

DRAFT CONSTITUTION OF THE PEOPLE'S REPUBLIC OF MOZAMBIQUE

(This is the full text of the new draft constitution that was unveiled by President Joaquim Chissano on 9 January at a rally in Maputo. 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 and of the unforgettable victory of the armed national liberation struggle which brought together all the patriotic sectors of Mozambican society in the same ideals of freedom and justice.

The Constitution then proclaimed attributed a determinant role to FRELIMO, the legitimate representative of the Mozambican people. Under its leadership, the uplifting process of the exercise of democracy was then begun, and power increasingly rests on the expression of the people's will.

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

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 People's Republic of Mozambique.

The fundamental freedoms and rights 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, within 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

Article 1

The People's Republic of Mozambique is an independent, sovereign, unitary, democratic state of social justice.

Article 2

Sovereignty resides in the people. The powers of the state emanate from the people. The Mozambican people shall exercise political power through periodic universal suffrage to choose their

representatives, through referenda, and through the permanent democratic participation of citizens in public life.

Social organisations, as associations of citizens linked through common interests, shall play an important role in the promotion of democracy, and in the participation of citizens in public life.

Article 3

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

This experience shall inspire the state in the building of the Mozambican nation, in strengthening national unity, and in promoting the democratic participation of citizens.

Article 4

The fundamental aims of the People's Republic of Mozambique shall be:

(a) The defence of independence and sovereignty;

(b) The consolidation of national unity;

(c) The defence and promotion of human rights and of the equality of citizens before the law;

(d) The building of a society of social justice, and the achievement of material and spiritual well-being for its citizens;

(e) The strengthening of democracy, of freedom and of social and individual stability;

(f) The development of the economy, and scientific and technological progress;

(g) The affirmation of Mozambican identity, and of those traditional cultural and social values that are freely and democratically accepted;

(h) The establishment and development of relations of friendship and cooperation with other peoples and states.

Article 5

Mozambican citizens shall be those persons born within the national territory, those whose mother or father are Mozambican, and naturalised citizens.

Limitations on the principles mentioned above as well as other forms of acquiring or forfeiting nationality may be stipulated by law.

Article 6

In the People's Republic of Mozambique, Portuguese shall be the official language.

The state shall uphold national languages and promote their development and increasing use as spoken languages and as a medium of education.

Article 7

The territory of the People's Republic of Mozambique shall be indivisible and inalienable. It shall comprise the entire land sur-

face, territorial waters and air space demarcated by the nation's frontiers. The extension, 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 8

The territory of the People's Republic of Mozambique shall be divided into provinces, districts, administrative posts and localities.

Urban zones shall be classified as cities and towns.

The definition of the characteristics of territorial levels, the establishment of new levels, as well as the power to decide on the organisation of territory shall be fixed by law.

Article 9

The state's defence and security policy shall seek to preserve the country's sovereignty and integrity, and to guarantee the security of citizens against any armed aggression.

In the tradition of the FPLM (People's Forces for the Liberation of Mozambique), which they are continuing, the Mozambican Armed Forces shall act in close liaison with the people.

The oath taken by members of the armed forces shall establish their duty to respect the constitution.

Citizens shall be encouraged to participate in the country's defence by involving themselves in organs for people's self-defence.

Article 10

Natural resources located in the subsoil, in national waters, in territorial waters, on the continental shelf, and in the exclusive economic zone shall be property vested in the state.

The public state domain shall also consist of:

- (a) the maritime zone; (b) the airspace;
- (c) assets belonging to the cultural heritage;
- (d) nature protection zones;
- (e) national railway lines; (f) the roads;
- (g) the ports and airports; (h) telecommunication facilities;
- (i) national energy and water undertakings;
- (j) other property classified as such by law.

The state shall determine how they may be used and exploited, safeguarding national interests.

Article 11

The state shall promote knowledge, surveys and evaluation of natural resources, guaranteeing the ecological balance and the conservation and preservation of the environment.

Article 12

All property in land shall originally vest in the state, and may be transferred to individual persons or collective entities, taking into account its social purpose.

The transfer of property and the granting of titles to land shall be regulated by law, benefitting direct users and producers. The law shall avoid the use of property rights to produce situations of economic domination or privilege to the detriment of the majority of citizens.

