

European Commission

Delegation to Mozambique

End of Term Review of Support to the Justice Sector

Letter of Contract N. 2009/212490/1

Final Report



Les conclusions et recommandations présentées dans ce rapport sont celles du consultant et n'expriment pas forcément l'opinion de la Commission Européenne

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Abbreviations

| | |
|---------|---|
| ADEC | Associação para o Desenvolvimento da Comunidade |
| AGO | Attorney General's Office |
| AMR | Associação da Mulher Rural |
| CCLJ | Conselho de Coordenação para a Legalidade e Justiça |
| CBO | Community Based Organisations |
| CPCL | Comissão Provincial de Controlo da Legalidade |
| CS | Civil Society |
| CSO | Civil Society Organisation |
| CTA | Chief Technical Advisor |
| DNRN | Direcção Nacional dos Registos e Notariado |
| DPDDH | Departamento de Promoção e Desenvolvimento dos Direitos Humanos |
| EC | European Community |
| ECD | EC Delegation in Maputo |
| GAMC | Women and Children Assistance Offices |
| GAMCVV | Gabinete de Atendimento à Mulher e Criança Vitima de Violência |
| GCCC | Gabinete Central de Combate à Corrupção |
| GoM | Government of Mozambique |
| IPAJ | Instituto de Patrocínio e Assistência Jurídica |
| LDH | Liga dos Direitos Humanos |
| MIJUS | Ministério da Justiça |
| MINT | Ministério do Interior |
| MoJ | Ministry of Justice |
| MULEIDE | Mulher, Lei e Desenvolvimento |
| NAO | National Authorizing Officer |
| NEX | National Execution Modality |
| NGO | Non governmental Organisation |
| NPC | National Project Coordinator |
| PAF | Performance Assessment Framework |
| PARPA | GoM's Poverty Reduction Strategy |
| PBA | Programme Based Approach |
| PEI | Integrated Strategic Plan |
| PGR | Procuradoria Geral da República |
| PIC | Crime Investigation Police |
| PIU/UIP | Project Implementation Unit |
| PSC | Project Steering Committee |
| SNAPRI | Serviço Nacional das Prisões |
| SWAP | Sector Wide Approach |
| ToR | Terms of Reference |
| TS | Tribunal Supremo or Supreme Court (SC) |
| UNDP | United Nations Development Programme |

Executive Summary

Activities related to construction and refurbishment of facilities, the technical complexities linked with tender procedures, contracting, supervision and financial management are all having a delaying effect on the project.

PIU staff is not conversant with engineering practices and future project phases may wish to consider outsourcing of all construction activities, which are best served being managed by skilled experts. Such consideration must include guarantees that hardware and software components remain effectively coordinated. But through the outsourcing of the demanding engineering elements, much time and man power is freed up to devote attention to training, management and leadership activities. Such a re-orientation could be developed in partnership with GoM training entities and the continuation of training partnerships with CFJJ, ACIPOL, universities and others.

The project design is a direct reflection of the Government's strategy planning and activities are synchronized as appropriate responses to the justice sector development priorities and challenges which focus on the delivery of infrastructure and equipment.

A project Flagship, the construction of 5 Justice Palaces, in conjunction with rehabilitation of prison facilities and police laboratories has absorbed a lion's share of project resources. It is though, early days to substantially assess impact of these infrastructure components, as construction remains ongoing or only recently completed.

Irrespective of emphasis on infrastructure, the project is to be identified as an institutional reform and capacity development project. The review finds that the combined outputs reflect that in terms of substance there is a fair balance between the hardware and software elements of action. But notwithstanding these priorities, subsequent project phases must identify ways to go about evident shortcomings in capacity, management and leadership abilities.

Even that it is too early to assess full impact of the Justice Palaces, site visits to the palaces indicate, that the efficient cooperation and management of Justice Palaces require new administrative and operational procedures, automation of case flow and a professional long term capacity building program of staff. Staff who were interviewed by the team, had not received specialized training of any type related to modern court administration tools and procedures, including case and records management, statistics and standard operating procedures. Generally, staff develops "by doing", through "on the job training." Involvement of users of the concept should be invited. Although the facilities were only inaugurated this year, the sustainability of the concept lies in abilities to keep these training and management assumptions below the threshold of becoming risks and that users eventually adopt the arrangement.

But it is positive to note that the concept has been accepted by the Government, which also contributed with equipment, staff quarters and infrastructure (In the case of Ribaue the GoM contributed with the magistrate residences). The palace concept may be used to promote access to justice in rural communities with a view to increasingly deliver services. In doing so, it is important that the palaces also interface with the non-formal system as about 80% of the population applies inform legal advice or customary laws.

As such, it is indicated, that sustainability and ownership issues do not only hinge on the prevalence of adequate resources.

With reference to software components such as awareness, mobilization and capacity building, the project partners seem generally to fall short of professional project management capacities. Key terms like monitoring and evaluation are understood as interchangeable, resulting in lack of impact assessments. While statistical data about who, where and when activities were undertaken is recorded, future partnerships with NGOs and CSO should take a starting point in a mutually agreed Code of Conduct, that safeguards expected outputs and outcomes through project management training. Reliable and complete baseline data was not readily available and statistical reports are of limited value and generally produced only once a year. These are general in nature and do not provide key parameters necessary to conduct a thorough analysis.

It should be noted that formal requests for statistical and other baseline information were made during the mission and again after completion of workdays in Mozambique.

In sum, the capacity building, training, outreach and awareness training are well conceived along the ambition to promote formal and informal means of justice, human rights, gender, HIV/AIDS and action to remedy domestic violence. The human rights, gender and HIV/AIDS project range should ideally function as undercurrents across project activities, rather than individual components. By introducing a wider cross-cutting portfolio, these important themes will be better served and sustained.

In general terms a key outcome of the project is a unique level of coordination through various bodies such as the coordination meetings in the PIU, CCLJ, Technical Committee, CPCL, the CCLJ¹, PSC and CCs. More can be done to facilitate coordination between different organisational levels, but the achieved coordination mechanism bodes well for future activities as stakeholders have clearly demonstrated a will to reform and improve. Manifested support exists for all the infrastructure and building refurbishment provided such as the forensic lab and equipment, the Justice centres and prison remodelling. There is strong will and interest in support of continued and additional support.

The Project Implementation Unit (PIU) has been instrumental for progress, authority and acknowledgement. But it is probably time to view how coordination mechanisms have unfolded in alignment with the ambition to decompress decision making practices and establish avenues for increased levels of decentralisation (Annex VI – Definition of key terms) of authority, decision making, management and implementation of local activities, from the PIU to the districts. Presently, the decision making is highly centralised which has a negative impact on timeliness and the quality of delivery at the provincial and district levels. The PIU has undoubtedly played an instrumental role in getting the project off the ground and the establishment of activity, reporting and coordination momentum. But now, that key operating practices have been established within government institutions, learning processes should be mastered and captured by policy and monitoring units within donor agencies and frontline service providers.

¹ It should be noted that the CCLJ does not exist since 2007

The formulation of an exit strategy for PIU seems relevant as ownership and sustainability issues are best served within the institutional confines of relevant institutions, but a certain advisory support element may be considered for next phases. Ideally, advisors should be institutionally embedded and perform in parallel with identified counterparts.

Communication vis-à-vis stakeholder dialogue, priority setting and outreach to the public may be improved. Access to justice is not only about facilitating the general public's contact to institutions, but also about bringing services to the public. It takes a Government focus and plan of action to reach out to all communities and the campaign should foster the notion that progress will only take place in partnership with the public.

Progress reports at lower organisational levels were found to be inadequate. Reporting periods are infrequent and most reports are generated only once a year, with exchanges of information often driven by personal relationships and subjective in nature. Institutional documentation and reporting, especially at provincial and district levels need to be formalized and strict rules for institutional communications need to be put in place.

The absence of frequent and formally scheduled communication forums such as periodic meetings for the purpose of coordination, progress updates, sharing of lessons learned and success stories which can be replicated by others who are introducing similar measures results in staff working in a void without the benefits of learning from experiences of their peers in other locations.

Individual entities implementing similar activities (i.e. Justice Palaces, remodelling of prison facilities, etc.) in pilot communities seem to have been operating independently without a forum for exchange of information and lessons learned among their peers in other locations. Workshops and coordinating meetings should be periodically scheduled for this purpose. While some coordination took place at the beginning, no formal structure exists and it was not possible to determine the exact number of meeting and/or workshops conducted.

A cross-cutting issue is the requirement to accentuate direct institutional support through training in project implementation and management, monitoring, assessment and reporting tools – particularly timely, complete and reliable statistical reporting – and then use the reports for planning, management and development of strategies.

As a general rule, statistical reports should not be simply accepted at face value as it is not unusual that when these documents are generated without clear and uniform procedures, they are often not complete and/or current. Reflected data and information may be misleading due to lack of information, uniform maintenance of records and databases, varying definitions and fields which are subject to interpretations, as well as human error – particularly when the reports are produced manually.

Some of the statistical reports received from the institutions (i.e report of the number of victims assisted by IPAJ), consisted of hand-filled forms and contained a variety of notes which confused rather than clarify the reports.

A complete and effective statistical analysis should include independent confirmation of reporting procedures and the methodology utilized for maintaining and updating the databases, together with corresponding quality controls. In a best case scenario, spot

checking is used to confirm accuracy of the reports against field observations and tracing of actual data.

Thus, the comments herein, lack some of the above considerations, as the reports were received after the technical team's departure from Mozambique, and the information could not be confirmed or additional considerations taken into account which could be further explored through personal interviews with those who generated the reports, as indicated.

In addition, the response to requested key data such as the number of cases which exceed detention limitations, for example, were "not available".

While the project is much more than an infrastructure project, construction activities are most likely to remain part and parcel of the reform process as justice facilities outside Maputo are clearly in high demand. Therefore, the infrastructure dimension brings GoM branches together and brings institutions closer to the population.

Justice sector reform approaches are likely to remain anchored on 'learning-by-doing' premises for some time, a fact that underscores the importance appropriate milestone indicators with a view to improve results based management practices.

Collecting reliable, complete and accurate performance data from service-providing units such as district offices and sub-contractors is a key element in this process and improvements in service provision should be given prominence in subsequent phases. Decentralization is a key element in this course and provincial and district authorities should increasingly bring management and decision processes closer to scenes of action and beneficiaries.

It is noted that the proposed team composition for this assignment included a consultant in the capacity of Social Sciences Expert, whose performance was formally characterized as sub- standard within the first week of the assignment and communicated to the ECD. A further complication developed because this team member was one of only two Portuguese speakers on the team. With the large number of documents and reports in Portuguese which required review and analysis, this resulted in unforeseen limitations, particularly related to the specific areas and topics of responsibility which were assigned, with limited or any, added value to delivery on tasks described in the ToR – Social Sciences.

A full analysis as to the effectiveness and efficiency of the newly structured administration of justice was dependent on the existence of baseline data, performance measurements and complete statistical reporting. As the justice centers have been in operation for a relatively short time, only limited information was available and considered throughout this report.

Finally, because of an established limitation of 40 pgs for this mission report, much related information has been included as reference, in the annexes.

It is against the above analysis that the following recommendations are brought forward:

- Ensure continued support to relevant studies and surveys in support of policy and legal reform in access to justice

- Identify institutional capacity gaps and develop interventions to strengthen them
- Establish strengthened project monitoring and impact assessment mechanisms
- Strengthening of coordination capacities at all organisational levels
- Develop formalized partnership with NGOs and CSOs
- Re-design human rights, HIV/AIDS and the gender component as cross-cutting themes
- Develop a system which will monitor public opinion and gather information specifically obtained from users, through public opinion polls, interviews and suggestion boxes made available at the justice centres, to continuously assess how the one-stop justice concept is functioning in view of adequately serving the poor and disadvantaged. The information obtained should be analyzed periodically and adjustments made as indicated.
- Provide uniform reporting templates to all stakeholders
- Establish project wide synchronized lessons learned exchanges
- Establish baseline data and develop progress indicators for all components
- Annual work planning should involve provincial and district level stakeholders
- Government to develop a communication strategy for regularly keeping stakeholders and the public informed of progress made by the project
- Review the project management and coordination arrangement with a view to formulate an exit strategy for the PIU
- GoM should consider new approaches to and concepts of information campaigns, most notably in outlying communities. Increased outreach will require a GoM learning process as institutions currently tend to focus privately on development plans, rather than on service delivery.
- Generally, the implementation of awareness programmes suffered from significant delays and late start-ups. As a consequence, the resources utilization as of January 2009 stands at € 34,317 corresponding to 16% of the budget.
- The level of implementation of planned activities has been one of the lowest in the whole project. Resource utilisation stands at EUR111,263,71, as per September 2009, corresponding to 36% of the budget
- Create particular project components/sectors of excellence in order to establish model concepts for replication and re-enforce public outreach, learning and incentive mechanisms

1 Introduction

1.1 Background

This review of the 'Supporting Citizens' Access to Justice' project which is jointly financed by the Delegation of the European Commission (EC) in Mozambique (hereafter referred to as 'the EC Delegation' or 'EC/D') and UNDP, and implemented by the Government of Mozambique (GoM) analyses the EC/UNDP support to the justice sector in Mozambique since 2005, assesses management modalities and the key development results achieved during the implementation.

The programme approach was designed in 2002. The Financing Agreement for support to the justice sector was signed between the European Commission and the GoM in May 2004, followed by a Contribution Agreement, signed in December 2004 between UNDP and the GoM with the endorsement of the EC for a five year implementation period. The project document between UNDP and the GoM was signed in April 2005. Formally the implementation of the project started in June 2005, but significant field work only began in earnest a year later. A Project Implementation Unit (PIU) was established in 2005 while three regional implementation offices in Inhambane, Beira and Nampula were established in 2006.

The programme design is based on GoM priorities established in the Plano de Acção para a Redução da Pobreza Absoluta (PARPA), dated 2001, the GoM's Integrated Strategic Plan - Plano Estratégico Integrado (PEI) dated 2002 and ultimately justice institutional development plans. As such, the programme is in conformity with both national development plans and the EC Country Strategy Paper, highlighting prominence given to reducing poverty in accordance with the objectives of the EC development policy, the Cotonou Agreement and the Millennium Development Goals.

The total financial contribution is € 11,160,000 with the EC contributing € 10 million and the UNDP € 1,600,000

This review, undertaken in September 2009 is the first external assessment of the project, however, is informed by an internal review undertaken by UNDP in December 2008 and February 2009 through the CPAP MTR, monitoring reports drafted by project stakeholders and the PIU.

1.2 Objectives & Scope of the Review

The main purpose of the review is "to inform stakeholders of the extent to which the programme has produced or is on track to produce its intended development results, to understand the reasons for such performance, and to identify the key lessons which can inform the design and implementation of activities associated with the Integrated Strategic Plan (PEI) for the sector".

While the programme is focussing on two development areas: 1) penal justice and 2) decentralisation, the direct development objectives target support to six activity streams:

- 1 Administration of Justice strengthened at local level
- 2 Correctional system unified and uniformed
- 3 Organisation against crime strengthened

- 4 Human rights protected by justice institutions
- 5 Mainstreaming gender in justice administration
- 6 Awareness raised in HIV/AIDS related legal issues

Specifically, the review will establish the relevance, efficiency, effectiveness and emerging impact of the project, and will assess the likely level of sustainability of the outputs produced and development results or benefits achieved.

As the programme was intended to develop innovative approaches for national replication, the level of awareness throughout the sector of these approaches and the degree to which they have been replicated are also being assessed.

Because both UNDP and the EC have already decided to continue justice sector support, the review is giving priority to the identification of lessons learned processes within the constituents of support strategy, project design, management, cooperation, coordination, civil society inclusion etc.

Disclaimer: The opinions and statements made in this document are those of the Consultant Experts who conducted this review. They do not reflect the official position or views of the European Union or the Delegation of the European Commission.

1.3 Approach & Methodology

The review was undertaken in three stages: (i) a preparatory phase; (ii) a country assessment mission; and (iii) a completion phase during which this draft mission report was prepared while final interviews were conducted simultaneously. This third phase was concluded by a presentation of the main findings, conclusion and recommendations to key stakeholders. Following the presentation, key stakeholders and the EC/UNDP are invited to comment in writing on the findings, before the draft report will be finalized, translated into Portuguese and submitted to the EC Delegation by ARS Progetti.

Annex IV gives the list of key stakeholders consulted, which ranged from EC/UNDP staff, GoM officials and project managers to community stakeholders and project target communities, Non-Governmental Organizations (NGOs), Civil Society Organizations (CSOs) and donor partners.

The review of documentation covered a plethora of key programme documents, progress reports, work plans and statistics. A bibliography is given in Annex V.

Observations at project sites were used to validate emerging trends arising out of perceptions and opinions gathered during in-depth interviews with stakeholders and documentation reviews.

The ToR highlighted that the review should be participatory and be conducted through a combination of secondary data review (programme documentation, stakeholders' progress reports etc.), interviews with key informants from the public sector and civil society, and the conduct of rapid primary data collection through interviews with representatives of beneficiary institutions and final service beneficiaries. The review team designed its approach to conducting the effort in a draft Evaluation Methodology Paper, submitted to the ECD on September 4, 2009 (Please see Annex II). The methodology was confirmed in a draft Inception Report, submitted to the ECD on September 10 (Please see Annex III).

The review approach has been formative, which implies that the review team facilitated a good deal of participatory project performance analysis by the primary stakeholders, particularly key public sector institutions and relevant civil society groups, with a view to using the review to help build ownership of the review's findings.

Thus, the consultants adapted a participatory working method involving as many stakeholders as possible within time limits.

As mentioned above, the review encompassed three phases: preparatory phase, field survey and a writing/presentation phase. The consultants presented their approach and methodology for the field survey prior to arrival in Maputo, however, fine tuned the approach during a first meeting involving the complete review team on September 7. During this meeting, the interview guide presented in the ToR, in addition to a SWOT analysis presented in the Consultant's Methodology Paper were confirmed as adequate tools for the production of expected outputs of the review mission.

1.4 Limitations & Constraints

While the assessment team did not encounter serious limitations, the following conditions and circumstances had a delaying effect on the performance of the review team.

In some provinces and districts, local languages other than Portuguese are spoken. At times, during interviews it was necessary to first translate into Portuguese, then into the local dialect and vice versa.

Travelling to remote districts presented particular challenges. Flights are limited and not always easy to book – at times original schedules were changed without notice and flights were delayed.

Some districts are reachable only through secondary and/or unpaved roads. Such travel is normally long (up to six hours, one way) and both tedious and extremely costly in car rental expenses.

On a few occasions, persons that were being interviewed were available for limited amounts of time and interview questions had to be adjusted accordingly. Some government officials were involved in election oriented activities and not available.

Some project related documents were delivered to the team prior to the commencement of the mission; others were received upon arrival in Maputo. Substantial additional documentation was made available on the 12th of September and again on the 16th. Many of these were in Portuguese and required translations. A formal letter of request for statistical and progress documentation was presented to the partners.

At first meeting, some individuals were reluctant to openly share information and opinions. This was particularly true when speaking with staff members, rather than those in charge. Apparently, this is not unusual in Mozambique. Often, questions had to be asked several times before specific information was obtained.

1.5 Overview of the Report

The report is divided into eight chapters following an Executive Summary with main findings, conclusions, and recommendations. The first chapter outlines the objectives and scope of the evaluation as well as explains the Approach and Methodology selected for the work. The second chapter and associated annex provides the conceptual basis for the terms used both in programme documentation and in the review. Chapter three and the associated annex offer an overview of recent developments within the justice sector and analyses the programme coordination and management modalities. Chapter four assesses the six programme activity areas, including considerations such as relevance and effectiveness of the organisations' programmatic approach and results.

In the fifth chapter the main findings of the review are presented, leading to chapter six, in which key lessons learned are captured. Chapter seven looks ahead to follow-on programming with a view to apply lessons learned in the design of new activities before finally recommendations are set out in chapter eight.

2 Definition of Key Terms

The terms of reference indicate that: *“Some terms or concepts that are used in the project document (i.e. “access to justice”, “justice sector”, “informal justice”, “justice decentralisation”, etc) will need to be contextualised and briefly explained in a short definition-note to ensure the better understanding by all stakeholders of the key questions.”* It is against this background that key terms and definitions are offered. The review team found that shared and uniform understanding of both justice sector terminology and the wider management jargon is instrumental for stakeholders' and ultimately beneficiaries' effective participation and coming to terms with the project. Therefore a list of key phrases and terminologies is attached as Annex VI Definition of Key Terms.

3 Overview of the Justice Sector

The legal and judicial sector is composed of the following main institutions: the Ministry of Justice (MoJ), the Attorney-General's Office (AGO), the Supreme Court (SC), inferior courts, the Administrative Court, The Constitutional Council and the Ministry of Interior (MINT).

