- d) that they are in full possession of their political and civic rights;
- e) that they have been proposed by at least 5,000 voters, of whom at least 200 must reside in each province.

4. The term of office of the President of the Republic shall be five years.

5. The President of the Republic may only be re-elected on two consecutive occasions.

6. A President of the Republic who has been reelected on two consecutive occasions may only be a candidate for further presidential elections five years after the end of his last term of office.

Article 119

1. The candidate who gains more than half the votes cast shall be elected President of the Republic.

2. If none of the candidates obtains the necessary majority, there shall be a second ballot between the two candidates receiving the most votes.

Article 120

In his role as head of state, the President of the Republic shall have power to:

- a) Address the nation through messages and other communications;
- b) Inform the Assembly of the Republic every year on the general state of the nation;
- c) Decide on holding referenda for amending the constitution, or on matters of fundamental interest for the nation;
- d) Call general elections;
- e) Dissolve the Assembly of the Republic once, if the Assembly does not approve the programme of the government;
- f) Dismiss the other members of the government, if its programme is rejected a second time by the Assembly of the Republic;
- g) Appoint the President and Deputy President of the Supreme Court, the President of the Constitutional Council, and the President of the Administrative Court;
- h) Appoint, exonerate and dismiss the Attorney-General and Deputy Attorney-General of the Republic;
- i) Grant pardons and commute sentences;
- j) Confer, within the terms of the law, titles, awards and distinctions.

Article 121

In the administration of government activity, the President of the Republic shall have power to:

- a) Convene and preside at sessions of the Council of Ministers;

b) Appoint, exonerate and dismiss the Prime Minister;

c) Establish ministries and ministerial commissions;

d) Appoint, exonerate and dismiss:

- Ministers and Deputy Ministers;
- Provincial Governors;
- Rectors and Deputy Rectors of State universities;
- the Governor and Deputy Governor of the Bank of Mozambique;
- Secretaries of State.

Article 122

In matters of national defence and public order, the President of the Republic shall have power to:

- a) Declare a state of war and its termination, a state of siege or a state of emergency;
- b) Sign treaties;
- c) Decree general or partial mobilisation;
- d) Appoint, exonerate and dismiss the Chief of the General Staff, the General Commander of the Police, the commanders of the various wings of the Armed Forces of Mozambique, and other officers of the defence and security forces in the terms established by law.

Article 123

In matters of international relations, the President of the Republic shall have power to:

- a) Guide foreign policy;
- b) Execute international treaties;
- c) Appoint, exonerate and dismiss the ambassadors and diplomatic envoys of the Republic of Mozambique;
- d) Receive the credentials of ambassadors and diplomatic envoys of other countries.

Article 124

1. The President of the Republic shall have the power to enact laws and order their publication in the *Boletim da Republica*.

2. Bills shall be enacted into law within 30 days of being received.

3. The President of the Republic may, by order with reasons adduced, return a bill to the Assembly of the Republic for reexamination.

4. Should the bill, under reexamination, be approved by a two-thirds majority, the President of the Republic must enact it into law and order its publication.

Article 125

1. The President of the Republic shall be sworn into office by the President of the Supreme Court in a public ceremony before the members of the A:

sembly of the Republic and representatives of the sovereign offices.

2. On assuming office, the President of the Republic shall take the following oath:

"I do swear on my honour that I will faithfully carry out the task of President of the Republic of Mozambique, that I will dedicate all my efforts to the defence, promotion and consolidation of national unity, and to the well-being of the Mozambican people, and that I will ensure respect for the Constitution, and that justice is done for all citizens".

Article 126

1. The President of the Republic shall decide who will be his substitute in case of short-term disability or absence, and who will represent him in carrying out specific activities.

2. If the period of disability exceeds 45 days, the President of the Assembly of the Republic shall act as substitute.

Article 127

1. In the event of the death, resignation or permanent incapacitation of the President of the Republic, his functions shall be assumed on an interim basis by the President of the Assembly of the Republic.

2. The President of the Assembly of the Republic shall assume office as Interim President of the Republic before representatives of the offices of sovereignty.

3. The Interim President of the Republic shall be sworn into office by the President of the Supreme Court.

Article 128

1. In the event of the death, resignation or permanent incapacitation of the head of state, the election of a new President of the Republic shall take place within 90 days. The Interim President of the Republic shall be excluded from running as a candidate.