Article 13

State economic policy shall be directed towards laying the fundamental bases for development, improving the living condi-

tions of the people, and using natural riches appropriately and for the benefit of the people.

Article 14

The state shall guarantee that economic activities are in conformity with the public interest.

The state shall promote the planning and development of the national economy, acting directly or stimulating activities that contribute to resolving the basic problems of the people and to reducing social and regional inequalities.

State investment should play a catalysing role in promoting development.

Article 15

The state shall guarantee control over those economic sectors that are decisive for the nation's economic sovereignty, and for the independence of its political power.

Article 16

The People's Republic of Mozambique shall take agriculture as the basis for the growing satisfaction of the people's needs.

In the framework of rural development, the state shall stimulate the production of the peasant farming sector and shall encourage individual peasants and labourers to organise themselves into cooperative forms of production.

Article 17

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 18

The right to private property shall be recognised and guaranteed in terms of the law.

Private property may not be used to the detriment of the interests specified under constitution or law.

Article 19

Foreign capital shall operate in the framework of the state's economic policy.

Article 20

Taxes may be imposed or altered only by law. They shall be fixed according to criteria of social justice, and taking into account the taxpayers' ability to pay.

Article 21

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

The state shall insist upon a just distribution of the proceeds of labour.

Article 22

The People's Republic of Mozambique shall promote an educational strategy that aims to wipe out illiteracy and to ensure that citizens may master science and technology.

The state shall organise the education of citizens through a national educational system.

Schooling given by collective and other entities shall operate within the limits established by law and shall be subject to state supervision.

Article 23

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

The state shall make Mozambican culture known internationally, and shall take action so that the Mozambican people may benefit from the cultural achievements of other peoples.

Article 24

Medical and health care for citizens shall be organised through a national health system which shall benefit the entire Mozambican people.

To achieve the goals outlined by the national health system, the law shall establish the way in which medical and health care is exercised.

The state shall promote the participation of citizens and institutions in efforts to raise the level of public health.

Article 25

The state shall guide and promote physical training and sport as forms of educating and instructing citizens.

Article 26

The People's Republic of Mozambique shall recognise and hold in high esteem the sacrifices made by those who gave their lives to the national liberation struggle, and to the defence of the country's sovereignty and of the revolution.

The state shall guarantee special protection to the orphan children and to other dependents of persons who died in carrying out missions, as well as to those who suffered physical handicap during the national liberation struggle, and in defence of the country's sovereignty and of the revolution.

Article 27

The family shall be the basic unit of society. The family shall develop and consolidate patriotic values in new generations.

The state shall protect marriage as the institution that ensures the objectives of the family may be carried out. In the context of developing social relations resting on respect for human dignity, the state shall solemnly guarantee the principle that marriage is based on the free consent of husband and wife.

Article 28

Motherhood shall merit respect and protection.

The family shall be responsible for the harmonious development of children.

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

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

Article 29

The state shall promote and support the emancipation of women, and shall stimulate the growing role of women in society.

The state shall recognise and hold in high esteem the participation of Mozambican women in the national liberation struggle and in all spheres of society.

Article 30

The state shall encourage and promote initiatives carried out by young people, as the worthy continuation of revolutionary traditions, in consolidating national unity, and in the reconstruction and defence of the country.

Young people played a decisive role in the national liberation struggle, and there shall fall upon them a fundamental responsibility in the building of a new society.

Article 31

The People's Republic of Mozambique shall be a lay state. State and religious institutions shall be separate.

All acts of religious institutions shall conform with the laws of the state.

The state shall appreciate the activities of religious denominations, seeking to promote a climate of understanding and social tolerance, and the strengthening of national unity.

Religious denominations shall have the right to pursue freely their religious aims, and to hold and acquire property for realising these objectives.

Article 32

The People's 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.

The People's 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 33

The People's Republic of Mozambique shall fight for the unity of African peoples and states on the basis of their freedom, dignity and right to economic and social progress.

The People's Republic of Mozambique shall seek to strengthen relations with countries committed to the consolidation of their national independence and in recovering the use and control of their natural resources for their respective peoples.

The People's Republic of Mozambique shall associate itself with all states struggling for the establishment of a just and equitable economic order in international relations.