The principal regulatory instruments, mandate and mission, and functions and responsibilities of the above mentioned institutions are identified in Annex VII (Overview of the Justice Sector – Section: Definition of the Legal and Judicial Sector)

Relevant action taken by the Government for the particulars of the project, the Technical Unit for the Unification of the Prison System (UTUSP) was established in April 2003 to support the Ministries of Justice and Interior in the process of unification of the prison system. Subsequently, the National Service for Prisons (SNAPRI) was established in May 2006 as the single body responsible for the management of prisons in Mozambique, subordinated to the Ministry of Justice.

One of the main challenges facing prison management is the issue of overcrowding. Reports reflect that the facilities which were designed for a maximum total capacity of 7,255 detained persons, are now housing a prison population of 14,936, which represents 206% of the intended maximum.

With reference to citizens' access to justice and legal representation, the practice of law as a liberal profession is a recent phenomenon. Shortly after independence, the private practice of law was made illegal, however, reinstated as needs and demands for an organized system of legal representation grew. The National Institute for Legal Aid (INAJ) was formed and all provision of legal services to individuals was supposed to be channelled through it. More recently though, with the passage of the 1990 Constitution and the liberalization of economy, the need for a modern Bar Association (the *Ordem de Advogados Moçambicanos*), was recognized. Hence, in 1994, the Parliament passed Law 7/94 of September 14, 1994 creating the Bar Association².

Under the terms of the Bar Association's charter, a lawyer has general obligations as a servant of justice and the legal order. Furthermore, lawyers also have specific obligations to the public and the Bar Association. A lawyer must, among other duties, accept appointments by the Court as a defense attorney (in principle for indigent criminal defendants).

Lawyers admitted to the bar are not the only sources of legal advocacy services. "Legal technicians" (lit. *técnicos jurídicos*) and "legal assistants" (lit. *assistentes jurídicos*) operating under the aegis of IPAJ, also provide such services. Although the IPAJ is supposed to serve disadvantaged citizens pro bono, in practice it serves a much wider range of consumers and not always pro bono.

Legal technicians are persons who have attended selected courses at a law faculty, and may include persons who are not full time law students pursuing a legal career, but who have been admitted to IPAJ. Legal assistants are persons who have passed special courses organized by the MoJ. Legal technicians and legal assistants may practice before courts as a lawyer admitted to the bar would. The evaluation team was informed that this is applicable only in areas with insufficient numbers of lawyers, and this criteria is determined by the judicial authorities, and not based on specific statutes.

The purpose of IPAJ is to ensure the constitutional right to legal aid and services by giving such assistance pro bone to citizens. IPAJ branch offices are distributed throughout the country. Employees are civil servants and their remuneration and benefits are a function of their status and paid from the general state budget.

Please see Annex VII Overview of the Justice Sector for additional details.

3.1 Project Stakeholders, Coordination and Cooperation

The programme is implemented by the GoM through the main institutional partners: the Ministry of Justice, the Ministry of Interior, the Attorney General's Office and the Supreme Court.

² The Bar charter has recently been amended by the Parliament, but the law approving the amendments has only been published in the official gazette on 29/09/2009.

The overall policy, management and coordination of the programme responsibilities rest with the *Project Steering Committee* (PSC), comprising the justice institutions, EC, UNDP, and implementing NGO's. Please see Annex VIII for a chart illustrating the composition of the management structure.

At the technical level, the *Technical Committee* assists the PSC with the preparations for PSC meetings at the level of Permanent Secretary. The Technical Committee meets quarterly. The review team took part in the September 09 meeting. Please see Annex IX for an illustrative chart of the committee.

The *Coordination Committee* meets monthly with the task to coordinate activities between the justice institutions. Institutional Planning Units take part in the meetings. A diagram attached as Annex X illustrates the functioning of the Coordination Committee.

The PIU offices in Maputo, Nampula, Beira and Inhambane are all supporting the project roll-out. Please see Annex XI for illustrative information about the structure of PIUs.

In day-to-day operations, project activities were initially coordinated through the Conselho de Coordenação da Legalidade e Justiça (CCLJ: Coordinating Council for Legality and Justice), with the mandate to coordinate liaison between justice institutions and donors. However, the Decree which established the CCLJ was found to be unconstitutional in 2007 and the institution was abolished. The CCLJ bodies continued, though, to function at provincial and district levels. A sector monitoring system was proposed (SIMPAJ), but it is not yet operational

Only partially replaced by the Conselhos Provinciais de Controle de Legalidade (CPLC: Provincial Councils for Legality Control) coordination meetings at provincial level. The review observed an absence of systematic documentation from these coordination meetings, which had impact on institutional memory at times when staff was due for rotation. Newcomers to the CPLC board expressed difficulty with getting to terms with objectives and expected results for the body.

This being said, the provincial level CPLC coordinated activities within the framework of the PIU. As such, regular monthly coordination meetings constituted a forum for dissemination of progress updates, which eventually were reported through the PIU structure. But it is important to bear in mind, that the implementation responsibility rests with GoM institutions, rather than the PIU. Please see Annex XI for a model of cooperation at central and provincial levels of implementation.

Organisationally, the PIU offices are based in the MoJ. The units are headed by a National Coordinator and three 'Provincial Implementors', all appointed by the MoJ, however, featuring on the UNDP payroll. A Chief Technical Advisor (CTA) is contracted for the Maputo office by UNDP. During the first three years of implementation, the Maputo office additionally featured one Programme Officer, one Assistant Programme Officer, one Financial Manager, one Financial Assistant, one Secretary and one Driver. The Provinces also featured one accountant and one secretary in addition to the Provincial Implementer. It is to recall that the contracts of the Program Manager and Program Assistant in the central UIP were discontinued in December 2008 as the planned close-out date was close.

While individual staff members of the PIUs are performing against individual Terms of References (ToR), the functioning of the PIU structure seems to rest on the combined efforts of staffs and certainly on personalities. As such, the review finds the PIU to some extent could have benefited from functioning within a more defined framework, where executive and advisory functions are clearly spelled out within clearly articulated sets of ToRs.

To some extent the perception of the PIU holding advisory rather than executive responsibilities, seems to be in conflict with the titles of the units and provincial office heads. For a follow-on project phase it should be considered to apply a terminology that more precisely reflects the actual performances of both offices and staff members, to differentiate between implementing and coordinating functions, as indicated below.

An illustrative example of the discrepancies in PIU staff views on key elements of the project are differences in replies to the question about who are stakeholders and who are the beneficiaries? At provincial level, the CPLC member institutions were mentioned as the beneficiaries! The heavy focus on construction and procurement probably led interviewees to see daily coordination activities unfold around these complicated contracts as the main output, with token outlook to the longer term aspect of service delivery to the public. Hence, the importance of the application of accurate titles i.e. “Implementor” versus “Coordinator”. This important question additionally indicates that project results during the pilot phase to some degree hinge on the delivery of institutions at the expense of service delivery to citizens.

In this regard it should be mentioned that NGOs performing at district levels are contracted directly by the PIU in Maputo with little contact to provincial PIUs. This whole issue will be discussed further in Chapter 4.

UNDP has undertaken financial management and control, and undertaken monitoring visits to project sites. In direct cooperation with the PIU, disbursements of funds observed strict modalities for control and transparency through the UNDP management vehicle: “Harmonized Approach to Cash Transfer” (HACT). Transfer of funds took place every three months against institutional Work Plans and requests for advance payments formulated by the PIU.

This disbursement system is found adequate for larger expenditures such as construction and procurement, however, is perceived by sub-contracted NGOs to be too slow and too inflexible in meeting the dynamics of implementation of activities such as local training and awareness activities. The review finds that while the financial control and disbursement regulations for future projects could be revised in this particular context, the idea of a modified financing agreement with NGOs may be considered against the provision of training in financial management and reporting.

Reference financing of infrastructure projects such as the Justice Palaces, prisons and laboratories, the PIU holds the responsibility for launching tenders in conformity with GoM laws and regulations which are in compliance with international standards and best practices. For international tenders, UNDP principles were observed. In this regard, the PIU has been committed to all practices that should result in the most cost effective execution of construction and procurement contracts. In two instances though, during which a sub-contractor underperformed when inspecting the completion of a Justice Palace, things went wrong, resulting in the launch of an independent audit.

The EC Delegation has been involved budget monitoring and in justice sector policy dialogue with a view to promote links between project activities and sub-sector policies, i.e. legal aid, anti-corruption, human rights, prison etc. Project monitoring visits have been conducted in partnership with UNDP and the PIU and the ECD has been an active part in all coordination bodies.

4 Assessment

The following assessment is the result of field surveys, site visits and stakeholder interviews conducted during September 8th -18th. The assessment targets the six sub-project activity streams:

- 1 Administration of Justice strengthened at local level
- 2 Correctional system unified and uniformed
- 3 Organisation against crime strengthened
- 4 Human rights protected by justice institutions
- 5 Mainstreaming gender in justice administration
- 6 Awareness raised in HIV/AIDS related legal issues

In terms of the relevance of the project, the assessment realized that the GOM policy for poverty reduction associates the improvement in good governance and justice to the reduction of absolute poverty (PARPA 2005/2009) and also with GOM policy for the reform and the development of the justice sector. The development of this sector envisaged in the Government 5 year Plan 2005-2009, the Vision of Justice 2006, the Integrated Strategic Plan (PEI), the Operational Plans for Justice Institutions (POPEI) and the Prison Policy.

On the other hand, the respect for human rights, democracy and good governance are part of the EC policies in supporting development programmes. and the agreements with Mozambique on those subjects indicate that the project objectives are aligned with those EC policies.

Since 1997, UNDP is supporting the Police of the Republic of Mozambique (PRM), with contributions from Spain and Holland. UNDP support to the justice sector as such is more recent. DANIDA is also financing activities in the justice sector and other donors such as Portugal, USAID, Ireland and Switzerland expressed their interest in supporting this sector.

DANIDA will support the Three Year Project of the Justice Sector and will fund the costs for a technical advisor to the Supreme Court. Thus, the design and implementation of the project is in line with the support from other donors.

The assessment also addressed the issue of the selection criteria for the project pilot areas. In this regard, the team was advised that the criteria was:

- a) Level of development of the district, according to what was defined for the 54 priority districts for the period of 2004-2009.
- b) Non existence of infrastructure for administration of justice
- c) Number of existing or potential cases

d) High levels of crime

Apart from various claims from the stakeholders that the definition and implementation of the above criteria was made mostly at a central level, particularly in Beira there was a complaint that the selection of Cheringoma for the construction of one of the Justice Palaces was not correct. It has been argued that there are districts more populated than Inhaminga and that, as such, the capacity of the palace will remain under used for a long time. The team was advised by the clerk of the Prosecutor that from March until September 2009, only 29 cases were processed by the institution, which represents an average of 4 cases per month. The team considers that in general terms the criteria for the selection is adequate, but its application should be mainly based on the indicators referred to in c) and d) above.

4.1 Administration of Justice strengthened at local level

An announced visit was scheduled to the project financed Palace of Justice in the district of Cheringoma. The team was then split and also visited the Moma, Morrumbene and Massinga Palaces. The assessment that follows of the Cheringoma Palace is representative of all 5 Justice Palaces. It is a considerable and important project achievement that judicial services are now made available in one location which saw no prior facility, which makes the result even more impressive.

The posted business hours of operation for this center are from 7:30 am to 3:30 pm. At time of arrival of the review team, only the administrator and three other staff members were present in the entire building. Others joined in as the morning progressed until finally more than 20 participants took part in a planned 11:00 am meeting of the "District Council of Legality Control".

The Judge President schedules an afternoon period once every week for "public consultations". Established days and times for direct access and meetings with the Judge President are positive steps towards improved public access to justice. But access could be even more improved if all staff of the Judicial Palaces would comply with the posted work hours and be available at their workstations, during these hours.

Normally, the most frequent reason for parties requesting a meeting with the Judge is to obtain information about the status of their pending cases. Such information should be made available by other administrative support staff and not require parties to directly contact the judge for this purpose. This can be accomplished by introducing a centrally located "Public Information Counter". This is the aim of the Balcão Único de Atendimento ao Público which is handled by IPAJ.

Private meetings with the judge should be kept to a minimum. Situations in which only one party (and not the adversary or representative) appears before a judge are called "ex-parte".³ Such one sided, private meetings may foster corruption and/or other irregularities and are often forbidden in many jurisdictions.

³EX PARTE - Lat. 'By or for one party' or 'by one side.'

It was not possible to assess if the level of corruption within the judiciary declined and its extent in the project areas, due again to lack of reliable sources of information. The team was advised that due to the campaigns conducted in Portuguese and in local languages by the GCCC and because telephone lines are now available, more and more citizens present their complaints reporting cases of corruption not only in the judiciary, but also in other institutions.

From the outside, this modern looking structure stands out from the surrounding modest dwellings and presents an impressive sight. The landscaping and areas immediately around the building, however, do not appear to receive much care or maintenance.

As the Palace of Justice (which could more appropriately be called Justice Center⁴) is of fairly recent construction and in operation only since March 2009, the finishes and paint appear new. While it is outside the objectives of the review to assess engineering performance, it cannot be ignored that the electrical box containing the breakers and switches has been pulled out of the wall and replaced. A box cover is thrown on the ground below it, which is not only unsightly, but also dangerous because the electrical connections are not protected in any way. In addition, when this box was replaced, the hole in the wall was enlarged and the newly damaged wall area filled with rough concrete, and remains unfinished and unpainted. While this is a minor detail, it does reflect on the “pride of ownership” by the occupants.

Throughout the review visit interviewees often articulated that a high degree of ownership exists on the part of the Justice Sector Institutions. In this case at least, it falls short of completing minor repairs properly, with care, and minimum attention to detail.

It was also observed that some of the furniture is already showing substantial wear and tear disproportionate to its age. In particular, the desks which are located in the court’s “Hearing room”. These were “custom made” are already showing some separations where the wood pieces are joined. Telephones are not installed in several of the offices (at present, only the Attorney General’s office is equipped with a land line). Internet services are not available in any part of the Justice Palace. As a result, communication from outside the building is not possible for the public and/or other institutions (except to personal mobile telephones of staff). The inner corridors are covered with a sloping metal roof. In several places, light may be seen through the laminated metal roof sheets that are damaged with cuts, tears and nail holes. In this condition, the roof cannot provide full protection from rain. So far, there are no budgetary allocations for running costs.

Among the lessons learned related to the above, is the necessity of establishing or improving existing mechanisms which will provide closer monitoring, better supervision

Procedural laws in Mozambique do not prohibit these one-sided meetings with the judge; however, such activity may be grounds for “suspicious incidents” and question the judges’ impartiality.

⁴The phrase “Palace of Justice” is a traditional expression used in Mozambique and many Civil Law countries, but the review finds the term “Palace” potentially sends out disproportionate connotations to the general public, particularly when the structure is situated in the middle of outright poverty. “Justice Center” (or similar) seems to be a more appropriate title.

and quality control of construction projects and procurement of equipment. It is understood by the review, that an engineer is contracted to conduct site inspection, however, more can be done to secure value for money and lasting installation of equipment and furniture. Therefore, acceptance of delivery and final payments should be conditioned upon full and satisfactory compliance with terms of the contract. A “walk-through inspection” should be part of the compliance verification procedure. Quality guarantees should be incorporated in the agreement and compliance demanded. In case of sub-standard products, the provider must be obligated to replace or repair them within a reasonable time.

Prior to the construction of the Justice Palace, comprehensive planning should be completed to provide for administration, management, maintenance, proper water supply and operational costs to insure sustainable and continuous operation.

Most importantly in this section, proper communication services and telephone lines must be operational or the “access” to justice part is seriously limited.

Local officials articulate high expectations to the all encompassing responsibility of the projects. In this regard it is important that relevant institutions understand the scope of the projects and inform service providers accordingly. Specific meetings and workshops should be organized locally to prevent misguided expectations.

It appears that the building design is meeting most requirements of participating institutions, as well as the operational necessities of integrated offices, the provision of a safe working environment; guarantee the safety and security of judges and other government officials, and last but certainly not least: Meet the specific needs of the public. It appears that when these premises were designed, comfort of end users (the public) was not given as much attention as is indicated.

But the Palace and beneficiaries could profit from “Public Information Counter” to provide information and facilitate the execution of services. As a result, the user may have to go from one office to another in order to obtain the status or other information related to their case. Should this be the case, there are no public waiting areas and the public has to stand in the common areas between offices (narrow corridors and/or outside of the building). In addition, public bathrooms and sources of drinking water for the public are not available. (Existing bathrooms are within the individual office areas, where public access is possible only with permission). The above observations may inform future designs for Palaces of Justice.

One of the main underlying concepts in support of the creation of Palaces of Justice is to create a “one-stop shop” where all justice related services are easily available and accessible by all members of the public, and particularly where such services did not previously exist. Therefore, the “one-stop shop” must be able to provide all services at all times of operation. The services include the Criminal Investigation Police (PIC), the District Court, the Attorney General’s Office, IPAJ and the National Service for Prisons.

For purposes of illustration, each of these institutions could be visualized as individual links of a chain created only, when all links are joined together. The chain can be considered as the chain of “Strengthened administration of justice at district level”.

On the other hand, if a link of this imaginary chain is missing, the chain is incomplete, and if a link is weaker than the others, the chain will break. In either case, it is impossible to provide a “full service shop” to individuals who seek legal assistance.

In Cheringoma, IPAJ has not assigned permanent or other staff to their office because of lack of provisions for housing of their personnel.⁵ Alternative housing is not an option. As a result no IPAJ representative has shown presence at the Palace since the opened in March 2009. The absence of IPAJ at this facility eliminates the possibility of achieving the main objective of the one stop benefit, because without one of the key partners, it is impossible to provide complete legal services. In the specific case of IPAJ, it can be argued that the problem is even more serious, because defendants in criminal cases have no access to meaningful and complete defense assistance⁶.

For the success of the Palaces of Justice to prevail, all institutions must be reflected in the palace design to function effectively and institutional commitment from all participating institutions must be secured. Additional considerations are the extent to which the operations of these institutions are truly integrated within the palace concept and that new administrative and operational procedures are introduced to facilitate service provision to the public.

The physical proximity of the palace institutions is a definite benefit, but operational procedures and institutional coordination must be modernized and improved for full effectiveness. At present, the procedures remain unchanged and are particular to each institution. New and improved operating guidelines have not been introduced for the institutions to operate in a more consolidated and coordinated form. Each office continues to conduct business as before. For example, each institution continues to create individual case files with a numbering system. There are no cross-referenced data bases, through which the user could easily find a case file in any of the other offices. No centralized “intake”⁷ exists, where initial documentation is received and court cases are initiated.

All registers (Livro de Porta) are maintained manually and while computers have been procured, these do not seem to be used beyond the basic word processing functions and programs. There are no automated programs in use, but some indexes and case lists have been developed by some of the staff. Another obstacle cited is the unstable and/or unavailable electrical supply, and lack of “peak protectors” or electrical stabilizers.

Due to these, no major efficiency or improvement in processing court cases was noticed, but reliable statistical information to confirm if there were in fact improvements as a result of the implementation of the project, was not available. Another obstacle cited is

⁵ In conjunction with the construction of the Justice Palace, the project also built housing facilities for two staff. At time of the visit (September 15, 2009), the housing was not yet completed and it is anticipated that it will be ready for occupancy within the next month, or so. These facilities were assigned to the Court (Presiding Judge) and Attorney General’s Office (Prosecutor), respectively. No space is presently available for IPAJ staff and there are no plans to build additional housing.

⁶ According to the Bar Association, only Maputo and Beira are cities considered having sufficient lawyers - all others face shortages. Due to this shortage, Legal Technicians are permitted to represent other persons in courts.

⁷ Central location, where all cases are initiated or “filed” with the court.

the unstable and/or unavailable electricity supply, and lack of “peak protectors” or electrical stabilizers.

It was not possible to assess if the average time taken to try cases was reduced significantly, as this information is not collected or reported.

There is no legal reference library available for use by Judges and lawyers. A small area exists as a “mediateca” with no books or other legal reference material provided by the sector.

The above shortcomings may to some degree be expected as the Palace concept is truly a new and untested service provision invention. But new, standard and uniform guidelines for operation must be fashioned and operational manuals should reflect modern administrative approaches and streamlined document flow. Therefore a targeted review of all operational and administrative palace functions should be initiated with a view to introduce modern court management and case management procedures with uniform automated programs. Again, a comprehensive training plan should be introduced for human resource capacity development.

At present, all staff in this judicial palace is permanent staff, transferred from other locations and in some cases, from districts located several hundred kilometers from Cheringoma. Staff shared that this created additional hardships on them, as they cannot bring families, communication and transport are limited, and some of the employees are forced to sleep on floor mattresses in their offices. It is noted that the new magistrates houses have been designed to allow families to join the judges at their post location.

Over a period of time, employee morale is sure to diminish as a result of these conditions. At present, staff members do not receive additional or special allowances for such assignments, though the regulation for payment of civil servants foresees additional compensation for those located in remote areas. Available options of local hires should be explored, wherever possible although in reality, these may be very limited.