2. The new President of the Republic shall hold office until the next ordinary elections take place.

Article 129

1. The permanent incapacitation of the President of the Republic shall be verified by a medical board as defined by law.

2. The permanent incapacitation of the President of the Republic shall be declared by the President of the Supreme Court.

3. The Supreme Court shall verify the death and the divestiture of office of the President of the Republic.

Article 130

1. During the period in which the office of the President of the Republic is vacant, the Constitution may not be altered.

2. The Interim President of the Republic shall guarantee the functioning of the offices of State and all other institutions, but may not exercise the powers referred to in article 120, lines b), c), e), f), g) and h), in article 121, lines b), c), and d), in article 122, line e), and in article 123, line c).

Article 131

Statutory acts of the President of the Republic shall take the form of presidential decrees. Other decisions arising from the President's constitutional powers shall take the form of presidential orders. Both are to be published in the *Boletim da Republica*.

Article 132

1. The President of the Republic shall enjoy immunity from civil and criminal proceedings with respect to actions taken in the discharge of his duties.

2. The President of the Republic may not be sued in court during the term of his office, for actions taken outside the discharge of his duties.

CHAPTER 3 ASSEMBLY OF THE REPUBLIC SECTION 1 ASSEMBLY OF THE REPUBLIC

Article 133

1. The Assembly of the Republic is the highest legislative body in the Republic of Mozambique.

2. Through laws and through guidelines of a general character, the Assembly of the Republic shall determine the norms governing the activities of the State and of economic and social life.

Article 134

1. The Assembly of the Republic shall be elected by direct universal suffrage and personal secret ballot.

2. The Assembly of the Republic shall consist of a minimum of 200 and a maximum of 250 deputies.

3. The deputies to the Assembly of the Republic shall be elected for five year terms of office.

Article 135

1. The Assembly of the Republic shall have power to legislate on basic questions of the country's domestic and foreign policy.

2. In particular, the Assembly of the Republic shall have power to:

- a) delimit the borders of the Republic of Mozambique;
- b) decide on territorial subdivision;
- c) approve the electoral law and rules for referenda;
- d) propose the holding of referenda on questions of national interest;
- e) ratify the suspension of constitutional guarantees and the declaration of a state of siege or a state of emergency;
- f) ratify the appointment of the President and Deputy President of the Supreme Court, the President of the Constitutional Council, and the President of the Administrative Court;
- g) appraise and approve progress reports from the Council of Ministers;
- h) appraise and approve the State plan and budget, and the respective reports concerning their implementation;
- i) define defence and security policy, after consulting the National Defence and Security Council;
- j) define the bases for tax policy;
- k) ratify and terminate international treaties;
- l) grant amnesties and pardons;
- m) authorise the President of the Republic to make state visits abroad.

3. The Assembly of the Republic shall also have power to:

- a) elect the President and the members of the Standing Commission of the Assembly of the Republic;
- b) adopt the standing orders of the Assembly of the Republic and the statute for Deputies;
- c) set up commissions of the Assembly of the Republic, and regulate their activities.

Article 136

1. At the beginning of each legislative session, the Assembly of the Republic shall evaluate the programme of the Government.

2. The Government may present a revised programme that takes the conclusions of the debate into account.

3. Should the Assembly of the Republic, after debate, reject the Government's programme, the President of the Republic may dissolve the Assembly and call new general elections.

Article 137

Bills may be introduced in the Assembly of the Republic by:

- a) the President of the Republic;
- b) the commissions of the Assembly of the Republic;
- c) the deputies;
- d) the Council of Ministers.

Article 138

1. The Assembly of the Republic shall elect from among its members the President of the Assembly of the Republic.

2. The Head of State shall convene and preside at the session during which the President of the Assembly of the Republic is elected.

3. The President of the Assembly of the Republic shall be sworn into office by the President of the Supreme Court.

4. The President of the Assembly of the Republic shall be answerable to the Assembly of the Republic.

Article 139

The Assembly of the Republic shall meet in ordinary session twice a year, and in extraordinary session whenever requested by the President of the Republic, by the Standing Commission of the Assembly of the Republic, or by at least one third of the deputies of the Assembly of the Republic.

Article 140

1. The Assembly of the Republic may only enter into debate when more than half its members are present.

2. The decisions of the Assembly of the Republic shall require a majority of votes of the members present.

Article 141

The legislative acts of the Assembly of the Republic shall take the form of laws, and its other decisions shall take the form of resolutions. Both shall be published in the *Boletim da Republica*.