Article 34

The People's Republic of Mozambique shall support and be in solidarity with the struggles of people for their national liberation.

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

Article 35

The People's Republic of Mozambique shall develop relations of friendship and cooperation with political and social forces throughout the world on the basis of the defence of national interests, progress and peace.

The People's Republic of Mozambique shall hold in high esteem the relations with states, peoples and organisations forged during the struggle for independence.

Article 36

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

The People's Republic of Mozambique shall defend the principle of the general and universal disarmament of all states.

The People's Republic of Mozambique shall advocate the transformation of the Indian Ocean into a nuclear-free zone of peace.

Part 2

Rights, duties, freedoms and guarantees

Chapter 1

Rights and duties of citizens

Article 37

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

Article 38

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

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

Article 39

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

Article 40

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

Article 41

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

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

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

Article 42

All citizens shall enjoy freedom of expression, of assembly and of association.

The exercise of the above rights shall be regulated by law and may only be limited if public order, or individual rights, freedoms and guarantees are endangered, or if the use of force is implied or proposed.

Article 43

Social organisations shall have the right to pursue their aims, to create institutions designed to achieve their specific objectives, and to hold property for carrying out their activities.

Article 44

All citizens shall have the right of recourse to the courts against any act violating their rights as recognised by the constitution and the law.

Article 45

All citizens shall have the right to address petitions, complaints and reminders to any authority requiring the reinstatement of rights that have been violated.

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

Article 46

All citizens may contest administrative acts that violate their rights as established under the constitution and other laws.

Article 47

All citizens shall have the duty to respect the constitutional order.

Acts contrary to the constitutional order shall be subject to sanctions according to law.

Article 48

It shall be the duty and the honour of all citizens to participate in the defence of the country's independence, sovereignty and territorial integrity, in continuation of the heroic traditions of the People's Forces for the Liberation of Mozambique.

All citizens shall have the duty to render military service according to terms fixed by law.

Article 49

The state shall be liable for damage caused by illegal acts of its agents, committed in discharging their functions, without prejudice to the right to obtain redress from those agents according to law.

Article 50

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

Article 51

The state shall recognise and guarantee the right to property. Expropriation may only take place on grounds of public need, usefulness or interest, as defined by law, and there shall be just compensation.

Article 52

The state shall recognise and guarantee, within the limits of law, the right of inheritance.

Article 53

Work shall be the right and duty of all citizens regardless of sex.

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

Forced labour shall be outlawed, with the exception of work done within the context of penal law.

Article 54

All persons in paid employment shall have, in terms of the law, the right to just payment, to rest and to holidays.

They shall have the right to protection, safety and hygiene at work.

They may only be dismissed in such cases and within such limits as established by law.

Article 55

All persons in paid employment shall have the right to join and to participate in trade union organisations.

The exercise of trade union rights shall be guaranteed and regulated by law.

The right to strike shall be regulated by law.

Article 56

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

The state shall protect the rights inherent to intellectual property, including copyright.

Article 57

In the People's Republic of Mozambique, education shall constitute a right and duty of all citizens.

The state shall promote greater and equal access for all citizens to the enjoyment of this right.

Article 58

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

Article 59

The state shall promote and encourage the establishment of conditions for implementing the right of citizens to assistance in the case of incapacity or old age.

Chapter 2

Guarantees of rights and freedoms

Article 60

Individual rights and freedoms shall be guaranteed by the state and must be exercised within the framework of the constitution and the laws.

Article 61

In the People's Republic of Mozambique no-one may be arrested and put on trial except in terms of the law.

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

Article 62

No-one may be sentenced for an act that was not considered a crime at the moment it was committed.

Any criminal law may be applied retroactively only in favour of the suspected person.

Article 63

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 aid and counsel.

The state shall take precautions that justice may not be denied for lack of resources.

Article 64

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

Article 65

All citizens shall be free to travel inside the country and to go abroad, except those legally deprived of this right.

Article 66

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

Citizens in preventive imprisonment must be brought to court within the period fixed by law. Only judicial authorities shall have the power to decide on the validity and continuation of imprisonment.

Article 67

In case of illegal imprisonment or detention, resulting from abuse of power, citizens shall have the right to demand the remedy of habeas corpus.