Staff needs and working conditions must be improved to maintain their dedication and support of these reforms.

Three project offices were created in Inhambane, Nampula and Beira. These are operating and have been supplied with furniture and equipment.

The consultative justice councils are meeting and the team attended several of these. In general, representatives indicated that the project has been supporting them, but that often they feel left out of the information flow. Proper housing facilities are their main concern.

Legal professionals and members of IPAJ received training in the past. Nearly every person interviewed, without exception from line staff through executive management indicated the necessity of additional training, at all levels. Frequent or permanent continuing education programs are requested and recommended.

Additional support to justice at local levels takes a starting point in a newly developed national policy on crime prevention; however, programs and activities at the grass roots

level are not easily identifiable. Meeting with police management indicated that this was “in process”, but no concrete plans or details were furnished.

The administrator of Massinga indicated that as a result of project activities, there are now fewer cases of disputes between citizens. Project activities are generally considered as having improved community involvement in justice service delivery, but the supporting information is subjective in nature and no formal measures or statistics were made available to the team.

It could be argued that construction of new court facilities and rehabilitation of buildings has a positive effect on crime prevention, because to some degree these may improve access to justice. Human Rights training was also imparted at district and community court levels.

A crime prevention campaign includes spots for TV and Radio on three main themes: theft, abduction of minors and collaboration with the Police, and a film made for television broadcast, featuring popular singers of various ethnic groups. The film is very effective and a professionally produced product, which should be very well received and have positive impact.

Campaign on legal and judicial rights

A structured public awareness and public information campaign should be developed and implemented. Individual activities designed to increase visibility have been conducted with a variety of institutions and civil society groups.

Short interviews with the public (persons selected at random in Cheringoma), indicated limited knowledge of their rights and legal services which are now available in their community. No one had used the Palace of Justice, but all thought it was a “good idea to have it there, just in case.”

Although these project activities showed a positive impact in terms of knowledge and respect of human rights in the informal justice system, it was not possible to assess the extent of this impact, due to lack of statistical or related quantified information.

Survey on needs for legal defence

No information related to a formal survey on needs for legal defence was available from IPAJ. It appears that this has not been conducted. In addition, it appears very difficult (or nearly impossible) for poor persons to obtain legal services without any costs, as described earlier in this report. No supporting or statistical information was provided to the team to assess if any improvement was introduced in this area.

Support to IPAJ, Bar, University Legal Clinics and NGOs

Legal clinics are allegedly operating in collaboration with Faculties of Law, but the team was not able to schedule a meeting and see their operations. The review was informed that several thousand persons were trained through a variety of workshops and courses, but supporting documentation was not made available.

As discussed earlier in this report, IPAJ should provide permanent staff at all the Palaces of Justice, and equip these offices with adequate legal research reference publications through a permanent library on the premises.

Support to campaign for civil registration

A campaign was undertaken to record births and to create an electronic supporting database. The team was informed that this process was completed and that in Maputo, police records and certificates of “good conduct” can now be generated within three days.

Modernize and network civil registries at the national level

One of the remaining challenges is the transfer of information and databases which were previously kept in manual form. The project provided support and equipment for several registry offices. A priority was again identified as development and strengthening the capacity of human resources, particularly in the area of Information Technology.

Organise training and retraining of registry personnel at the CFJJ

Training was provided through the Judicial Academy which also offered programs to train trainers. The need for intensive training of personnel was again requested and structured assistance for a public information campaign.

Resources utilization stands at EUR 3.476.847,70 as per September 2009, corresponding to a financial execution 91% of what was budgeted⁸. The outputs were delivered as described below, but proper statistical information is required to assess the quality of those outputs

4.2 Correctional system unified and uniformed

Prior to Independence, the prison system was subordinated to the MoJ in Portugal. Following Independence in 1975, the management of the prisons was placed under both the MoJ and the MINT.

Until May 1996, basic legislation regulating the prison system was dated back to colonial times. The MoJ was responsible for the central, provincial and district level prisons, one female prison and for the open centers and “penitenciarias”. The Ministry of the Interior was responsible for the civil prisons, high security prisons and prisons in police stations.

The divided or shared responsibilities for the management of prisons led to serious planning and coordination shortcomings, which eventually resulted in a major overhaul of policies guiding the sector. A new Prison Policy was approved in 2002, identifying the following key problems in the prison system:

- Financial and planning difficulties
- Inadequate human resources
- Absence of adequate measures for the reintegration of the prisoners
- Overpopulation and poor detention conditions

In April 2003, the GoM established the Technical Unit for the Unification of the Prison System (UTUSP), supervised by the Ministry of Justice and subsequently the National Service for Prisons (SNAPRI).

⁸ Anexo I, Informe à Missão de Avaliação, Maputo: UIP, Setembro de 2009

During interviews with prison service stakeholders, the review was informed that the project component was designed centrally with little effort made to attract inputs from lower level stakeholders and beneficiaries. This being noticed, the training portfolio was considered by all the interviewees as a most valuable component of the project. However, both the CFJJ and ACIPOL hinted that course planning and coordination could improve. An illustrative example is the case when judges were invited to attend courses jointly with other officials for the justice palaces at the CFJJ, however, realized that judges already had passed through the training. It is equally important to design courses in conformity with levels of education and job relevance. Some courses were said to be better served by the Police Training Center in Matalane. In terms of application of lessons learned, most interviewees favored the expansion of training to other provinces. Most interviewees referred to delays in the disbursement of project funds, negatively affecting activities.

With regards to support to UTUSP, the project supported the capacity development of this institution for the year 2006, in terms of salaries, local travel, communications, consumables and maintenance. It also provided one vehicle. This support was important for future activities for the unification process of the prison system

Additional activities included support to drafting of the strategic plan for SNAPRI, which completion is delayed. This plan will be a valuable tool for the definition of strategies and priorities. The project also funded the study of the prison system (M. Marques Ferreira, November 2006). The study presents findings and some strategic recommendations, in the areas of:

- a) Criminal Justice
- b) Detainees
- c) Human Resources
- d) Infrastructures and equipment
- e) Prison work
- f) Juvenal offenders
- g) Statistics
- h) Security in prisons

Some of the recommendations of the study are being implemented, but additional support is required for a proper implementation of the others.

Although legally unified from 2006, the implementation of the unification still requires concrete actions in terms of re-organization and harmonization of staff deriving from the two previous institutions. It is against this background the review recommends further support to SNAPRI and to the activities aimed at effective unification of the prison system.

Reference support to the structural and functional rehabilitation of the selected prisons, the project has provided support mainly for rehabilitation and refurbishment of several provincial (Beira and Nampula) and district (Moma, Morrumbene and Savane) prisons. Refurbishment of the district prison in Moma has been completed, but the review was advised that due to lack of running water the facility is not yet operating. In Morrumbene, the rehabilitation of the existing prison is at a very early stage, although the district prison officials raised concern that even when complete, the capacity would be well

below the existing numbers of current inmates. In Nampula, the project successfully refurbished and equipped the juvenile prison facility to accommodate 192 persons. The facility is already occupied.

In general it was not possible to assess the development impact, as several prisons are yet to be completed and that the one completed inmates only moved in very recently. Interviewees unanimously suggested new prison facilities being part of the justice palace concept and rehabilitation of the existing facilities should continue in order to provide detainees with more humane conditions.

The review supports the continuation of rehabilitation of prison facilities, research and the drafting of legal reform aiming at reducing the number of detainees. However, such activities must again be paralleled by the application of measures in support of alternative penalties.

At least 904 prison officials have been trained, including wardens, prison social educators, penal control agents and one human resources officer. Apart from some minor complaints about logistics of the programmes, the interviewees highly regarded the initiatives and recommended its continuation.

A training program in weaving was conducted at the Central Prison in Maputo and at the Female Prison in Ndavela, which included trainees from Nampula Industrial Prison. The program included the supply of weaving machines and generated some funds which were supposed to be used for the prisoners and the victims. No proper follow-up was done on this activity. There are also no clear plans in terms of assistance for these prisoners once they end their period of imprisonment

In Nampula prison, there were ongoing initiatives aimed at providing prisoners with technical/vocational skills such as carpentry, masonry, all managed by the prison itself. The review was advised that the Community of Saint Egideo did some activities in this regard, but without much success. In Sofala, the project supported the acquisition of raw-materials for handcraft work. In Inhambane, the project financed the activity of the Escola Superior de Turismo e Hotelaria to train the detainees in producing cement bricks.

With regards to activities aimed at reduction of unduly incarcerated persons, i.e. support to the new "Prisoners Information System", the activity was successfully completed, allowing prisons to move from a manual system of control to a computerized one. Further on, the establishment of legal clinics in the prisons provided legal advice (by law students under the supervision of IPAJ) in 4 prisons and some other institutions (PIC, courts, police stations). A total of 1187 cases were processed in 2007 and 2008. The students of the selected universities and the supervisors were entitled to receive a compensation for their work. In a country where there are few lawyers and the activity of IPAJ does not cover the entire territory, this constitutes a relevant activity that should continue and be expanded. The review recommends the inclusion of the Bar Association in this activity and the assessment of the level of satisfaction of the beneficiaries.

The study on judicial control on accomplishment of prison sentence is underway. The study should inform the design of policy to manage prison sentences enabling timely release of inmates whose sentences have been completed. Similarly, studies of

alternatives to detention and a survey of practices of alternatives to incarceration are yet to be concluded. A preliminary report was presented and a seminar is to be scheduled.

The results of the survey should inform the development of a national policy and a law for alternative punishment in Mozambique, what will contribute to minimize the problem of overpopulation of the prisons.

A system of Open Prison Centers has been established, although there is general lack of capacity in the implementation of the system. The study referred to in the previous paragraph on alternatives to detention is also aimed at contributing to this purpose. Future support should focus on building capacity for management of the open prison system.

The project supported a seminar to develop a strategy of actions required for the rehabilitation and reintegration of released prisoners which involved participation from CSOs, faith-based organisations, academic institutions, SNAPRI and other justice officials. Activities aimed at support to social action in favour of former prisoners were not identified. A campaign on National Radio is being developed for the social reintegration of prisoners.

On the topic of reduction of unduly incarcerated persons, the systematic separation of juveniles from adult offenders must remain a priority for the prison service. Progress has been slow with only a few juvenile facilities established and functioning. The recently refurbished juvenile facility in Nampula was recently occupied, thus the impact was not possible to access. With support from the project, the prison services organized a training program for 30 prison staff in Nampula on how to manage juveniles.

Resources utilization stands at EUR 2.578.577,07 as per September 2009. The level of financial execution of this component was 75% of the budget⁹. Some activities, as referred above, were not completed. The studies and the statistic system programmed were the main sub-components that were not implemented at the required scale and quality.

4.3 Organization against crime strengthened

Specialized equipment was procured for the forensic laboratories of the investigative police, the PIC and delivery has been made in portions over the recent months. Additional equipment is expected to be received in the near future. The team was not able to get inventory lists of exactly how much additional equipment was obtained to date and what is further expected. This is due in part, to the fact that equipment lists were developed and prepared by an international consultant providing technical assistance, and local staff is not fully aware of the final recommendations.

Because additional equipment is expected to be delivered, it is not possible at this time to fully assess the efficiency of operations as the labs are not fully operational.

⁹ Anexo I, Informe à Missão de Avaliação, Maputo: UIP, Setembro de 2009

Equipment received to date includes items designed for the collection of evidence at the crime scene and field evidence gathering. In addition, specialized equipment for ballistics tests and fingerprint lifting was provided. In one case at least, there appears to be a duplication of instruments for ballistic tests. Two models have been received, and the main difference between these two versions is their size and capacity, as they perform the same identical tests.

In Beira, no air conditioning systems were installed in the laboratory. In October 2009, 3 AC have been installed in the laboratory in Beira to protect the new equipment, but these units were not in use at the time of the visit. This creates a particular problem as most of the equipment is temperature sensitive and likely to be damaged by extreme temperatures. In this laboratory no field cases for collecting of evidence have been supplied, further limiting the actual intended use of the items which were procured. Another problem is that the electrical supply is not stable and it has already damaged one of the sensitive apparatus. Electrical stabilizing units are essential for the protection of laboratory equipment. Project is currently resolving this situation and will provide stabilizing units for the lab equipment.

While forensic lab related training was conducted for lab personnel, a specific request was made to include prosecutors in future trainings. The prosecutors also need to be trained and updated with the latest information of forensic science and tests which are now available in Mozambique, for purposes of more complete and thorough investigations. Another problem is sustainability in that the lab does not have a budget for expendable supplies.

Those actions were considered by the interviewees as positive, but it was not possible to assess the extent of the improvement of the investigative capabilities of the police due to lack of required information. The same applies to the effectiveness of the police in dealing with violent crime.

A Television campaign was launched to educate citizens and to the police on human rights, civic education, police techniques. Training was provided to the police.

Four training courses were conducted for the Attorney General Office including subjects such as organized crime and investigation techniques. Studies were provided which facilitated the preparation of the Plan for GCCC Strategy to Prevent and Fight against Corruption and the National Action Plan for Transparency and Integrity in the judiciary System.

The GCCC reported that those actions resulted in the reduction of the period for the preparation of cases and in the improvement of the quality of same. They also had a positive impact in dealing with organized crime, which was confirmed by the focal points that exist at Provincial and local levels.

Resources utilization stands at EUR 1.660.738,80 as per September 2009. The financial execution of this component was 76% of the budget¹⁰. Although the scale of the outputs

¹⁰ Anexo I, Informe à Missão de Avaliação, Maputo: UIP, Setembro de 2009

delivered was positive, statistical information and sustainability and adequacy of the lab equipment provided remain the critical aspects for the future of this component.

4.4 Human rights protected by justice institutions

In tune with national policies and priorities, the Human Rights component features 2 outputs in the project document:

1. Awareness on human rights raised in civil society and protection by justice institutions improved
2. Respect for basic human rights in informal justice ensured

Research on human rights perception and conditions in selected environments (prisons, rural areas and vulnerable groups), support to human rights organizations and support to establishment of human rights courses and legal clinics at universities were defined as the main activities.

The project fielded a study to assess levels of general understanding of human rights. The completed study was shared and discussed with key stakeholders, including the government, and helped to support the development of the Action Plan for the Promotion of Human Rights by the Justice Institutions. Given that the project started with no baseline data for this component, the study was intended to both produce information on public perceptions on human rights and simultaneously contribute to establishing baseline data. The team was not able to obtain clear or reliable baseline data. The project implementation focused on the awareness campaigns conducted by civil society. The expected output: “protection by justice institutions improved” does not feature clearly in the implementation process or documentation. Some of the project documents in Portuguese simply do not mention it.

The Project supported the establishment of a human rights library in the Department of Promotion and Development of Human Rights in the Ministry of Justice. This library is accessible to the public in general, NGOs and Ministry personnel.

The Project financed a seminar in Nampula Province in 2007 on the role of the Southern African Development Community Tribunal (SADC). The Tribunal is the judicial organ for the Community overseeing the observance and correct interpretation of the Treaty, Protocols and other subsidiary norms. It was an occasion for the legal community in the northern region of the country to be informed about the new Tribunal and the procedure to refer a case to this instance.

It can be argued that the training seminars and workshops offered to police and judicial officers concurred to this end. In fact, this training is an important tool in building a shared awareness on the importance of respect for human rights by justice institutions. It has to be considered that the protection of human rights by justice institutions remains a huge concern in society. The 2008 report on human rights by the LDH, just to mention the more recent one, is emphatic in that justice institutions, particularly the police continue to allegedly be involved in serious human rights violations.

The project provided support to human rights organisations (LDH in Nampula and Sofala and APDCOMA in Inhambane) to undertake legal awareness and training programmes. The project provided support to training of 161 participants (students from the *Eduardo Mondlane University* and *A Politécnica*); police, SNAPRI and Ministry of Justice Officials.

Legal Clinics have been established in partnership with IPAJ and are operating in select prisons and police stations.

As indicated, a video clip was made for radio and television broadcast, featuring popular singers of various ethnic groups of Mozambique. The video clip is a very effective and professionally produced product which should be very well received and have positive impact.

With regards to the second activity level: Respect for basic human rights in informal justice ensured, the project provided technical and logistical support for human rights training of traditional leaders in each of the pilot locations. The project promoted two seminars in each province gathering participants from the pilot districts. Qualified trainers were contracted to conduct the training.

The design of holding two seminars in each province was an important provision in the training methodology. In practice, this design would have allowed a more consolidated training and provided information on the effective capacities developed by participants. Furthermore, the training course planning was faced with pressure to cover a maximum number of participants in the widest possible geographical area.

In general, CSOs have been dynamic in these endeavours, combining institutional resources and expertise. Human Rights NGOs with a focus on legal education have facilitated citizens' in need of legal aid to the appropriate channels both within civil society and with IPAJ.

Progress data/statistics or impact analysis has not been completed yet. In communications with CSOs in Beira the review was informed that no impact assessment had been planned for.

However, conversations with local authorities, community leaders and traditional courts judges offered testimony to well received awareness campaigns and workshops. One of these local leaders said: "Acabou a brincadeira! Agora as pessoas sabem que existe lei" (No time to play. People now know that there are laws)

Individual expressions of appreciation are of course welcome, however, cannot replace systematic project management modalities. Again it is proposed to launch awareness campaigns against consolidated baseline information, clearly formulated progress indicators and finally assess impact:

1. Establish baseline data by utilizing existing studies
2. Develop clear and shared monitoring and evaluation tools and benchmarks to sustain the work with CSOs
3. Build CSOs capacity to produce reliable statistics based on projects objectives
4. Work with Law Faculties to assess the need to develop a curriculum for human rights. Similar and successful experiences are made with mainstreaming gender in the social sciences curriculum.
5. Use institutional links – such as the law faculties, CFJJ, WLSA, etc., rather than individual experts to conduct training.

Resources utilization stands at EUR 295.540,41 as per September 2009. Financial execution of this component was 62% of the budget.¹¹

¹¹ Anexo I, Informe à Missão de Avaliação, Maputo: UIP, Setembro de 2009

4.5 Mainstreaming gender in justice administration

Envisaged activities in the gender sub-component include a baseline survey of women in justice and police sectors, a programme to promote women in justice and police sectors, awareness on women's rights raised in civil society and protection by justice institutions improved, the development of information programmes on women's rights for general dissemination and the opening of focal points for victims of domestic violence. This survey was realized by the CFJJ and includes an action plan for the main actors that can make a difference in promoting gender issues in the justice and police sector. The survey was not undertaken with project funds and was to be published in 2009, but no date is available.

The survey was undertaken and focused on abduction and trafficking of women and children with collaboration of electronic media institutions such as the Television Stations. It is striking that in 2009 the parliament passed a specific law on human trafficking (Lei no. 6/2008 de 9 de Junho). Training started late (November 2008).

Working through CSOs and the GAMC-MINT, the project supported workshops/seminars for police officers on their duties regarding women and justice. In addition an event was planned for December 16 in Sofala and supported by the project focusing on duties of police and communities regarding human rights protection and community policing. In addition, the project supported the drafting of a MOU between WILSA and CFJJ aimed at joint training and capacity with emphasis on gender and women's rights.

The project supported legal awareness programmes in collaboration with women's rights organisations and print and electronic media. The programmes focused on preventing and combating violence against women and also juvenile delinquency issues. 12 TV slots were identified to disseminate information on Gender Based Violence. The project supported local women organizations and associations to undertake awareness programmes.

The project supported the establishment of a toll-free line for victims of domestic violence aimed mainly at women and children. The project also provided support to Women and Children Assistance Offices (GAMC) established to combat domestic violence.

Statistics of the first two years of the project implementation (below) show an increase in the number of cases processed by the GAMC in selected provinces:

| Province | Number of cases solved | |
|-----------|------------------------|------|
| | 2006 | 2007 |
| Inhambane | 741 | 802 |
| Sofala | 1962 | 2835 |

| | | |
|----------------|-------------|-------------|
| Nampula | 711 | 553 |
| Total | 3414 | 4190 |

Source: UIP (2008 data was not available)

The reasons for decline in cases in Nampula are not clear. But despite a late start (late 2006), the number of cases of successful assistance to the protection of women against domestic violence in the first year is higher than the following year. Another element of GAMC action has been child support. Again, the number of successful child support cases shows a slight increase in the second year of the project.

| Province | Number of cases Child Support | |
|------------------|--------------------------------------|-------------|
| | 2006 | 2007 |
| Inhambane | 102 | 112 |
| Sofala | 80 | 60 |
| Nampula | 107 | 287 |
| Total | 289 | 459 |

Source: UIP

It is plausible to associate these results with the dissemination activities undertaken by the GAMC and Women and Human Rights CSOs. The dissemination exercise helped to communicate knowledge of rights as well as special mechanisms for protection, particularly the existence of the GAMC. Training sessions in Inhambane and Nampula involved a total of 103 participants.