Article 142

The President of the Assembly of the Republic shall have power to:

- a) convene and chair sessions of the Assembly of the Republic and of its Standing Commission;
- b) monitor the implementation of the decisions of the Assembly of the Republic;
- c) sign bills adopted by the Assembly of the Republic, and submit them to the President of the Republic for enactment;
- d) sign and order the publication of resolutions of the Assembly of the Republic;
- e) represent the Assembly of the Republic domestically and internationally.

Article 143

In case of absence or disability, the functions of the President of the Assembly of the Republic shall be exercised by members of the Standing Commi-

sion of the Assembly of the Republic, as stipulated by the standing orders of the Assembly.

Article 144

1. No deputy to the People's Assembly may be arrested, unless apprehended in committing a criminal offence. No deputy may be brought to trial without the consent of the Assembly or of its Standing Commission.

2. Deputies to the People's Assembly shall be tried by the Supreme Court.

Article 145

1. Deputies to the People's Assembly may not be sued, detained, or put on trial for opinions voiced or votes cast in exercising their function as deputies.

2. The above does not apply to civil or criminal responsibility for defamation or slander.

Article 146

1. Any deputy to the Assembly of the Republic may resign.

2. The disqualification and resignation of deputies to the Assembly of the Republic shall be regulated by law.

SECTION 2

STANDING COMMISSION OF THE ASSEMBLY OF THE REPUBLIC

Article 147

1. The Standing Commission of the Assembly of the Republic shall be the governing board of the Assembly of the Republic.

2. The Standing Commission of the Assembly of the Republic shall be composed of the President of the Assembly and of deputies elected by the Assembly of the Republic from among its members.

3. The composition of the Standing Commission of the Assembly of the Republic shall be established by law.

Article 148

The Standing Commission of the Assembly of the Republic shall have power to:

a) coordinate the activities of the commissions of the Assembly of the Republic;

b) conduct the relations between the Assembly of the Republic and assemblies and equivalent institutions in other countries;

c) prepare and organise sessions of the Assembly of the Republic.

CHAPTER 4 COUNCIL OF MINISTERS

Article 149

The Council of Ministers is the Government (Cabinet) of the Republic of Mozambique.

Article 150

1. In discharging its functions, the Council of Ministers shall do so in accordance with the decisions of the President of the Republic and of the Assembly of the Republic.

2. The Council of Ministers shall be convened and chaired by the Prime Minister, to whom this power is delegated by the President of the Republic.

3. Government policies shall be formulated by the Council of Ministers in sessions chaired by the President of the Republic.

Article 151

The Council of Ministers shall be responsible to the President of the Republic and to the Assembly of the Republic for the conduct of domestic and foreign policy, and shall give account to them of its activities as provided by law.

Article 152

1. The Council of Ministers shall secure the administration of the country, shall guarantee its territorial integrity, shall safeguard public order, including the security and tranquillity of citizens, shall promote economic development, shall implement the State's social programme, shall develop and consolidate legality, and shall carry out the country's foreign policy.

2. The defence of public order shall be guaranteed by the appropriate entities operating under government control.

Article 153

1. In particular, the Council of Ministers shall have power to:

a) guarantee the enjoyment by citizens of their rights and freedoms;

b) secure public order and social discipline;

c) draft bills to be submitted to the Assembly of the Republic, and proposals for decision to be submitted to the President of the Republic;

d) draft the State plan and budget, and implement them after they have been approved by the Assembly of the Republic;

e) promote and regulate economic activity and the activity of social sectors;

f) prepare the signature and formalisation of international treaties, and sign, ratify, adhere to and terminate international agreements;

g) direct housing and social security policy;
h) direct the State social sectors, particularly education and health;

i) direct and promote housing policy.

2. The Council of Ministers shall also have power to:

a) guarantee the defence and consolidation of the public domain, and of State assets;

b) direct and coordinate the activities of the ministries, and of other offices subordinate to the Council of Ministers;

c) evaluate the activities of local executive organs, and regulate their organisation and functioning;

d) ensure the correct functioning and the development of State institutions and companies and their expansion in accordance with the needs of the economy;

e) promote the development of cooperatives and support for peasant family production;

f) encourage and support the exercise of private initiative.

Article 154

1. Notwithstanding other attributes conferred upon him by the President of the Republic and by law, the Prime Minister shall assist and advise the President of the Republic in the administration of government.