The request for habeas corpus shall be put before a court: the proceedings shall be fixed by law.

Article 68

Extradition may only take place by court decision.

Extradition for political motives shall not be authorised.

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

Article 69

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

A state of siege or a state of emergency may not exceed six months.

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

Part 3

Organs of state

Chapter I

General Principles

Article 70

Representative organs shall be chosen through elections in which all citizens shall have the right to participate.

The electoral process shall be regulated by law.

The electoral law shall stipulate the apportionment of electoral constituencies, and shall ensure that a plurality of candidates may run for office.

Article 71

The organs of sovereignty are the President of the Republic, the People's Assembly, the Council of Ministers, and the Courts.

Article 72

Central organs of the state are the organs of sovereignty, governmental organs as a whole, and such central institutions as are responsible for guaranteeing the precedence of national interests and the realisation of a unitary policy of the state.

Article 73

Central state organs shall, in general, have power to act in exercise of sovereignty, to regulate matters by way of law, and to define national policies.

The central organs shall have exclusive powers in the following matters: representation of the state, defining and organising the territory, national defence, public order, supervision of frontiers, issuing currency, and diplomatic relations.

Article 74

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

At provincial level the representative of central authority shall be the provincial governor.

The law shall determine the form, organisation and powers for exercising this function.

Article 75

At different territorial levels as defined by law, the local organs of the state shall ensure the participation of and decision by citizens in matters of specific interest to their respective communities.

Chapter 2

The President of the Republic

Article 76

The President of the Republic is the head of state, embodying national unity, representing the nation domestically and internationally, and overseeing the correct functioning of the organs of state.

The head of state shall be the guarantor of the constitution.

Article 77

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

Mozambican citizens aged between 40 and 65, in full possession of their rights, may be candidates for the Presidency. Any candidate must be proposed by at least 5,000 voters, of whom at least 200 must reside in each province.

The President's term of office shall be for five years, and the same person may only be re-elected twice.

Article 78

The President of the Republic is the head of the government and the commander-in-chief of the armed forces.

The President of the Republic shall be in charge of the security, police and para-military forces.

Article 79

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 People's Assembly 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 People's Assembly according to the terms established in the constitution;
- (f) Appoint the President and Deputy President of the Supreme People's Court, and the President of the Administrative Court;
- (g) Appoint, exonerate and dismiss the Attorney-General and Deputy Attorney-General of the Republic;
- (h) Grant pardons and commute sentences;
- (i) Confer, in the terms of the law, titles, awards and distinctions.

Article 80

In his function of directing government activity, the President of the Republic shall have power to:

- (a) Convene and chair sessions of the Council of Ministers;
- (b) Appoint, exonerate and dismiss the Prime Minister;
- (c) Establish ministries and ministry-like commissions;
- (d) Appoint, exonerate and dismiss:
 - Ministers and Deputy Ministers
 - Provincial Governors
 - University Rectors;
 - the Governor and Deputy Governor of the Bank of Mozambique;
 - Secretaries of State.

Governmental policies shall be formulated by the Council of Ministers at sessions chaired by the President of the Republic.

Article 81

In the sphere 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 peace treaties;
- (c) Decree general or partial mobilisation;
- (d) Appoint, exonerate and dismiss the Chief of the General Staff, the Commanders of the various wings of the Armed Forces of Mozambique, and other officers as defined by law.

Article 82

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

- (a) Guide foreign policy;
- (b) Sign international treaties
- (c) Appoint, exonerate and dismiss the ambassadors and diplomatic envoys of the People's Republic of Mozambique;
- (d) Receive letters of credentials from ambassadors and diplomatic envoys of other countries.

Article 83

The President of the Republic shall promulgate the laws and order their publication in the Boletim da Republica.

The President of the Republic may, by order with reasons adduced, send a bill back to the People's Assembly for re-examination.

Should the bill, under re-examination, be approved by a two-thirds majority, the President of the Republic must promulgate the law, and order its publication.

Article 84

On assuming office, the President of the Republic shall take the following oath: "I do swear by my honour that I will dedicate all my efforts to the defence, promotion and consolidation of national unity and of the achievements of the revolution, to the well-being of the Mozambican people, to ensure respect for the constitution, and see that justice is done for all citizens".