In general, the compilation of statistics is weak. This is also reflected in reports produced by the PIU. This being said, the majority of stakeholders and participants commended the training activities. Such articulations were particularly recorded at community level. They spoke enthusiastically about the “huge impact” as a result of the imparted training, however, statistical evidence in support of these perceptions remained absent.

The project provided support to select CSOs to facilitate dissemination of information on women’s rights and defence of women in need, including imprisoned women: AMR in Nampula and MULEIDE for Sofala and Inhambane. While MULEIDE provided some legal aid, AMR worked through the good offices of AMMCJ.

Implementing CSOs and NGOs were selected through a tender process undertaken by the PIU in Maputo. This invitation to tender has bidders some freedom in the design of activities.

As already pointed out in previous reviews¹², there is no clear strategy for the involvement of women/women’s groups in the project. The huge effort on training did not

¹² Mid- Term Review of the Supporting Citizens Access to Justice Project (SCAJ),

always lead to expected results for the improvement of gender mainstreaming in the justice sector. One example is the curriculum developed by the project developed for the “Palácio da Justiça” officers.¹³ Gender issues are not included in the syllabus.

In general, the level of implementation of planned activities has been one of the lowest in the whole project. Resource utilisation stands at EUR111,263,71, as per September 2009, corresponding to 36% of the budget¹⁴.

The review recommends to further enhance the capacity building component and ensure that gender issues are dealt with as cross-cutting themes, not only as an isolated gender component.

The CSOs were instrumental in reaching out to the local communities. Furthermore, the partnership also contributed to strengthening the relations between the government and civil society. Representatives from AMR and LDH, separately, advised the review that an environment of distrust and suspicion have previously characterized relation between government institutions and CSOs in the realm of human rights. This relationship improved progressively throughout the course of the project.

The management, reporting and communication between the central and provincial level were not always clear for the CSOs. They were contracted directly by the PIU in Maputo, however, performed in district without significant involvement PIU provincial offices or the provincial CPCL. This has left the decentralized coordination without knowledge of CSO activities and very limited interaction with potential stakeholders. Members of CPCL in Sofala and Nampula informed the review they were not kept appropriately informed about the mandate, role and terms of CSOs interventions. A review of the management structure and procedures will have to consider measures to allow more effective cooperation with CSOs. All NGOs received credentials to present themselves to the CPCL but we recognize that the Gabinetes might not have permanently promoted the liaison between the CPCL and the NGOs.

4.6 HIV/AIDS related issues

This particular sub-component principally addresses improved awareness on HIV/AIDS related legal issues. Activities include a public awareness enlightenment programme on legal rights and obligations and the development of awareness, education, counseling and treatment programmes for persons living with HIV/AIDS in prisons.

Again, the relevance of the sub-component resides in its consistency with relevant national policies, as reflected in the Strategic Plan on AIDS (2004-2009).

The project commissioned a study to assess levels of knowledge of HIV/AIDS in prisons. Based on the study, a seminar was convened to open up the debate and prepare for an action plan.

¹³ José Óscar Monteiro e André Jaime Calengo, “Consultoria para a Preparação de Material Didático para a Formação de Oficiais de Justiça, Escrivães e Magistrados Judiciais e do Ministério Público ao nível Local em Funções no Palácio da Justiça” Relatório Final, Maputo, Junho de 2007

¹⁴ Anexo I, Informe à Missão de Avaliação, Maputo: UIP, Setembro de 2009

Awareness activities in prison centres aimed at providing improved knowledge on HIV/AIDS as well as prevention and care of prisoners living with HIV/AIDS. The project supported sensitisation of rights of prisoners living with HIV/AIDS, including the need for an improved diet. However, in the current context with prison centres faced with significant resource constraints, food quality is not really likely to improve.

Utilizing project funds, SNAPRI is currently testing the introduction of food supplements and vitamins to prisoners infected with HIV/AIDS, in order to facilitate the administration of anti-retroviral treatments.

Generally, the implementation of awareness programmes suffered from significant delays and late start-ups. As a consequence, the resources utilization as of January 2009 stands at € 34,317 corresponding to 16% of the budget. UIP planning in February 2009 shows that most of planned activities for life course of the project were still pending¹⁵:

- Publication of the study;
- Development of an Action Plan as a follow up to the public debate of study findings, conclusions and recommendations;
- Provision of Technical Assistance to the health department of SNAPRI
- Development of Radio and TV spots for dissemination of legal rights related to HIV/AIDS

Again, the involvement of CSO has been considered in this sub-component as well. As noted above, the review was advised that the Community of Saint Egideo did some activities also in the areas of public awareness, counseling for prisoners on HIV related matters as well assistance to prisoners suffering from AIDS. However accurate documentation remains absent. The Community of Saint Egideo did not work with project funds in the area of HIV/AIDs.

NGOs and faith based organisations are important suppliers of awareness activities. However, in this particular instance, organisational capacities to perform professionally are view insufficient. Training in project management and execution, financial management may be part of institutional strengthening efforts. In addition, a coordinated effort between civil society and the GoM may be an effective way to protect those touched by the HIV/AIDS epidemic.

HIV/AIDS remain a very serious challenge in Mozambique. It is noted in the National Strategic Plan for AIDS (2004-2009), the level of infection in the prison population is “alarming”.¹⁶ It is not understandable that this sub-component, which activities were mostly by outsourcing, did not move beyond its preparatory stages. Improved planning and implementation should certainly overcome this situation.

The Department for Sanitary Assistance was created without the necessary resources for operations. It is only recently that it was equipped and resourced with adequate personnel. The future project should indeed reinforce the capacity of this unit to promote awareness and support activities relating to HIV/AIDS.

¹⁵ Plano de Acção das Actividades por Realizar no I Trimestre de 2009 (Versão de Janeiro de 2009, Actualizado a 16.02.09), Maputo: UIP, p. 1.

¹⁶ República de Moçambique, Plano estratégico nacional de combate ao HIV/Sida, Maputo: CNCS, Novembro 2004, p. 106.

Given its effects on all sectors, it is also advisable to consider HIV/AIDS related legal issues across the whole project, without losing the focus on particular vulnerable populations such as the prison community. This is to be considered a key aspect for the component to achieve the required efficiency. Financial execution of this component was 37% of the budget¹⁷.

4.7 Emerging Impact and “Value for Money”

The 5 Justice Palaces, and residences have each been constructed at an average price of approximately \$ 800,000. The palaces in Moma and Cheringoma have operated since July and March 2009 respectively, while the palaces in Morrumbene, Massinga and Ribaué are just (September 4th) inaugurated or still under construction.

It is early days for a consolidated impact assessment of the palace concept and the review will be confined to affirm that the concept has been developed by the project, accepted and endorsed by the GoM. The complications associated with the completion of the Ribaué palace hints that evaluation of contractor bids could be revised with a view to avoid a situation where the contractor financially is unable to complete contractual obligations.

In the wider scheme of things, the palace concept does not necessarily bring justice closer to users, but the concept is practical for the promotion of access to justice. Effective functioning of the palaces must be a chief ambition and this purpose still requires all participating institutions to be reflected in the palace design and committed. Indications for success are positive as the concept has been co-financed by the GoM and considered for inclusion in development plans.

The efficient cooperation and management of these institutions require new administrative and operational procedures, automation of case flow and a professional long term capacity building program of staff. Finally, the involvement of users of the concept should be invited.

Does then the concept bring value for money? The direct answer lies in the affirmative, provided that the above assumptions are managed beyond the threshold of becoming risks and that users eventually adopt the arrangement.

With reference to software components such as awareness, mobilization and capacity building, project management abilities remain talent in the making. Key terms like monitoring and evaluation are understood as interchangeable, resulting in the likely scenario that impact assessments will not be undertaken at the completion of activities. Ideally, project wide impact assessments should contribute to establishing baseline data for subsequent project designs.

The training component has applied a system with stakeholders requesting training activities to the PIU. Approved work plans are guiding the training portfolio. PIU then communicates to training facilities (ACIPOL, universities etc) with a request to submit curriculum and cost estimate. On this basis, a contract is signed between the PIU and a

¹⁷ Anexo I, Informe à Missão de Avaliação, Maputo: UIP, Setembro de 2009

training facility and a first payment is wired. The contractor submits to the PIU reports detailing content and participation data. Each course is monitored by the PIU and participants fill in evaluation forms.

The administration and monitoring of training activities is well developed. As such, financial control, relevance of curriculum and participants registration are all elements in an appropriate reporting system that captures all outputs.

In general terms a key outcome of the project is a unique level of coordination through various bodies such as the CPLCs, PSC and CCs. Coordination between different organisational levels need to improve though, but the achieved coordination mechanism bodes well for future activities as participating institutions have clearly demonstrated a will to reform and improvement.

4.8 Sustainability

The question of sustainability stands at the core of institutional abilities to continue where the project delivers outputs, through the application of planning and budget tools by relevant project stakeholders. While it has already been decided to continue support to the GoM's reform efforts, the current project is referred to as a pilot phase, which ideally could be extended into longer term justice sector development cooperation with EC/UNDP in the lead, however, not excluding additional donor participation.

Sustainability in this regard includes the joined strengths of GoM planning and budget dynamics to absorb and maintain refurbished facilities, institutional capacity to take over ownership and the ability to successfully manage change in front line service delivery and longer term partnership with donors. By all means, the pilot phase has demonstrated that the complexities of the justice sector do only yield lasting results through a multi-year development process, which goes beyond the limitations of a project approach, however, simultaneously, learn from innovative pilot initiatives. It goes without saying that a longer term GoM commitment also is required, an issue that is revitalized with the unfolding national campaigns for general elections.

With reference to key infrastructures financed by the project, the review found that budgets are allocated to the functioning and the maintenance of the Justice Palaces.

The palace concept is based on the idea that inefficient or difficult coordination avenues between actors in the system are impediments to the delivery of services. But it is important that Palaces of Justice also interface with the non-formal system as 80% of the population apparently applies informal legal advice or customary laws.

As such, it is indicated, that sustainability and ownership issues do not only hinge on the prevalence of adequate resources. An illustrative example is the fact that only approximately 600 lawyers are working within justice institutions in the country. Of this number, 400 lawyers remain in Maputo.

IPAJ is gradually expanding throughout the country and is now deployed in 63 out of 120 districts. Some mobile units cover districts without permanent presentation.

At project level, the year 2006 was earmarked to activities aimed at establishing participatory approaches to all elements of project management. Project activities are projected in annual work plans established by stakeholders and joint monitoring missions took place. In direct support of the project, the GoM financed equipment and furniture at the Justice Palaces; however, it is not clear to the review how running costs will be covered.

The emerging impact of the training and awareness programmes is so far recorded in statistical data. The potential positive effects to which training will eventually improve participants' capacities to perform is not yet evaluated beyond reporting to coordination bodies. Capacity building is most likely to function as mainstream common denominators in all future project components and in order to adjust curriculum development to needs, it will be necessary to undertake impact studies.

5 Lessons Learned

Every now and again during the review, the team was confronted with the opinion that the justice sector is a very difficult sector to work in and cooperate with. However; most members of the donor group cooperating with sector institutions and relevant ministries have a long trajectory of cooperation and future support must be based on the appreciation of the inevitable difficulties shaping reform efforts in the sector.

The current political leadership is found by an utmost majority of interviewees to be of great willingness to cooperate with international partners and is certainly seen as taking a prime interest in advancing justice sector developments. However, an expected budget increase for 2009 did not come through, perhaps because of sudden additional priorities in light of 2009 being an election year.

Within the sector, the separation of institutional responsibilities must be respected although difficulties framed the cooperation between the executive and the judiciary during the early pilot phase. As such, high degrees of institutional independence must be followed by high degrees of accountability. While cooperation across lines of responsibility is far from ideal, the cooperation is found by most stakeholders to be improving. Although some interdepartmental skirmishes have determined relations, the general position amongst the majority of interviewees is that earlier defensive stands increasingly are replaced by commitments to joint planning and execution. As such, the PEI constitutes a vehicle of, if not common, then a combined justice sector commitment to strategic development.

The dialogue between the donor community and the MoJ is said to have taken a positive path, but some interdepartmental communication and coordination remains blurred, "like a radio transmitting on a wrong frequency" as one interviewee expressed.

GoM project buy-in may to some degree be a reflection of the participatory inception activities during 2006. Much time was set aside to impart project understanding with all stakeholders. But GoM buy-in may also be in the best interest of government, as improved access to justice and service delivery is ripe with political economy. In the long run, it is good politics to provide credible results to the public. Especially at provincial and district levels, demand driven service delivery may even influence the policy discourse. At the time of writing it is still too early to evaluate impact and the project further needs to collect information from the functioning of institutions which have been associated with training and construction activities.

Returning to the inception phase, most of 2006 was dedicated project understanding and ownership promotion activities. The extended start-up period may be perceived as a mixed bag. Ideally, ownership modalities are set forth in the project design, work plans,

committee work, PEI preparation etc. and are applied throughout the project from inception to completion and even beyond. It is also in this phase the concept of the Justice Palaces is conceived. Delays in both hardware and software elements are evident, but to which degree the long start-up phase is liable for delays is not clear.

The Project design was done from 2000 to 2003 and it was essential in 2006 to take time in order to cultivate ownership and the buy-in to the activities from the various justice institutions. In relation to the work with the NGOs, it is also to be recalled that the MINJUS did not wish to start the activities with the NGOs before the divulgation and discussions on the study results.

Reference construction activities, the technical complexities linked with tender procedures, contracting, supervision and financial management are all having a delaying effect on the project. PIU staff is not conversant with engineering practices and future project phases may wish to consider outsourcing of all construction activities, which are best served being managed by skilled experts. Such consideration must include guarantees that hardware and software components remain effectively coordinated. But through the outsourcing of the demanding engineering elements, much time and man power is freed up to devote attention to training, management and leadership activities. Such a re-orientation could be developed in partnership with GoM training entities and the continuation of training partnerships with CFJJ, ACIPOL, universities and others.

Justice sector communication, including coordination, dialogue, priority setting and outreach to the public may be improved. Access to justice is not only about facilitating the general public's contact to institutions, but also about bringing the public to services. It takes a GoM focus and plan of action to reach out to all communities in order to address prevailing general negative attitudes. By addressing this distrust the GoM is actually publicly demonstrating that progress will only take place in partnership with the public.

The project has produced an information video, a song, a pamphlet and opened a website. These activities are all commendable in that they bring awareness about the project, expected results and identify GoM and donor financing. But the GoM may also wish to consider new concepts of information campaigns, most notably in outlying communities. Increased outreach will require a GoM learning process as institutions currently tend to focus privately on development plans, rather than on service delivery.

The PIU under the leadership of the National Coordinator has been instrumental during the pilot phase. Much credit should be given to the unit for inserting a necessary push factor in the inception stages of project implementation, but for follow-on phases the entire PIU arrangement should to be critically reviewed. PIU has been instrumental for progress, authority and acknowledgement. However, in subsequent phases this function may be best served when further institutionalised, probably in the MoJ. Currently, the PIU Directors are appointed by GoM and it seems unusual to have political appointees placed within a project coordination unit. It is suggested by the review that for a 2nd phase an exit strategy for the PIU must be developed while efforts are made to mainstream the GoM capacity to manage development in conformity with the PEI. Members of Project Steering Committees and coordination bodies may wish to inform this process, including a likely scenario with Advisors being placed within existing structures of the MoJ.

Progress reporting at lower organisational levels is found to be inadequate with exchanges of information often driven by personal relationships. Verbal person to person communication must be replaced by the production of institutional documentation and reporting, especially at provincial and district levels where formalized institutional communications need to be put in place.

Attention to information flow has been limited at lower levels and at times, implementers in the field are unaware of where responsibilities of the project end, and where GoM is expected to take over and deliver. A case in point is the GoM financing of equipment and furniture for palaces, a point few interviewees in the districts were aware of.

Individual entities implementing similar activities (i.e. Justice Palaces, remodeling of prison facilities, etc.) in pilot communities seem to have been operating independently without a periodic forum for the exchange of information and lessons learned among their peers in other locations. Workshops and coordinating meetings should be periodically scheduled for this purpose.

Stock-taking of the Justice Palaces would be appropriate in order to determine to which degree measurable improvements in service delivery are recorded. Additionally, location criteria should be considered before new facilities are built and how new locations correspond with potential case loads, types of cases, demographics, distances, availability of detention and jail facilities on the same or at a close location, etc.

A cross-cutting issue is the requirement to accentuate direct institutional support through training in project implementation and management, monitoring, assessment and reporting tools – particularly timely, complete and reliable statistical reporting – and then use the reports for planning, management and development of indicated strategies.

During prison visits the review found limited prison facilities for juveniles, who must be kept separated from adult prison populations. Refurbishment of facilities which upon completion will be immediately overcrowded by a factor of three, do not solve the underlying problems and are more cosmetic in nature than true solutions.

Irrespective of intentions, free legal services are virtually unavailable. This goes beyond the services of qualified legal professionals and includes costs of paper, copies, transport, processing, etc. The combined effect is that without financial means you cannot get justice, or any legal assistance.

A remedy for some of the above shortcomings may be identified in an increased interaction with civil society organizations and the public at grassroots levels. All parties would benefit from increased levels of cooperation between the GoM and CSOs and it may be considered to develop a Code of Conduct guiding increased levels of cooperation.

This activity is being undertaken now with the development of a code of conduct between the MINJUS and the NGOs dealing with Human Rights.

6 Conclusions

There is little doubt that the project design is a direct reflection of the GoM's strategy planning and activities are synchronized as appropriate responses to the justice sector

development challenges. It is, however, too early to assess impact of the project, as key project activities remain ongoing or only recently completed, but project design is viewed as relevant in meeting expressed priority objectives.

The one-stop justice concept is aligned with the poverty reduction notion and is successful in the promotion of justice institutions in communities. The concept has been applauded by all interlocutors; however, still need to function at a larger scale until credible impact studies can be realized. The harmonized functioning of the palaces requires the development of new training concepts to fully function in practice and user views on service deliveries should be invited.

The softer aspects of the project, i.e. capacity building, training, outreach and awareness training are well conceived along the ambition to promote formal and informal means of justice, human rights, gender, HIV/AIDS and action to remedy domestic violence. The human rights, gender and HIV/AIDS project range should ideally function as undercurrents across project activities rather than as select components. By introducing a wider cross-cutting wall-to-wall theme in all project streams, these important topics will be better served and sustained.

Progress documentation at lower organisational levels need to improve with a view to ideally synchronize reporting and exchanges of lessons learned across districts and provinces. It is important that it is the stakeholder institutions that are learning, not only project management.

Emerging project impacts at district still requires both outstanding activities to be completed; however, also a concerted effort to document and assess results and impact. It is equally found necessary to undertake stakeholder capacity assessment and the combined findings of impact and capacity assessments should guide the application of pilot phase achievements in subsequent programming while simultaneously considering PEI revisions. This assessment should ideally include NGOs and CSOs and possibly invite for a closer partnership with these institutions, a partnership based on a mutually agreed Code of Conduct.

An overall SWOT analysis identifies the following:

| | |
|--|--|
| <p>Strengths:</p> <ul style="list-style-type: none"> ○ Strong team at PIU during the inception phase ○ Improved inter-institutional coordination ○ Strong ownership demonstrated through the management and coordination bodies ○ UNDP long term institutional justice sector experience ○ Will for reform ○ EC flexibility | <p>Weaknesses:</p> <ul style="list-style-type: none"> ○ Strong team at PIU ○ Lack of skilled PIU personnel vis-à-vis construction activities ○ Centralized management and monitoring ○ Delays in funds disbursements ○ Information flow does not always reach lower organisational levels or beneficiaries ○ Absence of impact studies and assessments ○ Insufficient lessons learned exchanges across geographical and institutional boundaries |
| <p>Opportunities:</p> | <p>Threats:</p> |

| | |
|--|---|
| <ul style="list-style-type: none"> ○ GoM increasingly assumes project management responsibilities ○ Improved GoM management capacities ○ Increased GoM orientation toward service delivery ○ New standards for physical maintenance of state institutions ○ Greater public satisfaction with service delivery | <ul style="list-style-type: none"> ○ Cooperation of new cabinet and GoM ○ Continued limitations of qualified professionals ○ Lack of resources necessary to improve citizens' access to justice ○ Cooperation between relevant institutions ○ Lack of related reforms ○ Donors hesitation to accept public works responsibilities ○ General political and economic developments in Mozambique. |
|--|---|

The project has financially focussed on construction, however, is to be identified as an institutional reform and capacity development project. Programming of future activities should ensure that learning and knowledge sharing features as prominent priorities. This being said, the emerging impact of the project is most like to affirm relevance, efficiency and effectiveness of the initiative.

7 Looking Ahead

The findings presented in the assessment of the six project streams and the many interviews conducted with key interlocutors provide material for a number of considerations that eventually may assist in guiding the design of follow-on support to the justice sector.