2. In particular, the Prime Minister shall have power to:

a) assist the President of the Republic in drawing up the Government programme;

b) advise the President of the Republic on the creation of ministries and ministerial commissions, and on the appointment of members of the government and other governmental heads;

c) draft the government's plan of work and present it to the President of the Republic;

d) ensure that members of the government implement decisions taken by state offices;

e) convene and chair the meetings of the Council of Ministers dealing with the implementation of defined policies and other decisions;

f) coordinate and control the activities of ministries and other governmental institutions;

g) supervise the technical and administrative operations of the Council of Ministers.

Article 155

1. In his relations with the Assembly of the Republic, the Prime Minister shall have power to:

a) present to the Assembly of the Republic the Government's programme and the draft plan and budget;

b) present government reports;

c) explain the government's positions to the Assembly of the Republic.

2. In the exercise of these functions, members of the Council of Ministers, designated by the Prime Minister, shall give assistance.

Article 156

The members of the Council of Ministers shall be accountable to the President of the Republic and to the Prime Minister for the implementation of the decisions of the Council of Ministers within their areas of jurisdiction.

Article 157

1. Statutory acts of the Council of Ministers shall take the form of decrees. Other decisions of the Council of Ministers shall take the form of resolutions.

2. Decrees and resolutions shall be signed by the Prime Minister and published in the *Boletim da Republica*.

CHAPTER 5 NATIONAL DEFENCE AND SECURITY COUNCIL

Article 158

1. The National Defence and Security Council is the consultative body of the President of the Republic in his capacity as Commander-in-Chief of the defence and security forces, for matters relating to national sovereignty, territorial integrity, defence of democratically established authority, and the security of the Mozambican nation.

2. The National Defence and Security Council shall be chaired by the President of the Republic.

Article 159

In particular, the National Defence and Security Council shall have power to:

a) pronounce upon a state of war before such is declared;

b) pronounce upon the suspension of constitutional guarantees and the declaration of a state of siege or a state of emergency;

c) evaluate the criteria and conditions of use of zones of total or partial protection to be used for the defence and security of the national territory;

d) analyse and monitor initiatives by other State offices that seek to guarantee the consolidation of national independence, the consolidation of political power, and the maintenance of law and order.

Article 160

The composition, organisation and operation of the National Defence and Security Council shall be fixed by law.

CHAPTER 6
THE COURTS
SECTION 1
GENERAL PRINCIPLES

Article 161

1. It shall be the function of the courts to guarantee and strengthen the rule of law as an instrument of legal stability, to guarantee respect for the laws, to safeguard the rights and freedoms of citizens, as well as the vested interests of the other entities with legal capacity.

2. The courts shall educate citizens in the voluntary and conscious observance of laws, thus establishing a just and harmonious social community.

3. The courts shall punish violations of the legal order and shall adjudicate disputes in accordance with the law.

Article 162

Under no circumstances may the courts apply laws or principles which are contrary to the Constitution.

Article 163

It shall be obligatory for all citizens and other legal entities to obey court decisions. The decisions of the courts take precedence over the decisions of other authorities.

Article 164

1. In the exercise of their functions, judges shall be independent, and shall owe obedience only to the law.

2. Judges shall likewise be impartial and disinterested.

Article 165

1. Judges may be held responsible in civil, criminal and disciplinary proceedings for acts committed in the discharge of their duties only in cases specified by law.

2. The removal of a professional judge from the bench may only take place under legally established terms.

Article 166

Professional judges may not undertake any other public or private activity, except teaching or research.

Article 167

1. In the Republic of Mozambique there shall be the following courts:

- a) the Supreme Court and other courts of justice;
- b) the Administrative Court;
- c) courts-martial; d) customs courts;
- e) fiscal courts; f) maritime courts;
- g) labour courts.

2. Other than the courts specified in the Constitution, no other court may be established with jurisdiction over specific categories of crimes.

SECTION 2
SUPREME COURT

Article 168

1. In the Republic of Mozambique, the power to administer justice shall be exercised through the Supreme Court and other courts as established by law.

2. The Supreme Court shall be the highest judicial body, and shall have jurisdiction throughout the national territory.

3. The Supreme Court shall ensure the uniform application of the law in the interests of the Mozambican people.

Article 169

The Supreme Court shall act:

a) in sections, as a trial court of primary and appellate jurisdiction;

b) in plenary session, as a court of final appeal in cases expressly provided for by law.

Article 170

1. The Supreme Court shall be composed of professional judges and of elected judges, the number to be established by law.

2. The professional judges shall be appointed by the President of the Republic, after consultation with the Supreme Council of the Judiciary.

3. The code of conduct and the term of office for the President, Deputy President and professional judges on the Supreme Court shall be established by law.