The President of the Republic shall assume office in a public ceremony before the elected members of the People's Assembly and representatives of the organs of sovereignty, and witnessed by the President of the Supreme People's Court.

Article 85

The President of the Republic shall decide who will be his substitute in case of short-term absence or other impediment, and who will represent him in carrying out specific activities. If the period of impediment exceeds 45 days, the President of the People's Assembly shall act as interim substitute.

Article 86

In the event of the death, resignation or permanent incapacity of the President of the Republic, his functions shall be assumed on an interim basis by the President of the People's Assembly.

The President of the People's Assembly shall assume office as Acting President of the Republic before representatives of the organs of sovereignty, and the ceremony shall be witnessed by the President of the Supreme People's Court.

The election of a new President of the Republic must take place within 45 days. The Acting President of the Republic shall be excluded from running as a candidate.

The new President of the Republic shall hold office until the next ordinary elections have been completed.

Article 87

The permanent incapacity of the President of the Republic must be proven by a medical council as defined by law.

The declaration of incapacity shall be received by the Standing Committee of the People's Assembly.

Article 88

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

The Acting President of the Republic shall guarantee the functioning of the organs of state and all other institutions, but may not exercise the powers referred to in Article 79 (b), (c), (d) and (e), in Article 80 (d), and in Article 82 (c).

Article 89

Statutory acts of the President of the Republic shall take the form of presidential decrees, and other decisions in the framework of the President's constitutional powers shall be issued in the form of presidential orders, and both shall be published in the Boletim da Republica.

Article 90

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

The President of the Republic shall not have to answer to the courts, during the term of his office, for actions taken outside the discharge of his functions.

Chapter 3

The People's Assembly

Section 1

People's Assembly

Article 91

The People's Assembly is the highest legislative organ in the People's Republic of Mozambique.

The People's Assembly shall be elected by direct universal suffrage, and personal secret ballot.

Through laws and through guidelines of a general character, the People's Assembly shall determine the rules governing the activities of the state and economic and social life.

The composition of the People's Assembly shall be established by law.

The deputies to the People's Assembly shall be elected for five year terms of office.

Article 92

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

In particular, the People's Assembly shall have power to:

- (a) Evaluate whether the legislative and regulative acts of state organs are unconstitutional or illegal;
- (b) Delimit the frontiers of the People's Republic of Mozambique;
- (c) Take up questions of territorial division;

- (d) Adopt the electoral law and the rules for referenda;
- (e) Propose the holding of referenda on questions of national interest;
- (f) Ratify the legislative acts of the Standing Committee of the People's Assembly;
- (g) Sanction the suspension of constitutional guarantees and the declaration of a state of siege or a state of emergency;
- (h) Ratify the appointment of the President and Deputy President of the Supreme People's Court and the President of the Administrative Court;
- (i) Debate progress reports from the Council of Ministers;
- (j) Debate the state plan and budget, and the respective reports on their implementation;
- (k) Lay down the basis for tax policy;
- (l) Ratify and terminate international treaties;
- (m) Grant amnesties and pardons;
- (n) Elect the President and the members of the Standing Committee of the People's Assembly;
- (o) Adopt the standing orders of the People's Assembly and the Statute for Deputies;
- (p) Set up commissions of the People's Assembly, and regulate their activities.

Article 93

At the beginning of each legislative period, the People's Assembly shall evaluate the programme of the government, presented by the Prime Minister.

The Prime Minister may present a revised programme that takes the conclusions of the debate into account.

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

Article 94

Bills may be introduced in the People's Assembly by:

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

Article 95

The People's Assembly shall elect from among its members the President of the People's Assembly.

The Head of State shall convene and chair the session during which the President of the People's Assembly is elected.

The President of the People's Assembly shall be sworn into office by the Head of State.

The President of the People's Assembly shall be answerable to the People's Assembly.

Article 96

The People's Assembly shall meet in ordinary session twice a year, and in extraordinary session whenever this may be required by the President of the Republic, by the Standing Committee of the People's Assembly, or by at least one third of the deputies to the People's Assembly.

Article 97

The People's Assembly may only enter into debate assuming that more than half its members are present.