7.1 Justice Sector Framework Conditions

The GoM's strategic planning instrument, the PEI, clearly has inserted a confident tool for development and a venue for development partner buy-in and cooperation. As mentioned, it will be interesting to see to what extent project results and lessons learned have informed indicators and ambitions in the forthcoming strategy plan. The roll out of the plan, which will take place after the formation of a new Cabinet, will additionally constitute a key point of attention for the donor community, given that both individuals and institutions play decisive roles in establishing both frameworks for development and cooperation.

The sector has witnessed a number of crucial improvements since the turn of the Millennium such as development planning instruments, IPAJ and improved education facilities. However, at the same time a number of shortcomings remained constant or deteriorated with a continued shortfall in numbers of qualified professionals, increased requirements to improve citizens' access to justice, reform the administration of justice and the cooperation between relevant institutions.

Case backlogs have not been reversed, intended pro bono services comes at a price, and institutions remain distant and managed with insufficient vision for service provision, resulting in bleak perceptions of the sector. While this scenario has been prevailing for years, a firm commitment from the GoM to expand justice sector allocations beyond staff

salaries and basic equipment may inspire the donor community to strengthen the support of this fundamental sector for the good governance of the country.

An invitation by the GoM to attract further funding is a plus and most members of the Justice Sector Working Group include the governance dimension in country strategy plans.

The EC and UNDP remain committed to extend justice sector support. Delays in parts of the pilot project have called for an extension of the deadline for completion of activities and possibly harvest lessons learned from all stakeholders. In the best case scenario, a new close-out date may be established for March/April 2010. As long as resources are committed, UNDP is in no hurry to complete the project and would like to take the time to capture results. UNDP has reserved some resources for the sector during 2010/2011, although global financial conditions are having a negative impact on general resource allocations to the country office. However, with careful scrutiny of running costs, reserves at hand may be sufficient to maintain momentum in a bridging arrangement, until a consolidated subsequent phase is identified, programmed and financed.

Although the pilot project was designed with heavy focus on construction, it is important to keep in mind that the project is much more than an infrastructure project. It would even lubricate the understanding by stakeholders to state that the project is not an infrastructure project. The review is recognizing the importance of a balanced approach, leaving sufficient room for the hardware component, as justice facilities outside Maputo are clearly in high demand. Therefore, the infrastructure dimension brings GoM branches together and brings institutions closer to the population. The GoM could exploit this understanding and venture into co-financing of the required public works.

In general, bilateral donors may be hesitant to accept public works responsibilities. However, a basket funding arrangement in conjunction with GoM contributions may facilitate the necessary resource mobilization.

The pilot project adopted an all-inclusive approach to programming. However, the infrastructure component could alternatively be separated from mainstream project activities and be implemented by, say the GoM in partnership with UNHABITAT while UNDP continues to target the softer aspects of the project in close partnership with the established stakeholders. Or, then again, the GoM may want to open up for increased public works financed by alternative development partners, i.e. the Chinese government.

General political and economic developments in the country are, of course, having influence on the reform process. With Mozambique featuring in the bottom end of the Human Development Index, sector development capacities are understandably subject for improvement and a departure from the index rating will be a time consuming process.

Longer term donor commitments are desired, but as sector support is likely to remain anchored on 'learning-by-doing' premises, it is important to jointly identify appropriate milestone indicators with a view to improve results based results management practices.

7.2 Considering Principles for Service Delivery

Success in reaching development objectives depends not just on the flow of resources and economic growth, but equally on the GoM's ability to translate these resources into services. Thus improving service delivery has to feature as a high policy priority. In line with the above, the sector may benefit from a shift in focus from inputs to results and outcomes.

The underlying rationale for the support is to enhance the GoM's efficiency and ensure equity. However, the degree to which the GoM is actually able to deliver good-quality services and address efficiency and equity concerns has to be part of the policy dialogue. There is practical evidence of poor performance in service delivery, and a number of reviews questioning the political will for reform, which identify a lack of qualified staff, equipment and infrastructures.

It is useful to distinguish between financing and production of services. While financing continues to be important, it has received most of the attention until now. Further project development may focus on problems of service production, including government at all levels, especially lower tiers and service providers like NGOs and CSOs.

The organizational structure of sector agencies involves multiple layers of management and frontline workers. Multiplicity is also a key aspect in terms of tasks they perform and constituencies they serve. Another characteristic is that their action and output are often difficult to verify or measure.

Incentive schemes for frontline professional staff may be considered as suitable when tasks are clearly defined and unambiguous in the delivery of services from institutions involved in the project. Service providers may find they lack rivals and the informal justice system may only be regarded as a complimentary system. While the introduction of incentives does not in itself guarantee better performance, it places greater emphasis on management procedures.

Collecting performance data from service-providing units is a key element in impact assessment practices and improvements in service provision should ideally have a bearing on operational policy dialogues within GoM entities and with the donor community. Policies may be formulated within a paradigm of state-led growth and development, but the implementation capacity of the GoM at all levels needs to be systematically incorporated into setting priorities.

An orientation that focuses on frontline providers may, to some extent, address this gap, and provide more concrete judgment of the service delivery environment.

7.3 Managing Relations and Risks

As mentioned above, the policy formulation and results management capacities remain subjects to scrutiny and improvement. Initiatives aimed at strengthening capacities in the justice sector must be open to the positive dynamics that flows from accurate data derived from empirical sources at the level of frontline service providers, and implementers in the regions.

The ensuring of effective coordination amongst sector entities: the judiciary, the prosecution, the Bar Association, the legal aid system and the ministry of justice remains crucial for the reform process. At project implementation levels in provinces and districts, activities have been coordinated through the CPLCs and the Conselho Distrital de Controle de Legalidade (CDLC: District Counsel for Legality Control) while the Advisory bodies and the PIU coordinated activities at central level.

In the likely advent of subsequent project phases being conceived, it is time to view how coordination mechanisms have unfolded in alignment with the ambition to decompress decision making practises and establish avenues for increased levels of decentralisation.

Both best management practices and the Paris Declaration on Aid Effectiveness advocate the delegation of decision and inclusion of appropriate stakeholders and beneficiaries. The PIU has undoubtedly played an instrumental role in getting the project off the ground and the establishing of activity, reporting and coordination momentum. But now, that key practices have been established within government institutions, the application of the PIU structure in the management of the project seems to be in some conflict with the decentralization notion. Lessons that are being learned from policy units and frontline service providers need to be captured by institutions responsible for the development process at exactly policy and delivery levels.

The PIU may be tasked to assist in the transfer of management and coordination functions and may guide the synchronisation of assessment, data collection and reporting templates with GoM practices. However; this task should ideally be established within a clearly defined exit strategy for the PIU structure, as coordination is no longer viewed dependent on the functioning of individual entities, although the office may be recognized as an integral part of the MoJ.

The 'green field' implementation environment that shaped the commencement of the pilot phase is now being replaced by a basket of experiences captured since 2006. Ownership and sustainability issues are best served within the institutional confines of relevant institutions, however, a certain advisory support element may be considered by the EC, UNDP and the GoM. Ideally, advisors should be institutionally embedded and perform in parallel with identified counterparts.

The advisory function may also address the requirement to strengthen coordination at province and district levels, including results based and financial management training. There seems to be no policy reason why provincial and district authorities should not be able to request and disburse funds as such a venture would practically comply with the call for increased levels of decentralisation by bringing management and decision processes closer to scenes of action and beneficiaries.

But again, a starting point should be taken in the launch of a capacity assessment of key institutions, perhaps with a view to eventually mobilize technical assistance to perform within institutions as supplementary staff.

Exchange of info and cooperation has been achieved on the background of a fair portion of personal charisma. However, the review finds candidly that this vital aspect of management practices needs to be institutionalized. And that GoM should engage in franc discussions of this issue with key stakeholders.

In addition, a possible bridging arrangement between consolidated implementation phases may be utilized for the establishment of credible baseline data. It may also be considered to create particular project components/sectors of excellence in order to re-enforce public outreach, learning and incentive mechanisms. The police force may constitute a comfortable target for this exercise, as the police truly is in regular contact with the public and actions undertaken by the police has direct impact on incarceration, prosecution, legal aid etc.

8 Recommendations

The review team proposes the following catalogue of recommendations:

- Ensure continued support to relevant studies and surveys in support of policy and legal reform
- Study of the obstacles faced by poor people in accessing justice in urban and rural areas prior to designing the next phase of the project.
- Continue to analyse the linkages between poverty and lack of access to justice
- Identify institutional capacity gaps and develop interventions to strengthen them
- Establish strengthened project monitoring and impact assessment mechanisms
- Strengthening of coordination capacities at all levels (especially at the province and district levels)
- Develop formalized partnership with NGOs and CSOs
- Re-design human rights, HIV/AIDS and the gender component as cross-cutting themes
- A monitoring system should be developed to continuously assess how the one-stop justice concept is functioning in view of adequately serving the poor and disadvantaged
- Uniform reporting templates should be provided to all stakeholder personnel and implementing partners to ensure that reports are able to identify and capture progress and challenges in project implementation
- Establish synchronized lessons learned exchanges across geographical and institutional divides
- Establish baseline data and develop progress indicators for all components
- Annual work planning should involve provincial and district level stakeholders to ensure that annual targets and activities are realistic and correspond with needs on the ground

- A clearly articulated implementation strategy should be developed, spelling out the roles of all stakeholders in the project and include a monitoring and evaluation plan
- Develop a mechanism/strategy for regularly keeping stakeholders and the public informed of progress made by the project. The best way to do this is through supporting communication strategies in the parent institutions of the project to undertake this function
- Review the project management and coordination arrangement with a view to formulate an exit strategy for the PIU
- The PIU may be tasked to assist in the transfer of management and coordination functions and may guide the synchronisation of assessment, data collection and reporting templates with GoM practices. However; this task should ideally be established within a clearly defined exit strategy for the PIU structure, as coordination is no longer viewed dependent on the functioning of individual entities, although the office may be recognized as an integral part of the MoJ
- Create particular project components/sectors of excellence in order to establish model concepts for replication and re-enforce public outreach, learning and incentive mechanisms

Annex I Terms of Reference

LOT N° 7: Culture, Governance and Home Affairs REQUEST N°2009 / 212490

End of Term Review of Support to the Justice Sector

Terms of Reference

June 18 2009

1. INTRODUCTION AND BACKGROUND

The present document constitutes the Terms of Reference for the end of term review of the 'Supporting Citizens' Access to Justice" project which was jointly financed by the European Commission in Mozambique (hereafter referred to as 'the EC Delegation') and UNDP, and implemented by the Government of Mozambique (GoM). The implementation of the project began formally in 2005 and this will be the first independent external review conducted.

1.1 Background

Following the introduction of multiparty democracy and a free-market economy in the early 1990s, Mozambique has been faced with a number of major challenges related to the strengthening of its justice institutions. These include very limited financial and human resources, excessive bureaucracy, an outdated and complicated legal system inherited from the colonial period and the alleged vulnerability of the sector to corruption. Nevertheless, some significant progress has been made in the sector in recent years in terms of legislative reform, the professionalization of judicial services, and inter-institutional coordination within the sector. There remains however, a very long way to go before the ordinary Mozambican can claim to have a satisfactory level of access to justice.

As a result of the above weaknesses, justice sector institutions tend not to be trusted by the population. This has led to frequent cases of citizens taking the law into their own hands¹⁸ creating an environment of disorder and impunity. Other problems within the sector include a relatively low judicial case processing rate and long remand periods in conditions that do not conform to minimum acceptable levels. Public safety remains a major concern of the bulk of the population and levels of organized crime are reported to be increasing. Violent crime is also reportedly on the increase.

2001 data indicated that 80% of the population rely on the semi-formal and informal justice systems to solve their disputes. However, although the Constitution recognises legal pluralism, the legislation provides no clear guidance relating to how the formal and informal justice systems should relate to one another. Considering that human rights violations (e.g. of the rights of women and children) are known to occur within the semi-formal and informal justice systems, the lack of systematic monitoring in this area is of particular concern.

The root causes of some of the problems associated with the administration of justice in Mozambique are shared with other sectors. These include limited financial and human resources,

18 Some 62 people were reportedly executed by local communities in 2008

weak performance incentives, antiquated legislation, excessive bureaucracy and administrative procedures, weak monitoring, control and supervision mechanisms, and limited application of administrative and judicial sanctions against corruption. The government is attempting to address some of these problems through the implementation of a public administrative reform programme and a public financial management reform programme.

The Integrated Strategic Plan (PEI, 2008-2012) for the justice sector, which was approved by the Cabinet in October 2008, offers a specific framework for addressing the problems at the sector level, applying a holistic approach to improving the delivery of justice services.

1.2 Objectives of the project

The Financing Agreement for support to the Justice Sector was signed between the European Commission and the Government of Mozambique in May 2004, followed by the Contribution Agreement for the project “Supporting Citizens’ Access to Justice”, signed in December 2004 between UNDP and the Government of Mozambique with the endorsement of the European Commission for a five year implementation period. The project document between UNDP and the Government of Mozambique was signed in April 2005. Formally the implementation of the project started in June 2005 but significant field work only began a year later. The project implementation unit was established in 2005 while the three regional implementation offices in Inhambane, Beira and Nampula were established in 2006.

The Project Implementation Unit and the justice institutions supported by this project (*Procuradoria Geral da Republica, Tribunal Supremo, Interior Ministry, Justice Ministry*) have developed a four year budget and activity plan which was approved by the Project Steering Committee on 14th of September 2006. The four year activity plan was revised through a contract rider in January 2008.

The project is aimed at achieving two main objectives: a) to maximise the effect of support action in relation to the poorest sections of the population and vulnerable groups, b) to avoid duplication with other donor’s activities. In turn, these two objectives have led to focus on two broad areas: 1) penal justice, 2) decentralisation. Both of these affect the poor and vulnerable and at the same time, provide space for action by donors who are ready to coordinate and cooperate.¹⁹

1.3 Expected results of the project

The project is composed of six-sub projects which are expected to produce the following results:

1. Administration of Justice strengthened at local level
2. Correctional system unified and uniformed
3. Organisation against crime strengthened
4. Human rights protected by justice institutions
5. Mainstreaming gender in justice administration
6. Awareness raised in HIV/AIDS related legal issues

1.4 Implementation status

The global level of expenditure to this point is 73% and the implementation period of the project finishes by 30 June 2009. A proposal for a three month extension of implementation (30/09/09) is currently on the table.

2. DESCRIPTION OF THE ASSIGNMENT

2.1 Overall Objective

¹⁹ European Community Contribution Agreement with an International Organisation, Financing Agreement 9. ACP MOZ 011, May 2003, Annex 1, page 4, par. 2 Project Strategy.

The overall objective of the review is to inform stakeholders of the extent to which the programme has produced or is on track to produce its intended development results, to understand the reasons for such performance, and to identify the key lessons which can inform the design and implementation of activities associated with the Integrated Strategic Plan (PEI) for the sector.

Specifically, the review will establish the relevance, efficiency, effectiveness and emerging impact of the programme, and will assess the likely level of sustainability of the outputs produced and development results or benefits achieved. As the programme was intended to develop innovative approaches for national replication the level of awareness throughout the sector of these approaches and the degree to which they have been replicated should also constitute a focus of the review.

The results of the evaluation will not be used to determine whether support to the sector by the funding agencies (EC and UNDP) should continue, as the decision has already been taken to continue supporting the sector. Rather they will be used to help design the nature of future support.

2.2 Key Evaluation Questions

Based on the original project logical framework the following list of key evaluation questions has been drawn up which is intended to focus the work of the reviewers. For the following questions the reviewers should not only seek to answer the question but assess the extent to which the project appears to have contributed to any improvement (or deterioration) identified. Where attribution of results to the project is considered very difficult the reviewers should identify any other significant factors which may have contributed to the identified results.

a) Decentralisation - Administration of Justice

1. To what extent has access to justice services in the project areas improved over the period covered by the project, in terms of availability, use and cost of the services?
2. To what extent has the average time taken to try cases within the project area been significantly reduced over the period of the project?
3. To what extent have court management systems in the project area become more efficient in processing court cases?
4. To what extent has respect for human rights improved in the informal justice system in the project areas?
5. To what extent does the level of corruption in the judiciary appear to have declined over the period under review?
6. To what extent has the level of local community involvement in justice service delivery improved in the areas covered by the project?
7. To what extent is the project-promoted concept of one-stop-shops for justice services delivery compatible with the architecture of the justice system and its legal provisions?
8. To what extent has legal aid become more accessible to the population in the project area?

b) Penal system and crime

1. To what extent has the investigative performance of the police service improved over the period covered by the project?
2. What has been the trend over the project period in the apparent level of effectiveness of the police service in dealing with violent crime (improving public safety) across the country?
3. To what extent has the effectiveness of the Attorney-General's Office in prosecuting organized crime cases improved over the project period?
4. To what extent have prison conditions and the level of respect of prisoners' human rights improved over the project period?

c) Overall

1. To what extent has the level of coordination between the various parts of the system for the administration of justice improved over the period of the project?
2. To what extent has a satisfactory level of integration of the different components of the project around the concept of a coherent and integrated justice-delivery service occurred?
3. To what extent did the redesign of the project in 2007 affect the effectiveness of the project?

2.3 Specific Tasks

In carrying out the review, the review team will ensure that the relevance, efficiency, effectiveness, sustainability and impact of the project are assessed. Specifically, the team will address the following aspects:

2.3.1. Relevance

1. Assess the extent to which the project's objectives were directly relevant to the Government of Mozambique's overall development and poverty-reduction strategy and to its strategy for the development of the justice sector.
2. Assess the degree to which the project's objectives were aligned with the EC's policies relating to the provision of support to improving the administration of justice and strengthening the rule of law as part of its development support programmes, as well as its degree of coherence with other EC policies relating to Mozambique.
3. Assess the extent to which the design and implementation of the project adequately took into account existing support to the justice sector provided by other donors (including individual EC member countries), and sought to achieve an appropriate level of alignment and coherence with these activities.

2.3.2. Efficiency

1. Assess the extent to which the project has delivered (or is likely to deliver) its programmed outputs at the scale and quality and in accordance with the timeliness originally planned.
2. Assess the level of cost-efficiency achieved by the project in the production of its principal outputs, with a particular focus on infrastructure construction (including by comparing this to regional averages).
3. Assess the quality and utility for management and other stakeholders of the project's annual planning processes, monitoring, evaluation and reporting and communication systems.
4. Assess the extent to which the project pilot area selection criteria were explicit and in conformity with the original project document and the government's priorities for the sector.
5. Assess the quality of the project management in the context of the NEX modality of UNDP, including that of the project implementation support and monitoring provided by UNDP.
6. Assess the overall level of project efficiency in terms of the minimization of the project's 'overhead' costs such as project personnel, infrastructure, equipment etc.

2.3.3. Effectiveness

1. Assess the level of achievement of planned outcomes and the extent to which the delivered outputs have contributed towards the achievement of these (including by assessing the level of utilization of the project's goods and services by the intended beneficiaries²⁰).
2. Identify the principal factors explaining the identified level of achievement of outcomes.
3. Using the above analysis review the overall apparent effectiveness of the strategy

20 This includes the use of study findings in national policies and strategies, the use of capacity-building products etc.

adopted by the project to achieve its principal objectives.

4. Identify the main lessons learned in relation to the strategy adopted and its implementation which will be of utility in the design and implementation of future programmes in the justice sector in the country.

2.3.4. Ownership and Sustainability

1. Assess the extent to which the outputs produced by the project are being used, maintained and built-upon by the intended beneficiaries. This applies to infrastructure, capacity-building outputs, systems and processes, studies etc.
2. Assess the extent to which the above outputs are likely to continue to be sustained when the project is concluded. This involves assessing the extent to which the project's approaches have been integrated into the routine functioning of the justice system institutions in the project areas and replicated elsewhere, as well as assessing the extent to which any additional operational expenditure introduced by the project will be covered under the annual state budget for the sector.
3. Assess the overall level of participation of key project stakeholders in the design and implementation of the project, and their level of sense of ownership over the project and its approaches.
4. Identify the principal factors which are likely to affect the sustainability of the project's outputs and benefits and indicate what measures need to be taken in the remaining period of the project to maximize the sustainability of these benefits.
5. Draw the main lessons to be learned from the above which will be of value in the design and implementation of future justice support programmes in Mozambique and elsewhere.

2.3.5 Impact

1. Identify the nature and approximate scale of the various types of impact which the project has had to date (whether direct or indirect, positive or negative, and intended or unintended) and the ways in which this varies by major socio-economic group.²¹
2. Identify the principal factors which appear to explain the above levels of impact and draw lessons from this analysis relating to how overall net impact can be significantly increased in the delivery of justice support programmes in the future.

2.4 Methodology

The review will be conducted through a combination of secondary data review (sector reviews, project documentation etc.), interviews with key informants from the public sector, civil society and thematic experts, and the conduct of rapid primary data collection activities such as focus group interviews with representatives of beneficiary institutions and final service beneficiaries. The evaluation team will design its approach to conducting the work (to be presented in its inception report) and will agree this with the review Reference Group shortly after the commencement of the assignment.