4. The Assembly of the Republic shall elect the other judges to the Supreme Court.

5. Mozambican citizens over 35 years of age may be elected as judges to the Supreme Court. The terms and other requirements of office shall be fixed by law.

Article 171

1. In court hearings, matters of law shall always be decided by the professional judges.

2. The elected judges shall only take part in primary trial court hearings.

Article 172

The law shall regulate the powers, composition, organisation and functioning of the Supreme Council of the Judiciary.

SECTION 3 ADMINISTRATIVE COURT

Article 173

1. The Administrative Court shall control the legality of administrative acts and shall supervise the legality of public expenditure.

2. In particular, the Administrative Court shall:

- a) adjudicate acts dealing with legal controversies arising from administrative acts and procedures;
- b) adjudicate appeals against decisions of State offices, their office holders, agents and employees;
- c) examine the accounts and records of the State;
- d) exercise other powers that may be attributed by law.

Article 174

The law shall determine the powers, jurisdiction, organisation, composition and operation of the Administrative Court.

SECTION 4 COURTS-MARTIAL, CUSTOMS, FISCAL, MARITIME AND LABOUR COURTS

Article 175

The powers, organisation, composition and functioning of courts-martial, and customs, fiscal, maritime and labour courts shall be fixed by law.

CHAPTER 7 THE OFFICE OF THE ATTORNEY-GENERAL

Article 176

1. The Office of the Attorney-General shall supervise and control legality, shall promote compliance with the law, and shall take part in defending the established legal order.

2. The Office of the Attorney-General shall be headed by the Attorney-General of the Republic. In case of absence or disability, the Deputy Attorney-General of the Republic shall substitute.

3. The Attorney-General shall be answerable to the President of the Republic, and shall provide annual reports to the Assembly of the Republic.

4. Assistant Attorney-Generals shall be appointed, exonerated and dismissed by the President of the Republic, after consultation with the Supreme Council of the Public Prosecutor.

Article 177

The law shall determine the structure, composition and operation of the Office of the Attorney-General and of the Supreme Council of the Public Prosecutor.

Article 178

1. The Public Prosecutor's Office shall constitute a hierarchically organised magistracy, subordinate to the Attorney-General of the Republic.

2. In exercising their functions, the officers and agents of the Public Prosecutor's Office shall be subject to the principles of legality, objectivity and impartiality, and shall be guided exclusively by rules and matters of law.

Article 179

The Public Prosecutor's Office shall represent the State before the courts, shall control the legality and the duration of detentions, shall initiate criminal prosecution, shall enforce criminal sentences, and shall ensure the legal defence of minors and of absent or incapacitated persons.

CHAPTER 8 CONSTITUTIONAL COUNCIL

Article 180

The Constitutional Council is a body with specific jurisdiction on legal questions arising from or related to the Constitution.

Article 181

1. The Constitutional Council shall have power to:
a) adjudicate and declare the unconstitutionality and illegality of legislative and statutory acts of State bodies;

b) settle conflicts of competence between the sovereign offices;

c) pronounce upon the legality of referenda.

2. In the specific area of elections, the Constitutional Council shall also have power to:

a) supervise the electoral process;

b) verify the legal prerequisites required of candidates for the post of President of the Republic;

c) take final decisions on electoral complaints;

d) validate and declare the final results of the electoral process.

Article 182

1. There shall be no appeal against decisions of the Constitutional Council.

2. The decisions of the Constitutional Council shall be published in the *Boletim da Republica*.

Article 183

The following may request a declaration of unconstitutionality or illegality from the Constitutional Council:

- a) the President of the Republic;
- b) the President of the Assembly of the Republic;
- c) the Prime Minister;
- d) the Attorney-General of the Republic.

Article 184

The composition, organisation and operation of the Constitutional Council, and the procedures for the oversight and control of the constitutionality and legality of statutory acts, as well as the other powers of the Constitutional Council, shall be fixed by law.

CHAPTER 9 LOCAL STATE BODIES

Article 185

1. Local state bodies shall have the function of organising the participation of citizens in solving problems of their communities and in promoting local development.

2. The strengthening of local bodies shall serve to strengthen democracy and shall contribute to national integration and unity.

Article 186

1. Local state offices shall consist of elected bodies and executive bodies.

2. The elected bodies shall consist of citizens elected by the voters in a particular territorial area.

3. The executive bodies shall be appointed according to the law.

Article 187

The decisions of elected bodies shall be binding within their area of jurisdiction. They may set up commissions necessary for carrying out their duties, and may delegate specific duties to individual members.