The decisions of the People's Assembly shall require a majority of votes of the members present.

Article 98

The legislative acts of the People's Assembly 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 99

No deputy to the People's Assembly may be arrested, unless apprehended in committing a criminal offence (*flagrante delicto*). No deputy may be brought to trial without the consent of the Assembly or of its standing commission.

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

Article 100

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. This does not apply to civil or criminal responsibility for defamation or slander.

Article 101

Any deputy to the People's Assembly may resign.

The disqualification and resignation of deputies to the People's Assembly shall be regulated by law.

Article 102

The People's Assembly shall be convened and chaired by the President of the People's Assembly. In case of absence or impediment, his functions shall be exercised by members of the Standing Committee of the People's Assembly as stipulated by the standing orders of the Assembly.

Article 103

The President of the People's Assembly shall:

- (a) See to it that decisions of the People's Assembly are implemented;
- (b) Sign bills adopted by the People's Assembly, and submit them to the President of the Republic for promulgation;
- (c) Sign and order the publication of resolutions of the People's Assembly;
- (d) Represent the People's Assembly domestically and internationally.

Section 2

The Standing Committee of the People's Assembly

Article 104

The Standing Committee of the People's Assembly shall be composed of the President of the People's Assembly and by deputies elected by the Assembly from among its members.

The composition of the Standing Committee of the People's Assembly shall be established by law.

The Standing Committee of the People's Assembly shall be convened and chaired by the President of the People's Assembly.

Article 105

The Standing Committee of the People's Assembly shall have power to:

- (a) Adopt bills and resolutions in the periods between sessions of the People's Assembly;
- (b) Give its opinion before a state of war is declared;
- (c) Sanction the suspension of constitutional guarantees and the declaration of a state of siege or a state of emergency should it prove impossible to convene the People's Assembly;
- (d) Authorise the President of the Republic to leave the country on state visits;
- (e) Coordinate the activities of the commissions of the People's Assembly;
- (f) Guide the relations between the People's Assembly and assemblies and equivalent institutions in other countries;
- (g) Prepare and organise sessions of the People's Assembly.

Article 106

The Standing Committee of the People's Assembly may not legislate on:

- (a) the definition of nationality;
- (b) the delimitation of the national territory;
- (c) the electoral law;
- (d) the rules for referenda;
- (e) judicial organisation and the status of judicial officers;
- (f) the rules for a state of war, state of siege or state of emergency;
- (g) the imposition of taxes;
- (h) the designation of the national currency;
- (i) the rules concerning expropriations for public use.

The legislative acts of the Standing Committee of the People's Assembly shall be ratified by the People's Assembly in the session following their adoption.

Article 107

The legislative acts of the Standing Committee of the People's Assembly 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.

Chapter 4 Council of Ministers

Article 108

The Council of Ministers is the government of the People's Republic of Mozambique.

In discharging its functions, the Council of Ministers shall observe the decisions of the President of the Republic and the opinions of the People's Assembly.

Article 109

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.

The composition of the Council of Ministers shall be fixed by law.

Article 110

The Council of Ministers shall be responsible to the President of the Republic and to the People's Assembly for the conduct of

domestic and foreign policy and shall give account to them of its activities as stipulated by law.

Article 111

The Council of Ministers shall take care of the administration of the country, shall guarantee its territorial integrity, shall supervise its armed forces, shall oversee public order, security and stability of citizens, shall promote economic development, shall implement the state's social activity, shall develop and consolidate legality, and shall implement the country's foreign policy.

The defence of public and constitutional order shall be guaranteed through appropriate organs functioning under government control.

Article 112

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

- (a) Guarantee the rights and freedoms of citizens;
- (b) Ensure public order and social discipline;
- (c) Draft bills to be submitted to the People's Assembly, and proposals for decisions to be submitted to the President of the Republic;
- (d) Guarantee the defence and consolidation of the public domain, and of state property;
- (e) Direct and coordinate the activities of the ministries, and of other organs subordinate to the Council of Ministers;
- (f) Analyse the experience of local executive organs, and regulate their organisation and functioning;
- (g) Draft the state plan and budget and implement them after they have been approved by the People's Assembly;
- (h) Promote and regulate economic activity and the activity of the social sectors;
- (i) Ensure the correct functioning and the development of state-owned institutions and companies and their expansion in accordance with the needs of the economy;
- (j) Promote the development of cooperatives, and support for peasant family production;
- (k) Guarantee the conditions for the exercise of private initiative;
- (l) Direct labour and social security policy;
- (m) Direct the state-run social sectors, particularly education and health;
- (n) Define and promote housing policy;
- (o) Prepare the signing of international treaties, and sign, ratify, agree to and terminate international agreements.