The review approach will be formative which implies that the review team is expected to facilitate a good deal of participatory project performance analysis by the primary stakeholders concerned, particularly key sectoral public sector institutions and relevant civil society groups, with a view to using the review to help build ownership of the review's findings.

2.5 Outputs

The review team will supply the following outputs during the course of the assignment.

a) Inception Report

²¹ Whilst the review is not a full project impact assessment the use and analysis of results data and consultations with main beneficiary groups and other types of stakeholder should enable an overall preliminary estimate of project impacts to be achieved.

This will summarize the teams's proposed approach to conducting the review based on its initial discussions with the main institutions concerned. It will also highlight any perceived issues or constraints identified which may affect the team's ability to successfully implement the ToR, including its proposed solutions for overcoming these.

Some terms or concepts that are used in the project document (i.e. "access to justice", "justice sector", "informal justice", "justice decentralisation", etc) will need to be contextualised and briefly explained in a short definition-note to ensure the better understanding by all stakeholders of the key questions.

The inception report will be submitted one week following the start of the review team's work in the country.

b) Draft Report

A PowerPoint presentation containing a summary of the review's main findings will be submitted four weeks prior to the projected final report delivery date. Following initial feedback from the sector and the funding agencies (to be provided within one week) the evaluation mission will present the main findings of the review in a one-day workshop attended by a limited number of representatives of the project implementation institutions, civil society organizations active in the sector and the government, together with one or more representatives of international partners. The objective of the workshop will be both to enhance the level of understanding and ownership of the review's findings amongst the key stakeholders as well as to provide the opportunity to correct any perceived misunderstandings or erroneous conclusions of the review team.

Following the completion of the workshop the consultants will incorporate any additional material which they deem relevant into their findings and will present this as a draft report of not more than 40 pages (excluding annexes) to be submitted within one week.

c) Final report

The sector and the funding agencies will submit comments to the draft report within two weeks of receipt of this. The consultants will submit the final report within 10 days of receiving the comments on the draft report.

3. MANAGEMENT OF THE REVIEW

A review Reference Group (RG) will be established consisting of no more than eight people drawn partly from the Technical Committee of the project (COTEP), including at least two people (one from GoM and one from the international partners) who have not been directly responsible for the planning and management of the project implementation, and who are either highly experienced in the area of justice or in the evaluation of large and complex development projects.

The Reference Group will be responsible for liaising with the review team upon demand and ensuring that they are supported to the maximum degree possible to facilitate the success of their work and the full capture and assimilation of the review's results by its intended users. The RG will also act as a 'sounding board' to the review team as it develops and implements its approach to the review.

The programme manager at the EC Delegation together with the UNDP programme manager will ensure that the review team is provided with all the logistical support necessary to ensure the successful execution of the mission. The EC Delegation will chair the Reference Group.

4. EXPERTS PROFILES

The team will be composed by four members namely two qualified lawyers, a capacity building expert and a sociologist. The team is expected to apply a multidisciplinary approach to the analysis and evaluation of the project components.

Governance expert (Category I)

- Qualified lawyer (graduate in law, preferably from a civil law country) or equivalent.
- Minimum 15 years of overseas experience in a post-conflict/development context preferably in the areas of justice or governance policy development;
- Prior experience of conducting evaluations of justice support programmes;
- Experience in the design/implementation of institutional capacity-development projects;
- Knowledge about the application of the Paris Declaration;
- Excellence in both written and conversational English;
- Ability to communicate in Portuguese would be an asset;
- Initiative, ability to work independently, sound judgment and good interpersonal skills;
- Experience and knowledge of the socio-political context of Mozambique would be an asset, in particular in relation to the justice sector;

Planning and Capacity building development expert (Category II)

- Masters degree in a relevant field;
- At least 10 years experience in the design and execution of performance monitoring systems or in the design and implementation of evaluations of large and complex development programmes;
- At least 10 years experience of institutional capacity-development programmes, including experience in the area of civil society and community development;
- Excellence in both written and conversational English;
- Ability to communicate in Portuguese would be an asset;
- Initiative, ability to work independently, sound judgment and good interpersonal skills;
- Experience with financial management and accountability issues;
- Experience and knowledge of the socio-political context of Mozambique would be an asset, in particular in relation to the justice sector;

Justice Sector Expert (Category III)

- Qualified lawyer with professional experience as a lawyer in Mozambique;
- Minimum 5 years of working experience, preferably in Mozambique.
- Extensive knowledge and experience with regard to the institutions of the Mozambican Justice Sector, covering design and implementation of development projects/programmes related to the justice sector;
- Knowledge on the risks, problems and challenges facing the Sector;
- Understanding of the need for coordination between the various institutions involved in the process of justice administration.
- Experienced in project evaluation methodology.

Social Sciences Expert (Category III)

- Degree in social sciences, political sciences or related field with excellent analytical skills.
- Minimum 5 years of working experience, preferably in Mozambique.
- Competence in the field of governance, security analysis, media and communication strategies, public opinion studies.
- Academic background and publications will be an advantage.
- Fluent in English and Portuguese
- Experienced in project evaluation methodology.

The experts will have excellent writing, editing and communicational skills. If the team proves unable to meet the level of quality required for drafting the report, the consulting firm will provide, at no additional cost to the Commission, an immediate technical support to the team to meet the required standards.

5. OTHER

5.1 Timing

The mission will take place in August 2009, and will consist of a total of 112 working days **tentatively** distributed as follows:

| Activity | Governance expert | Planning and CB expert | Justice Sector Expert | Social Sciences Expert |
|-----------------------------------|-------------------|------------------------|-----------------------|------------------------|
| Preliminary work (home office) | 2 | 2 | 2 | 2 |
| Field work | 20 | 20 | 20 | 20 |
| Home office work and reporting | 4 | 3 | 3 | 3 |
| Amendments & corrections of draft | 3 | 1 | 1 | 1 |
| Reserve * | 5 | 0 | 0 | 0 |
| Total Man-days | 34 | 26 | 26 | 26 |

* Subject to an ex-ante written approval by the Contracting authority.

Timetable

| | |
|---------|---|
| Week 1: | Meeting with key stakeholders, Inception report |
| Week 2: | Nampula |
| Week 3: | Sofala, Inhambane |
| Week 4: | Maputo, one-day workshop |

5.2 Location(s) of assignment

The mission is expected to visit all the locations of the project namely Maputo city, the district capitals of Massinga, Morrumbene and the provincial capital Inhambane in Inhambane province, the district capital Inhamitanga, the locality of Savane and the provincial capital Beira in Sofala province and the district capitals Moma and Ribaue and the provincial capital Nampula in the Nampula province.

5.3 Language

The review team will work in English and Portuguese. The Reference Group meetings will be held in Portuguese. The workshop for the presentation of the draft report will be held in Portuguese. Draft and final reports will be submitted in English and translated into Portuguese. The offer shall include in its budget the costs of an interpreter if the team members do not speak Portuguese, and translation fees for the translation of the final report into Portuguese.

5.4 Conflict of interest

Experts who have been involved in the design or the implementation of the project will be not considered for the call.

5.5. Cost

The briefing and debriefing sessions as well as the meetings with Government officials will be held in Portuguese. If needed, the experts should budget for interpreter costs.

5.6. Reimbursable

The contractor will submit five (5) copies of the evaluation report in English and Portuguese. The cost of the translation of the final report into Portuguese shall be foreseen under “reimbursable”.

Important remark

During all contacts with the Mozambican authorities or any other institution, the consultants will clearly identify themselves as independent consultants and not as official representatives of the European Commission. All documents and papers produced by the consultants, will clearly mention on its first page a disclaimer stating that these are the views of the consultant and do not necessarily reflect those of the Commission.

Annex 1 - Evaluation Criteria²²

22 EC - Guidelines for Project and Programme Evaluation - 2006

Relevance

- Extent to which the objectives of the development intervention are consistent with beneficiaries' requirements, country needs, global priorities and partners' and EC's policies.

Effectiveness

- Extent to which the development intervention's objectives were achieved, or are expected to be achieved, taking into account their relative importance.

Efficiency

- Extent to which the outputs and/or desired effects have been achieved with the lowest possible use of resources/inputs (funds, expertise, time, administrative costs, etc.).

Sustainability

- Extent to which the benefits from the development intervention continue after termination of the external intervention, or the probability that they continue in the long-term in a way that is resilient to risks.

Impact

- Positive and negative, primary and secondary long-term effects produced by a development intervention, directly or indirectly, intended or unintended.

Coherence

- Extent to which activities undertaken allow the European Commission to achieve its development policy objectives without internal contradiction or without contradiction with other Community policies. Extent to which they complement partner country's policies and other donors' interventions.

Community value added

- Extent to which the project/programme adds benefits to what would have resulted from Member States' interventions in the same context.

CONTRACTING AUTHORITY

European Commission in Mozambique

Title of the assignment

Lot N. 7: Culture, Governance and Home Affairs
Letter of Contract Request N. 2009/212490

**End of Term Review of Support to the
Justice Sector**

Evaluation Methodology

September 4, 2009

Preliminary schedule of the mission and draft methodology as of September 4, 2009

I Introduction

The below draft evaluation methodology is designed over the DAC Evaluation Standards. The DAC Evaluation Standards in conjunction with the Paris Declaration on Aid Effectiveness will guide the evaluation roll out with a view to specifically:

- Provide standards for both the evaluation process and output
- Facilitate the comparison of evaluations across countries
- Enable multi-purpose use of evaluation findings with special emphasis on programmatic good practices and lessons learned
- Streamline evaluation efforts

The Evaluation Proposal is organized as follows:

- Scope of the evaluation
- Methodology
- Evaluation timeline
- Required logistical assistance

II Scope of the Evaluation

The main purpose of the Evaluation is *“to inform stakeholders of the extent to which the programme has produced or is on track to produce its intended development results, to understand the reasons for such performance, and to identify the key lessons which can inform the design and implementation of activities associated with the Integrated Strategic Plan (PEI) for the sector”*.

In its overall approach, the evaluation team intends to underline the strategic elements of the justice programme: what is required in order to reach the targets, how does the programme contribute in its interaction with the other national and international players in the sector and how have Lessons Learned been documented and applied throughout the implementation.

With a view to establish baseline information for the ‘lessons learned’ process, the consultant team will undertake a preparatory desk study of programme documents, partnerships, networking profile, operating procedures for both management of programs and administration of offices.

The consultant team will fine-tune its approach and methodology for the field survey during the desk study and through EC input at the initial or orientation meeting in Maputo. However, a draft interview guide, establishing two sets of questionnaires is part of this draft: one for programme staff and one for partners and other interlocutors not being directly hired by the programme. The interview guide is informed by the use of existing tools for conflict sensitive programming.

III Methodology

The team proposes a participatory evaluation methodology, which has proven supportive of programmatic lessons learned processes. Thus, the evaluation will seek to involve all stakeholders in the program.

The program evaluation encompasses three phases: preparatory phase, field survey and presentation phase.

Partial programme documentation has been made available to the evaluation team and additional documents shall be obtained and reviewed upon arrival.

Thus the **preparatory phase** will be shaped by the study of programme documentation and the productions of meetings requirements and the fine tuning of the timeline for the assignment.

The **field survey** will include visits to and interviews with both programme staff and cooperating partners and will be concluded by a debriefing session for programme staff and a workshop with the reference group as appropriate. The TOR offers sets of questions to be addressed during the survey, however, additional interview guides are included in this document (Annex 1). In both settings, preliminary findings will be presented for discussions and feedback.

Finally, in a third phase, collected data will be systematized and analyzed according to the evaluation criteria of the TOR. Findings will be based on two or more of the following sources:

- a) Work plans, project documents, progress reports
- b) Interviews with representatives of cooperating national organizations
- c) Participation in related meetings with other donors, beneficiaries, etc.
- d) Interviews with representatives of International organizations
- e) Field visits to projects. Interview with beneficiaries, program staff and authorities
- f) Secondary sources like books, reports and studies

The evaluation findings will be presented to the reference group at a workshop towards the end of the assignment.

Concurrently, a **Rapid Appraisal Method** will be utilized for the collection of information about the management and administration of the country programs. This methodology includes a series of open-ended questions posed to individuals selected for their specific knowledge, experience and familiarity/knowledge of the programme. The interviews are qualitative, in-depth and semi-structured. In addition, the consultant team will make use of direct observations to record what is seen and heard at the program site.

The program portfolio will be evaluated through a **SWOT analysis** with the main aim to determine focus in objective setting as part of the Strategic Planning. Through this methodology, the Strengths are exploited, Weaknesses are isolated and alternatives sought, Opportunities identified and Threats identified, isolated and alternatives sought. Questions to ask will include:

Strengths:

- What do we do exceptionally well?
- What advantages do we have?
- What valuable assets and resources do we have?
- What do stakeholders identify as our strengths?

Weaknesses:

- What could we do better?
- What are we criticized for or receive complaints about?
- Where are we vulnerable?

Opportunities:

- What opportunities do we know about, but have not been able to address?
- Are there emerging trends, which we can exploit?
- “Windows of Opportunity” and other related considerations and local needs.

Threats:

- Are any of our weaknesses likely to make us critically vulnerable?
- What external roadblocks exist that block our progress? What action is required?
- Is there significant change expected in our programmatic areas?
- Are economic conditions affecting our operational planning?

IV Evaluation Timeline

An indicative timeline for the evaluation is presented below. This schedule will be adjusted as necessary and finalized after initial coordination meetings with the EC Delegation in Mozambique.

| | | | | | | | | | | | | | | | | | | | | |
|---------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Work day | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| Calendar day | 9/1 Tue | 9/2 Wed | 9/3 Thu | 9/4 Fri | 9/5 Sat | 9/6 Sun | 9/7 Mon | 9/8 Tue | 9/9 Wed | 9/10 Thu | 9/11 Fri | 9/14 Mon | 9/15 Tue | 9/16 Wed | 9/17 Thu | 9/18 Fri | 9/21 Mon | 9/22 Tue | 9/23 Wed | 9/24 Thu |

ACTIVITIES

Document review, Administrative matters and coordination

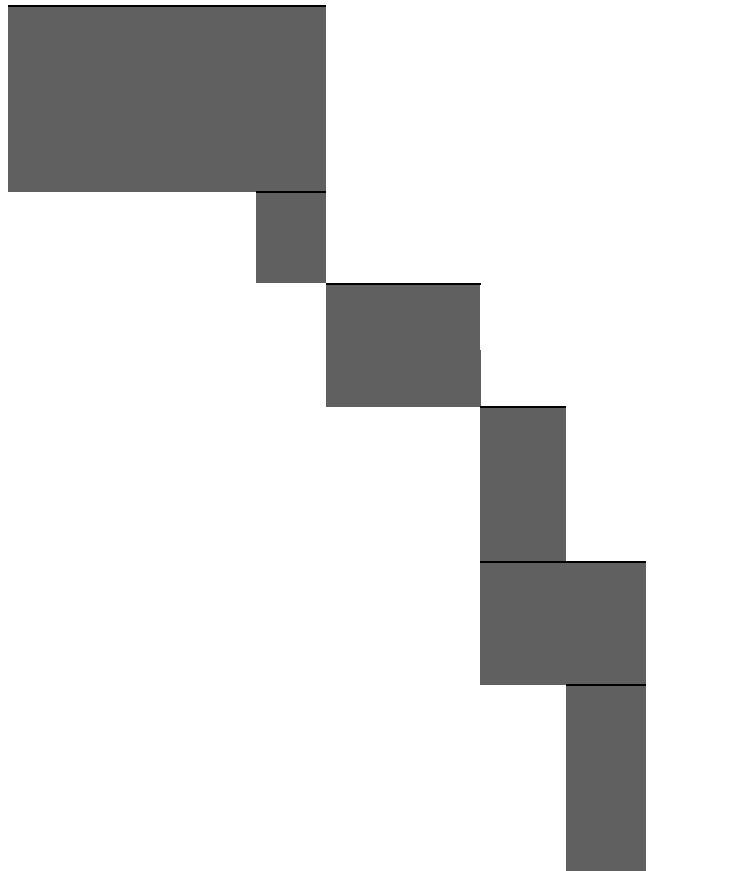
Evaluation Methodology

Travel time – Montygierd Hansen

Initial meeting with team
Briefings on Status

Planning and logistics for mission

Briefing meeting with EC and UNDP 10:30-11:30 (EC Delegation)



Presentation of team and methodology to the Reference Group at 14:00-16:00 (Ministry of Justice)

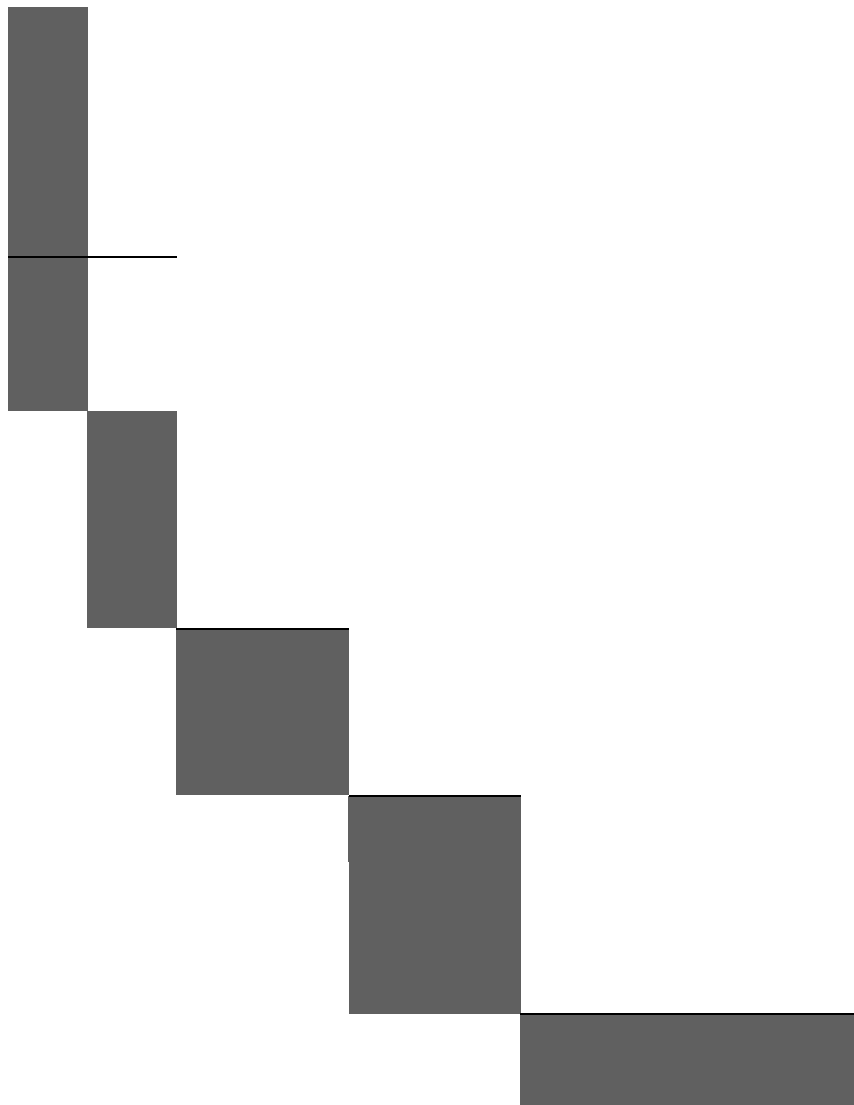
Informal meeting with the EC (Barbara+Fotini) at 18:00

Presentation of the MTR of DANIDA's support to the Justice Sector 9AM -12 Noon

Field consultations and Interviews – Nampula
(Allow for travel time)

Field consultations and Interviews - Sofala, Inhambane
(Allow for travel time)

Meetings with beneficiaries, stake-holders, etc



– Field surveys

EC Consultation
coordination
meetings

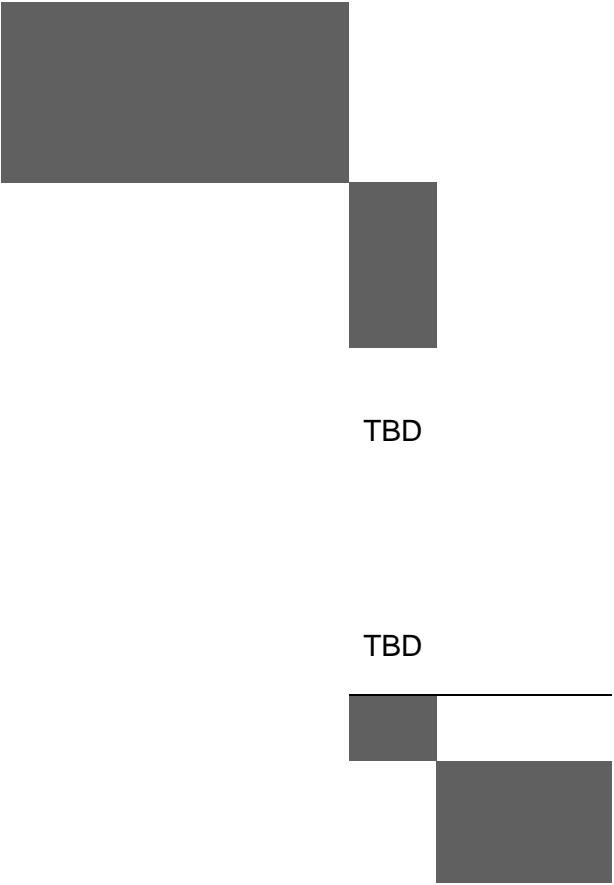
Inception Report
*(One week
following the start
of the review
team's work in
the country)*
One day

Workshop
Maputo
*(Evaluation
mission will
present main
findings of their
review)*

Debriefing

Draft final report

Travel time –
Montygierd
Hansen



V Reports

A draft Inception Report will be presented one week after the commencement of the assignment.