Article 188

The executive bodies shall, in their respective territories, ensure that economic, cultural and social programmes and obligations of local interest are carried out, in accordance with the Constitution and the decisions of the Assembly of the Republic, the Council of Ministers, and State bodies of corresponding or superior authority.

Article 189

The executive bodies shall be accountable to the elective bodies.

Article 190

The organisation, powers and operation of local state offices as well as the legal form their acts shall take, shall be defined by law.

Article 191

The disqualification and resignation of members of elective bodies shall be regulated by law.

CHAPTER 10 INCOMPATIBILITIES

Article 192

1. No person may hold at the same time more than one of the following positions: President of the Republic, President of the Assembly of the Republic, Prime Minister, President of the Supreme Court, Deputy President of the Supreme Court, President of the Constitutional Council, President of the Administrative Court, Attorney-General of the Republic, Deputy Attorney-General of the Republic, Provincial Governor, Secretary of State.

2. The position of member of Government (Cabinet) shall also be incompatible with the posts named above, except those of President of the Republic and Prime Minister, since these are themselves members of Government.

3. The law shall establish other incompatibilities.

PART 4 SYMBOLS, CURRENCY AND CAPITAL OF THE REPUBLIC

Article 193

The national flag shall have five colours: red, green, black, gold and white.

The significance of the colours shall be as follows: red - the centuries of resistance to colonialism, the armed national liberation struggle, and the defence of sovereignty;

green - the riches of the soil;

black - the African continent;

gold - the riches of the subsoil;

white - the justice of the struggle of the Mozambican people, and peace.

From top to bottom, there shall be green, black and gold horizontal stripes, separated by strips of white. On the left side, there shall be a red triangle, in the centre of which there shall be a gold star. Above this there shall be a crossed hoe and gun, superimposed upon a book.

The star shall symbolise the spirit of international solidarity of the Mozambican people.

The book, hoe and gun shall symbolise study, production and defence.

Article 194

The emblem of the Republic of Mozambique shall contain as its central elements a book, a gun and a hoe, superimposed on a map of Mozambique, and representing, respectively, education, defence and vigilance, and the peasantry and agricultural production.

Below the map the ocean shall be represented.

In the centre shall be the rising sun, symbol of the building of a new life.

Enclosing all this shall be a toothed wheel, symbolising the working class and industry.

Surrounding the toothed wheel there shall be, to the right and left respectively, an ear of maize and a piece of sugar cane, symbolising agricultural wealth.

At the bottom there shall be a red strip with the inscription "Republic of Mozambique".

Article 195

The words and the music of the national anthem shall be established by law.

Article 196

The national currency shall be the metical.

Article 197

The capital of the Republic of Mozambique shall be the city of Maputo.

PART 5 AMENDING THE CONSTITUTION

Article 198

1. Initiatives to amend the Constitution may be proposed by the President of the Republic, or by at least one third of the deputies to the Assembly of the Republic.

2. Draft amendments must be submitted to the Assembly of the Republic 90 days before the opening of debate.

Article 199

1. If a draft amendment implies fundamental changes in the rights of citizens or in the organisation of public powers, the proposal, after adoption by the Assembly of the Republic, shall be submitted to public debate and to a referendum.

2. The results of the referendum and the approved constitutional text shall be adopted by the Assembly of the Republic in the form of a constitutional law, and shall be published by order of the President of the Republic.

3. In other cases, amendments to the constitution shall be adopted by a two thirds majority of the deputies of the Assembly of the Republic.

PART 6 CONCLUDING AND TRANSITIONAL PROVISIONS

Article 200

The Constitution shall take precedence over all other law.

Article 201

In the Republic of Mozambique, law may only be retroactive when this is to the benefit of citizens and other legal persons.

Article 202

Until the Constitutional Council has been established, its powers shall be exercised by the Supreme Court.

Article 203

Insofar as they are not contrary to the Constitution, previous laws shall remain in force until modified or repealed.

Article 204

1. Until general elections are held, the President of the Republic of Mozambique shall be the President of the Frelimo Party.

2. The provisions of article 119 regarding the election of the President of the Republic shall come into force with the holding of the next presidential elections.

Article 205

1. The deputies to the People's Assembly shall retain their seats until general elections are held pursuant to this constitution.

2. Deputies to the people's assemblies at other territorial levels shall retain their seats until local elections are held under the electoral law.

Article 206

The constitution shall come into force on 30 November 1990.