Article 113

Notwithstanding other authorisations conferred upon him by the President of the Republic or by law, the Prime Minister shall assist and advise the President of the Republic in the leadership of the government.

In particular, the Prime Minister shall have power to:

- (a) Assist the President of the Republic in drawing up the programme of the government;
- (b) Advise the President of the Republic on establishing ministries and ministry-like commissions, and on appointing members of the government and other heads of governmental units;
- (c) Draw up the government's plan of work and present it to the President of the Republic;
- (d) Guarantee that members of the government implement decisions taken by state bodies;
- (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 the Ministries and other governmental institutions;

- (g) Sign decrees and resolutions from the Council of Ministers;
- (h) Supervise the technical and administrative functioning of the Council of Ministers.

Article 114

In his relations with the People's Assembly, the Prime Minister shall have power to:

- (a) Present to the People's Assembly the government's programme, and the draft plan and budget;
- (b) Present government reports;
- (c) Outline the government's positions and its activity to the People's Assembly.

In the exercise of these functions, the Prime Minister shall be assisted by members of the Council of Ministers whom he shall designate.

Article 115

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

Article 116

Regulatory 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.

The decrees and resolutions shall be signed by the Prime Minister and published in the Boletim da Republica

Chapter 5 The Courts

Article 117

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 and other legal rules as social practice, to safeguard the rights and freedoms of citizens as well as the vested interests of the various organs and entities having legal capacity.

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

Article 118

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

The courts shall punish violations of legality and shall adjudicate disputes in accordance with what is established in law.

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

The Supreme People's Court shall guarantee the uniform application of the law, at the service of the interests of the Mozambican people.

Article 119

The Supreme People's Court shall function:

- (a) in sections, as a trial court and an appeal court;

- (b) in plenary session, as an appeal court, and as a court of single instance (from which there is no appeal), in cases expressly envisaged in the law.

Article 120

The Supreme People's Court shall be composed of professional judges and elected judges.

The professional judges shall hold a degree in law, shall be proposed by the Supreme Council of the Legal Profession, and shall be appointed by the President of the Republic. The number of professional judges, their status, and term of office shall be defined by law.

The People's Assembly shall elect judges to the Supreme People's Court. Mozambican citizens aged over 40 may be elected as judges to the Supreme People's Court, but other criteria shall be fixed by law.

Article 121

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

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

Article 122

The law shall regulate the jurisdiction, composition, organisation and functioning of the Supreme Council of the Legal Profession, and of the judicial courts at all levels.

Article 123

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

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

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

Article 124

The Administrative Court shall control the legality of administrative acts, and shall watch over the legality of public expenditure.

The law shall regulate the jurisdiction, organisation, composition and functioning of the Administrative Court.

Article 125

In particular, the Administrative Court shall:

- (a) Adjudicate acts whose object is controversies emerging from administrative juridical relations;
- (b) Rule on appeals against decisions of state bodies, and their agents;
- (c) Audit the state's accounts;
- (d) Exercise other jurisdictions that may be attributed by law.

Article 126

Apart from the Supreme People's Court, the Administrative Court and the judicial courts, there shall exist the following categories of courts:

- (a) Courts-martial; (b) Customs Courts; (c) Fiscal Courts.

The law shall regulate the jurisdiction, organisation, composition and functioning of these courts.

Article 127

The establishment of courts exclusively designed to try certain categories of crime, apart from those courts provided for in the Constitution, shall not be permitted.

Chapter 6

The Attorney-General's Office

Article 128

The Attorney-General's Office shall supervise and control legality, shall promote compliance with the law, and shall participate in defending the law of the land.

The Attorney-General's Office shall be headed by the Attorney-General of the Republic. In case of absence or impediment, his substitute shall be the Deputy Attorney-General of the Republic.