A draft mission report will be presented at the end of the assignment through a power point presentation. A revised draft mission report will be presented one week following the this debriefing workshop

A draft Final Report will be submitted not later than 10 days after comments are received to the draft mission report.

VI Required logistical assistance

- Ground transportation to project sites
- Assistance with organizing meetings and Workshops
- Identification of key counterparts and individuals
- Translation and interpretation assistance

Annex 1

The field study will make use of the following **draft interview guides** in addition to questions already highlighted in the TOR:

A) For programme staff

1. Programme

- Relevance to programme/project
- Situational analysis pre-programme intervention?
- Risk analysis/risk management?
- Contingency planning?

2. Choice of local cooperating partners/project

- Selection criteria? Match with own value-added?
- Staff of partner organisations, any particular criteria for recruitment (in addition to professional qualities)
- Any quotas for socially excluded groups

3. Follow-up of project

- Frequency and type of contact (what kind of follow-up)
- Contents of project visit (meet with auditor, review accounts)
- Meet with user groups/beneficiaries?

4. Learning generated from field to HQ

- Are your 'best lessons', or generated learning, absorbed by the Head Office and taken into account when changing development strategies or policies? (for NGOs: - How do you benefit from the contact with the programme ? What kind of support are you getting?
- What kind of hindrances do you meet?)

5. Best lessons, success stories, any examples of how projects have been adjusted or changed to accommodate or actively counter negative aspects of projects?

6. What is your own assessment of your programme?
 - What is the value added for your organisation?
 - Relevance, effectiveness, sustainability?
 - What is level of flexibility/adaptability of your programme
7. How is the follow-up & dialogue with HQ?
 - Type & frequency of contact?
 - Input & signals from HQ
 - How is the match between reporting requirements and what you receive as inputs (is it clear what HQ asks you to report on?)
8. Do you coordinate or cooperate with other INGOs and NGOs? How?

B) Questions for partner institutions and other stakeholders

1. CONTEXT

- What is your analysis of the context in which the project is operating?
- What factors are being strengthened and/or weakened by the specific project and how do they relate to conflict mitigation?
- What are the Dividers (systems and institutions that separate people and causes/tensions)?
- What are the Connectors (Local capacities)? I.e., local customs, norms, holidays, festivities, rituals?

2. STAKEHOLDERS' ANALYSIS (ACTORS)

- Who have a stake in the project? Elaborate a list.
- Who runs the project? CBOs as implementing agencies?
- Who gains and/or loses as a result of the project, and what is the potential impact of this on conflict mitigation? Breakdown of who loses/gains
- Are socially excluded or marginalized groups (women, ethnic groups and disabled) included in the project? How?

3. INPUT - RESOURCES

- What resources (e.g. personnel, funds, and supplies) are being brought into the context, and how do they affect the conflict?
- Personnel (staff recruitment & training):
- How is staff recruited? (any considerations of socially excluded groups?)
- Are members of the target group included? - How is personnel being trained?
- Funds: How is budgeting done (participatory process)? How are funds being dispersed?
- Communication with donor regarding budgeting? How?
- Supplies: What are your tender processes? Are they being followed?
- Who delivers major services (equipment, supplies)
- Cross-cutting issue: Transparency & accountability:
- What mechanisms exist to ensure transparency? Explain the process.
- Do you share information with the beneficiaries? How?
- Do you disclose your donor? To whom?

4. OWNERSHIP – LEGITIMACY - AUTHORITIES

- In what ways will the project affect the ability of key institutions in society, formal (Central & local) or informal?
- How do you relate to central/local authorities?
- How do you relate to other authorities?
- Do you consult/invite authorities for project events?

5. HOW IS THE PROJECT LIKELY TO INFLUENCE THE SECURITY SITUATION, AND VICE VERSA?

Neutrality/impartiality: How do you deal with conflicting parties?

6. SIGNALS/IMPLICATIONS

- What political signals (value systems) and ethical implications (implicit/explicit values) are the project likely to send out?
- Who works on the project (background of personnel)?
- Management practices: do you have a monitoring system for staff ethics (Code of Conduct)? How does it function? To staff: how to handle beneficiaries' queries? Do you bring documentation regarding complaints from the field? If not, why? Do you think beneficiaries feel listened to and respected?

Annex III Inception Report

Inception Report Presented to the ECD Maputo, Thursday, September 10, 2009

Introduction

The Contractor's Review Team is comprised of Mr. Henryk Montygierd-Loyba (Team Leader), Dr. Stig Marker Hansen (Planning and Capacity Building Development expert), Jose Manuel Caldeira (Justice Sector Expert) and Dr. Obede Baloi (Social Sciences Expert).

The first requirements of availability for the review indicated a commencement date by mid August 2009, while it was finally agreed between the EC Delegation and the Contractor to launch the review primo September 2009.

The two international members of the team, Henryk Montygierd-Loyba and Stig Marker Hansen, arrived in Maputo on Sunday 6th September. Monday the 7th September the entire team went through the ToR, considered review logistics, interview methodology with project interlocutors and prepared for a first meeting with the EC Delegation and UNDP.

A first meeting with the EC Delegation and UNDP took place Tuesday 8th September, followed by the team's participation in Technical Group of Project Steering Committee.

During the ECD/UNDP meeting, the review team was introduced to the background of the programme at the formulation stage as in 2003-2004, i.e. absence of Strategic Plan for the sector, aspiration for a design of a sector wide approach and deficiency of project coordination at the outset of project implementation. It was additionally highlighted that the project is complex, both in design, management and budgetary structure.

The review team presented an executive summary of initial methodology considerations, which were forwarded to the EC Delegation in advance. As such, the review team proposed a two pronged approach to the review pointing to - on the one hand the dynamics of coordination, dialogue, program and implementation development, documentation, lessons learned and the application of the lessons in new practices. On the other hand the center of attention of the review will assess the impact project activities are having on the improved performance of key partner institutions in addition to relevance, efficiency and effectiveness.

1. Overall logic

The main purpose of the Evaluation is *"to inform stakeholders of the extent to which the programme has produced or is on track to produce its intended development results, to understand the reasons for such performance, and to identify the key lessons which can inform the design and implementation of activities associated with the Integrated Strategic Plan (PEI) for the sector"* (quoted from the ToR of this mission).

In order to obtain baseline information and establish indicators for progress, the review team has undertaken desk review of project documentation, with additional key project documents made available upon the team's arrival in Maputo (first key documentation was sent on Tuesday 1 September, immediately after the Contracting company informed us that the consultants were confirmed) and thereafter. In addition, extensive time has been spent with the Project Implementation Unit (PIU), during which the dynamics of project design, management and reporting have been discussed in detail.

The review team has at the early stages of the review indications that available project baseline information may be inadequate as a basis from which to record and measure progress. However, it is also realized that the nature of the project, being a pilot initiative, thus providing room for innovative and flexible approaches is important when guiding design considerations for follow-on activities.

• Activities

The roll-out of the review will observe close and frequent communication with the EC Delegation while simultaneously pursuing a rigid interview schedule involving as many project interlocutors as possible. At the time of writing (10.09.09) the review has already met with most project partners at senior level in Maputo.

During the week 13 – 19 September the team, with the assistance of the PIU, has organized travel to and interviews with project partners and beneficiaries in Beira, Inhambane and Nampula.

Upon return report drafting and follow-up interviews will be conducted in tandem with a view to present a summary of the main findings at a workshop proposed to take place on Wednesday, 23rd September. In accordance with the ToR for the Review, the report will be drafted in English and the presentation will be in Portuguese to allow maximum participation of the stakeholders. The completion of the report will follow the dynamics of comments and proposals being received by the review team, which in turn will insert partner concerns and recommendations in subsequent drafts which will be shared with the EC Delegation and the Reference Group. The final report will be translated into English.

• **Outputs or deliverables**

A draft Inception Report will be presented not later than one week after the commencement of the assignment.

A draft mission report will be presented at the end of the assignment through a power point presentation at a workshop invited to by the EC Delegation. A revised draft mission report will be presented one week following the debriefing workshop, incorporating ECD comments and observations.

A draft Final Report will be submitted not later than 10 days after comments are received to the draft mission report.

2. Methodology

The participatory evaluation methodology which was proposed in the first draft methodology paper has proven to be effective and supportive of programmatic lessons learned processes. Thus, the evaluation involves as many stakeholders as possible during the review.

The program evaluation encompasses three phases: preparatory phase, field survey and presentation phase.

Partial programme documentation was made available to the evaluation team before their arrival and additional documents were subsequently received and reviewed upon arrival in Maputo.

Thus the preparatory phase has been shaped by the study of programme documentation.

During the first days on site, considerable time was invested in organizing required meetings and fine tuning of the overall timeline for the assignment, which is though unavoidable as intensive internal travelling is required to reach all project spots along 2000 km with difficult accessibility.

A second phase is comprised of the field survey, which will include visits to and interviews with both programme staff and cooperating partners. The schedule for the field survey is attached to this report.

Finally, in a third phase, collected data will be systematized and analyzed according to the evaluation criteria of the TOR. Additional interviews will be organized if and when required. Findings will be based on two or more of the following sources:

- g) Work plans, project documents, progress reports
- h) Interviews with representatives of cooperating national organizations
- i) Participation in related meetings with other donors, beneficiaries, etc.
- j) Interviews with representatives of International organizations
- k) Field visits to projects. Interview with beneficiaries, program staff and authorities
- l) Secondary sources, including other reports and studies

The evaluation findings will be presented to the reference group and main stakeholders at a workshop proposed to take place 23rd September.

Concurrently, a Rapid Appraisal Method will be utilized for the collection of information related to the management and administration of country programs. This methodology includes a series of open-ended questions posed to individuals selected for their specific knowledge, experience and familiarity with the programme. The interviews are qualitative, in-depth and semi-structured. In addition, the consultant team will make use of direct observations to record what is seen and heard at the program site.

3. Schedule of activities

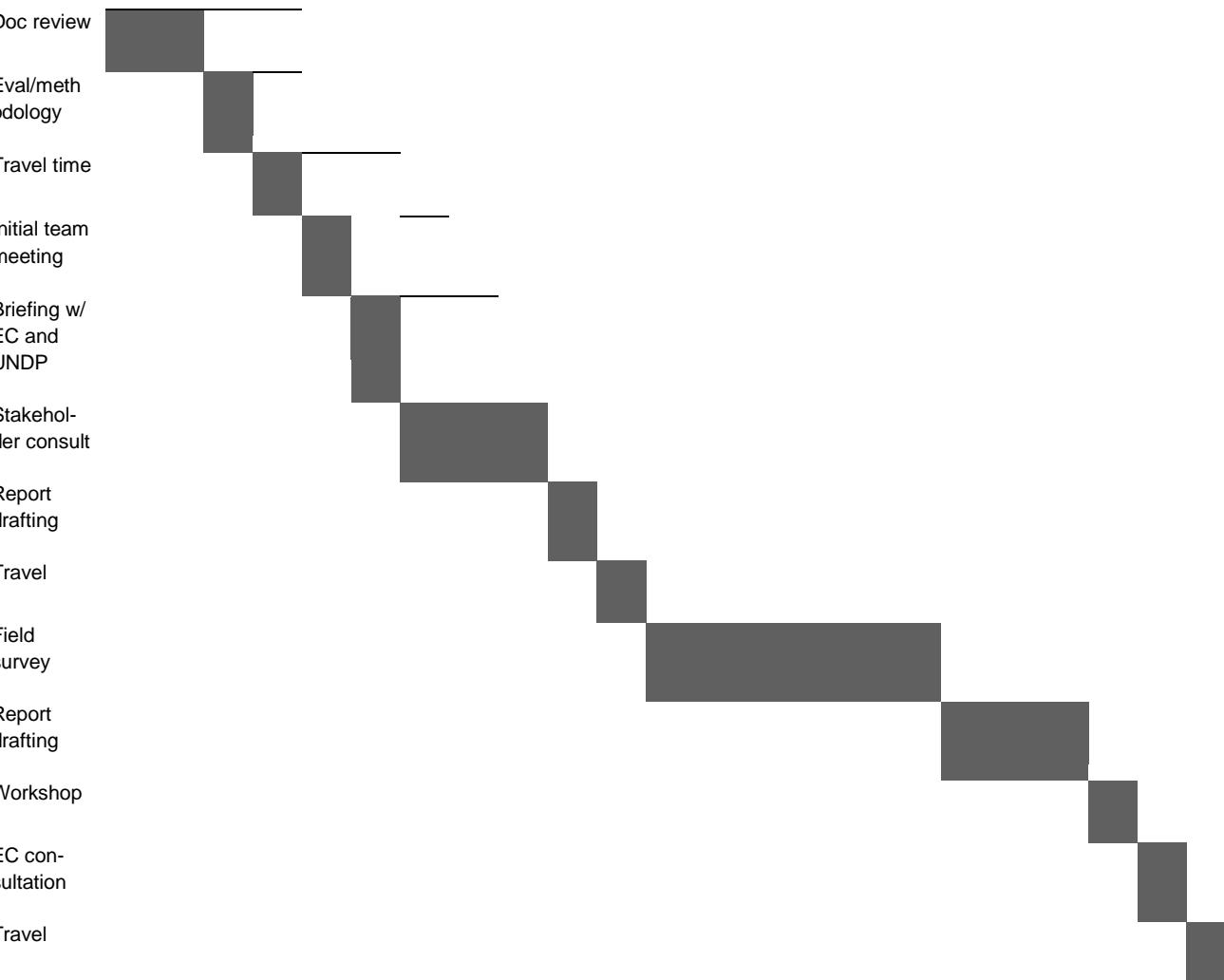
| | | | | | | | | | | | | | | | | | | | | | | | |
|------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Work | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 |
| | | | | | | | | | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 | 1 | 2 | 3 |

day

Calendar
day

| | | | | | | | | | | | | | | | | | | | | | | | |
|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|---|
| 9/3 | 9/4 | 9/5 | 9/6 | 9/7 | 9/8 | 9/9 | 9/10 | 9/11 | 9/12 | 9/13 | 9/14 | 9/15 | 9/16 | 9/17 | 9/18 | 9/19 | 9/20 | 9/21 | 9/22 | 9/23 | 9/24 | 9/25 | |
| | | | | | | | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 0 | 1 | 2 | 2 | 2 | 2 | 2 |

Activity



4. Consultation plan

The following plan of consultations include proposed meeting up until the conclusion of the field survey. Following the return to Maputo, 4 days are dedicated report drafting while simultaneously organizing follow up meeting with entities, which may have been by-passed initially or which are found instrumental for the data collection.

Programme for consultations in Maputo, September 9 – 11:

| Data | Hora | Local | Actividade |
|----------|-------|--------|--|
| 09.09.09 | 10:00 | Maputo | Encontro com a Unidade de Implementação do Projecto. |
| | 12:30 | Maputo | Encontro de com o Director Nacional das Prisões (SNAPRI) |

| | | | |
|-----------------------------------|-------|--------|---|
| 10.09.09 | 15:00 | Maputo | Encontro com o Director Nacional do Instituto de Patrocínio e assistência jurídica (IPAJ) |
| | 16:30 | Maputo | Encontro com o Director Nacional dos Registos e Notariados |
| | 08:00 | Maputo | Encontro com o Chefe do Departamento de Direitos Humanos |
| | 09:00 | Maputo | Encontro com a Unidade de Implementação do Projecto. |
| | 10:00 | Maputo | Encontro com o Secretário - Geral da Procuradoria da República |
| | 11:00 | Maputo | Encontro com o Secretário Permanente do Ministério do Interior |
| | 12:00 | Maputo | Encontro com a Directora do Gabinete Central de Combate a Corrupção (GCCC) |
| | 14:30 | Maputo | Ministra da Justiça |
| | 16:00 | Maputo | Encontro com o Assessor da Ministra da Justiça para a Coordenação do Sector da Justiça |
| 11.09.09 Sexta – Feira | 09:00 | Maputo | Chefe do Departamento de Atendimento a Mulher e Criança Vitima de Violência |
| | 10:00 | Maputo | Liga dos Direitos Humanos |
| | | | Centro de práticas Jurídicas da Universidade Eduardo Mondlane |
| | | Maputo | Centro de Práticas Jurídicas da Universidade A Politécnica |
| | | Maputo | Encontro com o Secretário Permanente do Ministério da Justiça |
| | | Maputo | Encontro com Director Nacional de Investigação Criminal |

Programme for consultations in Beira, September 13 – 15:

Participants:

1. Dr. Stig Marker Hansen- Chefe
2. Dr. Henry Montygierd-Loyba- Chefe-Adjunto
3. Dr. José Caldeira
4. Dr. Obede Baloi

| Data | Hore | Local | Actividade |
|--|-------|----------------------------|--|
| 13.09.09 Domingo | 18:30 | Cidade de Maputo Fligth | |
| | 20:05 | Cidade da Beira | Chegada a Cidade da Beira |
| 14.09.09 Segunda- feira | 08:00 | Cidade da Beira | Encontro com o Secretário Permanente do Governo da Província |
| | 09:00 | Cidade da Beira | Encontro com a Comissão Provincial de Controlo Da Legalidade |

| | | | |
|--|-------|-------------------|--|
| 15.09.09 Terça-feira | 11:00 | Cidade da Beira | Visita as ao Laboratório de Criminalística de Sofala |
| | 14:00 | Cidade da Beira | Visita ao Cadeia Central da Beira |
| | 15:00 | Cidade da Beira | Encontro com a MULEIDE |
| | 15:30 | Cidade da Beira | Encontro com a LDH |
| | 16:00 | Cidade da Beira | Encontro com ADEC |
| | 06:00 | Cidade da Beira | Partida para o Distrito de Cheringoma |
| | 10:00 | Vila de Inhaminga | Encontro com o Administrador do Distrito |
| | 11:00 | Vila de Inhaminga | Encontro com a Sub- comissão Distrital de Controlo da Legalidade |
| | 12:30 | Vila de Inhaminga | Visita ao Palácio de Justiça, Residências para Magistrados e Comando Distrital |
| | 15:00 | | |
| 16.09.09 Quarta-Feira | | | |

Programme for consultations in Inhambane, September 17 – 19:

| Data | Hora | Local | Actividade |
|--|-------|--------------------|--|
| 16.09.09 Quarta-feira | 15:40 | Cidade da Beira | |
| | 16:50 | Cidade de Nampula | Chegada a Cidade de Nampula |
| | 17:30 | Cidade de Nampula | Encontro com o Secretário Permanente do Governo da Província |
| | 18:00 | Cidade de Nampula | Encontro a AMR |
| 17.09.09 Quinta-feira | 08:00 | Cidade de Nampula | Encontro com a Comissão Provincial de Controlo Da Legalidade |
| | 10:00 | Cidade de Nampula | Partida para o Distrito de Ribaué |
| | 13:00 | Distrito de Ribaué | Encontro com o Administrador do Distrito |
| | 14:00 | Distrito de Ribaué | Encontro com a Sub- comissão Distrital de Controlo da Legalidade |
| | 15:00 | Distrito de Ribaué | Visita as obras de construção do Palácio de Justiça e Residências para Magistrados |
| | 16:00 | Distrito de Ribaué | Regresso a cidade de Nampula |
| | 06:00 | Cidade de Nampula | Partida para o Distrito de Moma |

| | | | |
|---|-------|----------------------------|--|
| 18.09.09 Sexta – Feira | 10:00 | Distrito de Moma | Encontro com o Administrador do Distrito |
| | 10:30 | Distrito de Moma | Encontro com a Sub- comissão Distrital de Controlo da Legalidade |
| | 11:30 | Distrito de Moma | Visita ao Palácio de Justiça, Residências para Magistrados, Comando Distrital e Cadeia Distrital |
| | 13:00 | Distrito de Moma | Regresso a cidade de Nampula |
| | 18:15 | Cidade de Nampula Fligh | Partida para Maputo: Dr. Henry Montygierd-Loyba e Dr. Obede Baloi |