The Attorney-General shall be responsible to the President of the Republic, and shall provide annual reports to the People's Assembly.

The law shall determine the structure, composition and functioning of the Attorney-General's Office.

Article 129

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

In the exercise of their duties, the magistrates and agents of the Public Prosecutor's Office shall be subject to criteria of legality, objectivity, restraint, and exclusively bound by the directives and orders as provided for by law.

Article 130

The Public Prosecutor's Office shall represent the state in the courts, shall control the legality and the duration of detentions, shall draw up prosecution cases, shall execute criminal sentences, and shall ensure the legal defence of minors, and of persons not present in court, or unable to defend themselves.

Chapter 7

Local state organs

Article 131

Local state organs shall have the function to organise the participation of citizens in solving problems of their communities and in promoting local development.

The strengthening of local organs shall serve to deepen democracy and shall contribute to national integration and unity.

Local state organs shall have the power to decide on all matters within their territorial jurisdiction, provided this does not infringe on the powers of other organs.

Local organs shall be constituted at the various territorial levels and shall be structured according to law.

Article 132

Local organs shall have assemblies with deputies elected by the citizens who live in a particular territorial area, and executives designated by the assemblies.

The executives shall be subordinate to the assemblies.

Article 133

The deputies shall periodically give an account of their activity to their electorate and to the assemblies.

The disqualification and resignation of deputies shall be regulated by law.

Article 134

The assemblies shall take decisions that are binding in the sphere of their jurisdiction, they shall set up commissions necessary for carrying out their duties, and they shall hold individual deputies responsible for discharging specific functions.

State organs and institutions must provide necessary information and collaborate with the local organs to ensure the fulfilment of their tasks.

Article 135

The legal form of acts of the local organs shall be established by law.

Chapter 8

Incompatibilities

Article 136

No person may hold at the same time more than one of the following positions: President of the Republic, President of the People's Assembly, Prime Minister, member of the government, President of the Supreme People's Court, Deputy President of the Supreme People's Court, Judge of the Supreme People's Court, President of the Administrative Court, Attorney-General of the Republic, Deputy Attorney-General of the Republic, Provincial Governor, Secretary of State.

Part 4

Symbols and capital of the Republic

Article 137

The symbols of the People's Republic of Mozambique shall be the flag, the emblem and the anthem.

Article 138

The national flag shall be based on the flag of the Mozambique Liberation Front (FRELIMO), the vanguard which united the Mozambican people for the struggle against colonialism, led the armed national liberation struggle, proclaimed the country's independence, and founded the People's Republic of Mozambique.

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 revolution;

green - the riches of the Mozambican 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 stripes, separated by strips of white. On the left 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 gold star shall symbolise the internationalist spirit of the Mozambican people.

The book, hoe and gun shall enshrine the slogan "Study, Produce, Combat".

Article 139

The emblem of the People's Republic of Mozambique shall contain as its central elements a book, a gun and a hoe, placed above 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 revolution and of the new life under construction.

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 top and in the centre, a red star shall symbolise the internationalist spirit of the Mozambican revolution.

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

Article 140

The capital of the People's Republic of Mozambique shall be the city of Maputo.

Part 5 **Amending the Constitution**

Article 141

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 People's Assembly

Proposed amendments must be submitted to the People's Assembly 90 days before the opening of debate.

Article 142

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

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

Article 143

All citizens entitled to vote shall have the right to participate in the referendum.

The amendment shall be considered approved if more than half of the votes cast are in its favour.

The results of the referendum and the approved constitutional text shall be adopted by the People's Assembly in the form of a constitutional law, and their publication in the Boletim da Republica shall be ordered by the President of the Republic.

Article 144

The constitution may only be amended at least five years after the preceding constitutional amendment.

Part 6 **Concluding and transitional provisions**

Article 145

The Constitution shall take precedence over all other laws.

Article 146

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

Article 147

The stipulations in Article 77 regarding the election of the President of the Republic shall come into force upon the holding of the third general elections.

The President of the Frelimo Party shall be President of the Republic until the third general elections.

Article 148

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

Article 149

The limit on terms of office prescribed in Article 91 shall come into force as from the first elections held under this constitution.

Article 150

This constitution shall come into force on (date)