Annex IV Persons and Institutions consulted

A Institutions

| Time | Location | Interlocutor |
|-------|----------|--|
| 08.09 | Maputo | Comissão Europeia |
| 09.09 | Maputo | Unidade de Implementação do Projecto. |
| | Maputo | Director Nacional das Prisões (SNAPRI) |
| | Maputo | Director Nacional do Instituto de Patrocínio e assistência jurídica (IPAJ) |
| | Maputo | Director Nacional dos Registos e Notariados |
| 10.09 | Maputo | Chefe do Departamento de Direitos Humanos |
| | Maputo | Unidade de Implementação do Projecto. |
| | Maputo | Secretário - Geral da Procuradoria da República |
| | Maputo | Secretário Permanente do Ministério do Interior |
| | Maputo | Directora do Gabinete Central de Combate a Corrupção (GCCC) |
| | Maputo | |

| | | |
|-------|-------------|---|
| | Maputo | Ministra da Justiça |
| | Maputo | Assessor da Ministra da Justiça para a Coordenação do Sector da Justiça |
| | Maputo | Departamento de Direitos Humanos do Ministério da Justiça |
| 11.09 | Maputo | Chefe do Departamento de Atendimento à Mulher e Criança Vítima de Violência |
| | Maputo | Liga dos Direitos Humanos |
| | Maputo | Direcção Nacional de Investigação Criminal |
| 14.09 | Beira | Secretário Permanente do Governo da Província |
| | Beira | Comissão Provincial de Controlo da Legalidade |
| | Beira | Laboratório de Criminalística de Sofala |
| | Beira | Cadeia Central da Beira |
| | Beira | MULEIDE |
| | Beira | LDH |
| | Beira | ADEC |
| 15.09 | Inhamitanga | Administrador do Distrito de Cheringoma |
| | Inhamitanga | Sub- Comissão Distrital de Controlo da Legalidade |
| | Inhamitanga | Palácio de Justiça, Residências para Magistrados e Comando Distrital |
| 16.09 | Maputo | Unidade de Implementação do Projecto |
| | Maputo | Embaixada Real da Dinamarca, Oficial de Programa Sector da Justiça |
| | Maputo | EC Delegation, Task Manager |
| | Maputo | UNDP, Programme Officers |
| | Maputo | Centro de Formação Jurídica e Judiciária |
| | Maputo | ACIPOL – Academia de Ciências Policiais de Michafutene |
| | Maputo | WILSA |
| | Nampula | Secretário Permanente do Governo da Província |
| | Nampula | AMR |
| 17.09 | Nampula | Comissão Provincial de Controlo da Legalidade |
| | Moma | Secretário Permanente, Governo do Distrito |
| | Moma | Palácio da Justiça, Residências para Magistrados e Cadeia Distrital |
| | Moma | Sub-Comissão Distrital de Controlo da Legalidade |

| | | |
|-------|------------|--|
| | Moma | Juízes e Líderes Comunitários |
| | Inhambane | Secretário Permanente do Governo da Província |
| | Inhambane | Comissão Provincial de Controlo da Legalidade |
| | Inhambane | Direcção de Investigação Criminal |
| 18.09 | Nampula | Gabinete Provincial de Implementação do Projecto de Nampula |
| | Morrumbene | Administrador do Distrito |
| | Morrumbene | Sub- comissão Distrital de Controlo da Legalidade |
| | Morrumbene | Palácio de Justiça, Residências para Magistrados e obras da Cadeia Distrital |
| | Morrumbene | Partida para o Distrito de Massinga |
| | Massinga | Administrador do Distrito |
| | Massinga | Sub- comissão Distrital de Controlo da Legalidade |
| | Massinga | Palácio de Justiça e Residências e Comando Distrital |
| | Maputo | Embassy of the Kingdom of the Netherlands |
| | Maputo | UNDP, Resident Coordinator |
| | Maputo | UNDP, Deputy Resident Representative |
| 21.09 | Maputo | Unidade de Implementação do Projecto. |
| | Maputo | Liga Liga dos Direitos Humanos |
| | Maputo | Supreme Court |

B Persons

Dr. Alcides: Liga dos Direitos Humanos
Av. Maguigane, nr. 2219 r/c alto maé
Telefone 21 40 5941 82 306 64 70

Alface, Rogério: Secretário de Bairro, Cheringoma

Dr. Alberto, Paulo: Procurador-Chefe Provincial de Nampula
Procuradoria Provincial de Nampula
Praça da Liberdade, Nampula

Alexandre, Joaquim: Juíz de Bairro, Cheringoma

António, Jorge: Assistente Jurídico, IPAJ
Celular: 827165133
Palácio da Justiça de Moma

António, Pedro: Secretário, Cheringoma

António, Osvalda Matias Fernando, Procuradora Distrital, Morrumbene

Antonopoulou, Fotini: Attaché, EC Delegation
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Email: fotini.antonopoulou@ec.europa.eu

Bachir, Miguel: Procurador Distrital, Cheringoma

Baluce, Mourão Infalune: Procurador-chefe, Procuradoria Provincial, Inhambane

Bambo, Eusébio Jonasse, IPAJ, Morrumbene

Belo, Benjamim: Líder Comunitário, Cheringoma

Dr. Boane, Adriano: Secretário - Geral da Procuradoria Geral da República
Avenida Julius Nherere, nr.15 telefone: 21 49 0051/3, telemóvel fixo:
Telemóvel pessoal: 82 320 99 30

Dra. Buchili, Beatriz: Procuradora-Chefe Provincial de Sofala
Beira
Tel: 23313132

Caravina, Deolinda: Assistente para Educação Cívica
Delegação Regional Centro
Liga dos Direitos Humanos
Beira
Cell: 823944592

Carlos, Serafina: Coordenadora
Associação das Mulheres Rurais
Av. Samora Machel, Nampula
Cell: 824550570

Dra. Chale, Natércia do Castelo M.: Juíza
Tribunal Provincial de Nampula

Chaves, Benjamina Domingos: Directora PIC, Inhambane

Chyola, Joaquim Fernando: Comandante Distrital, Massinga

Chiziane, Almerino Jaime, Juíz-Presidente, Trinual Inhambane

Chuma, Venâncio: Director da Cadeia Provincial de Nampula
Nampula

Clules, António: Tribunal Judicial, Cheringoma

Conceição, Paulo: Director da Cadeia
Distrito de Moma

Correia, Lona Lourdes: Identificação Civil de Cheringoma

Facuze, Mussa António: Juiz presidente, Tribunal Distrital, Massinga

Fernandes, Catarina: Associação de Ajuda Cristã, Cheringoma

Fernando, José Sitole: Comando Distrital, Cheringoma

Ms. Olivia Gervasoni

Guiamba, Joaquim Guila Ruamba: Comandante PRM, Morrumbene

Ms. Hoffman, Anne
Operations Analyst
Justice Reform Practice Group
WORLD BANK

Joaquim: Secretário de Bairro, Cheringoma

Dr. Jone, Hermenegildo: Juiz-Presidente
Tribunal Provincial de Sofala
Beira
Cell: 823286160
Email: hcjone@intra.co.mz

José, Aida: Contabilista
Associação das Mulheres Rurais
Av. Samora Machel, Nampula

Juliana: Escrivã Tribunal, Cheringoma

Luciasse, Macurza: Chefe de brigada PIC, Cheringoma

Luís, Anselmo: Secretário Permanente
Governo Distrital de Moma

Macanza, Fernando: Secretário de Bairro, Cheringoma

Macone, Régulo
Distrito de Moma

Manuel, Lúcia Carlos: Juíza do Tribunal Comunitário
Posto Administrativo de Macone, Distrito de Moma

Mapauane, Ernesto: Presidente
ADEC
Beira
Cell: 847676460
Mateus, João: Conservador Cheringoma

Dr. Matusse, Alfredo Manual: Juiz
Tribunal Provincial de Nampula

Dr. Mucumbua, Bernardo Elias, Procurador
Procuradoria Provincial de Nampula

Dr. Muaivela, Joaquim Hilário: Juiz
Tribunal Provincial de Nampula

Dr. Mucanheia, Francisco Ussene: Secretário Permanente, Governo Provincial de Nampula
Tel: 26217877
Fax: 26212167
Cell: 826942740
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Annex VI Definition of Key Terms

Access to justice is the backbone of any court system. Reform strategies must focus on enhancing operational efficiency and developing human resource capacity within its institutions. While these approaches are critical, if we are to approach the court system through an '*access to justice*' perspective, additional principles, which underpin the provision of access to justice by the court system have to be addressed. These principles are accountability and integrity, accessibility and independence. It is important to recognize that all elements need to be factored into any programming intervention aiming to achieve the objective of enhancing access to justice within the court system. For the Palace of Justice concept, improved access will translate into strict adherence to service delivery, i.e. be available during opening hours, have developed concepts for cooperation between different units present in the institution, efficient concepts for case flow and the availability of user friendly case information. The review also noticed that necessary human resource training has not yet been developed. The new Palace of Justice concept is not likely to utilize the 'one stop' notion until all staff members are trained in new patterns of work and case flows, including automation of all management functions. The Places of Justice will also have to engage actively in outreach campaigns designed to inform the public about the functions and use of this new institution.

Accountability Obligation to demonstrate that work has been conducted in compliance with agreed rules and standards or to report fairly and accurately on performance results vis-a-vis mandated roles and/or plans. Automated case and management systems should facilitate recording and dissemination of data. It is important to be able to demonstrate to the public that Palaces of Justice make up an improved service delivery unit, as the justice sector in historic terms is viewed with negative connotations by the general public.

Activity Actions taken or work performed through which inputs, such as funds, technical assistance and other types of resources are mobilised to produce specific outputs.

Addis Ababa Principle All donor assistance should be delivered through government systems unless there are compelling reasons to the contrary; where this is not possible, any alternative mechanisms or safeguards must be time-limited and develop and build, rather than undermine or bypass government systems.

Aid Modalities The way donor support is channelled to activities to be funded. A basic distinction can be made between 1) budget support (which is integrated into the national budget of the recipient country and used according to national public expenditure management rules and procedures), 2) parallel support (which is kept separate from the general resources in the national budget but should still be reflected in the national budget, and which is used according to rules and procedures that may be more or less in conformity with those laid down in the national public expenditure management system), and 3) in-kind support (which enters the recipient country in the form of goods or services). The term "aid modality" is often used interchangeably with "aid instrument".

Aid Instrument Sometimes used interchangeably with "aid modality" (see the above definition). Examples of "aid instruments" are Sector Programme Support (SPS), Sector-wide Approach (SWAp), Mixed Credit,

soft loan, bilateral technical adviser, etc. Aid instruments may operate through either one modality (e.g. bilateral advisers, which are one type of in-kind support) or more modalities (e.g. SPS, which in principle may comprise both budget support, parallel support, and in-kind support) as defined above.

Alignment Donors base their overall support on partner countries' national development strategies, institutions and processes (Paris Declaration).

Appraisal An overall assessment of the relevance, feasibility and potential sustainability of a development intervention prior to a decision of funding.

Assumptions Hypotheses about factors or risks, which could affect the progress or success of a development intervention.

Audit An independent, objective assurance activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to assess and improve the effectiveness of risk management, control and governance processes.

Base-line Study An analysis describing the situation prior to a development intervention, against which progress can be assessed or comparisons made.

Basket funding Basket funding is the joint funding by a number of donors of a set of activities through a common account, which keeps the basket resources separate from all other resources intended for the same purpose. The planning and other procedures and rules governing the basket fund are therefore common to all participating donors, but they may be more or less in conformity with the public expenditure management procedures of the recipient government. A basket may be earmarked to a narrow or a wider set of activities (e.g. a sector or a sub-sector). The term "pool(ed) funding" is sometimes used instead of basket funding.

Benchmark Reference Point or standard against which performance or achievements can be assessed.

Beneficiaries and stakeholders. Through the interviews conducted by the assessment team, it was often apparent that counterparts did not have a clear understanding of the differences between beneficiaries and stakeholders. For purposes of clarity, the following definition is suggested:

Beneficiary is a person/s or institution that receives benefits, i.e. is a recipient of funds, in kind contributions, or other benefits.

Budget Support. General budget support: Financial support from a donor that is channelled into the general treasury account of a recipient country where, as an integral part of the resources herein, it co-funds the national budget. The support is thus not earmarked, and it is used according to the national public expenditure management rules and procedures. Sector budget support: Financial support from a donor that is channelled into the general treasury account of a recipient country where, as an integral part of the resources herein, it co-funds the national budget of a particular sector. The support is thus nominally earmarked, and it is used according to the national public expenditure management rules and procedures.

Complementarity (often also referred to as division of labour). Donors divide sectors and thematic areas among themselves with a view to avoiding the crowding in particular sectors and areas. The consequence will usually be that donors end up focusing on a relatively limited number of areas or sectors and sometimes have to even disengage from other areas or sectors.

Comprehensive Development Framework (CDF) An approach launched by the World Bank in 1989 and consisting of four principles: a long-term, holistic development framework, results orientation, country ownership, and country-led partnership. The CDF pioneered the thinking, which has also inspired the development of Poverty Reduction Strategies

Conditionality Stipulations, or provisions, that needs to be satisfied.

Consultative Group (CG) Meetings coordinated by the World Bank where representatives of donor organisations meet with Government representatives to discuss the country's economic outlook,

governance issues, plans for poverty reduction, and to determine the level of external support a country will need over the next two years.

Country Assistance Strategy (CAS) The World Bank's central tool for over-seeing and piloting its country programmes for IDA and IBRD borrowers.

Court A court consists of an official, public forum, which a public power establishes by lawful authority to adjudicate disputes and to dispense justice under the law. Courts offer a forum where the poor and powerless can stand with all others as equals before the law. Courts should protect the rights of people who can't protect themselves.

Court levels Trial courts or courts of first instance are the courts in which most civil or criminal cases begin. An appellate court is a court that hears cases in which a lower court has already made some decision, which at least one party to the action wants to challenge. There may be several levels for appeals which normally culminate in a Supreme Court.

CPAR Country Procurement Assessment Report. Assessment of public procurement systems and standards.

Decentralization is the process of dispersing decision-making governance closer to the people and/or citizen. Decentralization has also been assigned many different meanings, varying across countries, languages, general contexts, fields of research, and specific scholars and studies.

A central theme in decentralization is the difference between a hierarchy, based on:

- authority: two players in an unequal-power relationship; and
- an interface: a lateral relationship between two players of roughly equal power.

The more decentralized a system is, the more it relies on lateral relationships, and the less it can rely on command or force.

Delegated Cooperation When a donor acts with authority on behalf of one or more other donors of an activity (country programme, sector programme or project). In its pure version when a donor acts on behalf of one or more other donors in all aspects and all phases of an activity it is sometimes referred to as 'silent partnership'.

Development Assistance Committee (DAC) Department in the OECD (Organisation for Economic Co-operation and Development) that handles co-operation issues related to developing countries. DAC is responsible for coordination, integration, promoting effectiveness and providing sufficient funding for development assistance in support of sustainable economic and social development.

Development Intervention An instrument for partner (donor and non-donor) support aimed to promote development. Note: Examples are policy advice, projects, and programmes.

Development Objective Intended impact contributing to physical, financial, institutional, social, environmental, or other benefits to a society, community, or group of people via one or more development interventions.

Effect Intended or unintended change due directly or indirectly to an intervention.

Effectiveness The extent to which the development intervention's objectives were achieved, or are expected to be achieved, taking into account their relative importance.

Efficiency A measure of how economically resources/inputs (funds, expertise, time, etc.) are converted to results. Efficiency, thus, means comparing outputs to inputs.

Evaluation The systematic and objective assessment of an on-going or completed project, programme or policy, its design, implementation and results. The aim is to determine the relevance and fulfilment of

objectives, development efficiency, effectiveness, impact and sustainability.

Goal The higher-order objective to which a development intervention is intended to contribute. Related term: development objective.

Guideline Outline of policy or conduct.

Harmonisation Donor actions are more harmonised, transparent and collectively effective (Paris Declaration).

Impacts Positive and negative, primary and secondary long-term effects produced by a development intervention, directly or indirectly, intended or unintended.

Indicator Quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor.

Informal justice In Mozambique, the indigenous legal system is represented by Community Courts which apply “informal justice”, independent of the state judicial system and often operate in total isolation of this system. This creates a number of additional specific challenges in the administration of justice. Informal justice mechanisms are sought as a means of dispute resolution, because it is cheap and available where it is called for. Often village elders or respected persons are acting in these functions. Informal justice systems are, however, often a biased system, not gender sensitive and by way of existence, symbol of fragmentation in the delivery of justice nationwide. In order for informal mechanisms of justice to eventually cease to function, formal justice systems need to be able “to compete” with the informal systems, i.e. be available within acceptable reach of users/the public and engage in publicity agendas, designed to promote awareness about service provision.

Inputs The financial, human, and material resources used for the development intervention.

Joint Financing Arrangement (JFA) An agreement between a number of donors and a recipient government specifying how donors may jointly finance a set of activities. Basket funding is the main type of JFA.

Judiciary The judiciary consists of judges and magistrates. Under the doctrine of the separation of powers, it is one of the three branches of government. The primary function of the judiciary is to adjudicate legal disputes and to ensure the provision of a remedy sought for a grievance through the application of law. The judiciary also provides a check on other governmental entities.

Justice decentralization is the process through which authority and responsibility for some functions are transferred from the central government to local governments, communities and possibly the private sector. This process provides decentralized institutions, either local offices of central government or local private and civil organizations with increased participation and power in policy making and decision taking.

The main forms of decentralization are:

- *Political decentralization* is associated with increased power of citizens and their representatives in public decision-making. It generally involves a representative political system based on local electoral jurisdictions and pluralistic parties.
- *Administrative decentralization* is the transfer of responsibility for planning, financing, and managing certain public functions from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, or area-wide, regional, or functional authorities.

Administrative decentralization may take the following forms:

(i) *deconcentration*, which consists of redistribution of decision-making authority and financial and management responsibilities among different levels of the *central* government. This form is often considered the weakest form of decentralization;

(ii) *delegation*: through delegation, central governments transfer responsibility for decision-making and administration of public functions to semi-autonomous organizations not wholly controlled by the central government, but ultimately accountable to it; and

(iii) *devolution*: in a devolved system, local governments have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions (e.g. raising revenues, investment decisions). It is this type of administrative decentralization that underlies most political decentralization.

Justice sector includes all institutions, government and non-governmental agencies which have a role in the administration of justice. These include, but are not limited to:

- Ministry of Justice and other ministries (such as Ministry of Interior)
- The Judiciary and all courts (Including formal and informal “Community Courts”)
- Judicial and administrative support staff
- Judicial academies and training centers
- Public defence and prosecution
- Police and all other investigating agencies
- Prisons and corrections departments
- Minors and juvenile offender services
- Probation and rehabilitation services
- Specialized units dealing with organized crime, fight against corruption, etc.
- Non governmental organizations that provide specialized services for the poor marginalized members of society, ethnic and gender minorities, etc.

Specifically for the “Supporting Citizens’ Access to Justice” programme, the justice sector is comprised of the Ministry of Justice, the Attorney General’s Office, the Supreme Court, inferior courts, the Administrative Court and the Ministry of Interior. Additional entities are the Bar Association and IPAJ.

Lead donor A donor given authority, but not formal decision-making power, to act on behalf of other donors in a sector or thematic area. A lead donor arrangement can be more or less well defined and is only sometimes described in an Memorandum of Understanding (MoU) or Terms of Reference or similar. Donors active within the justice sector in Mozambique have appointed a lead representative, a responsibility that rotates amongst members every six months.

Logical Framework Approach (LFA/Logframe) Management tool used to improve the design of interventions, most often at the project level. It involves identifying strategic elements (inputs, outputs, outcomes, impact) and their causal relationships, indicators, and the assumptions or risks that may influence success and failure. It thus facilitates planning, execution and evaluation of a development intervention.

Managing for Results Managing and implementing aid in a way that focuses on the desired results and uses information to improve decision-making (Paris Declaration).

Millennium Development Goals (MDG) Eight goals drawn from the UN Millennium Declaration (September 2000) to fight against poverty, illiteracy, hunger, lack of education, gender inequality, child and maternal mortality, disease and environmental degradation by the target date of 2015.

Monitoring A continuing function, that uses systematic collection of data on specified indicators to provide management and the main stakeholders of an ongoing development intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds.

Operational efficiency in Courts This concept is usually associated with the timely delivery of final judgments. It includes efficient court room management, case-flow management and effective related rules and procedures.

Outcome The likely or achieved short-term and medium-term effects of an intervention’s outputs.

Outputs The products, capital goods and services which result from a development intervention; may also include changes resulting from the intervention which are relevant to the achievement of outcomes.

Outreach and project awareness are mechanisms designed to create convenient and effective communication tools which can be utilized to reach different sectors of the community that can benefit from project activities. For the Palace of Justice concept it is important to engage in awareness activities in order to inform users and the general public about this new platform for service provision.

Ownership Partner countries exercise effective leadership over their development policies and strategies and co-ordinate development actions (Paris Declaration).

Parallel Aid Aid which does not become part of the general treasury account and cannot be disbursed through the ordinary government channels through which the Ministry of Finance finances the spending units.

Paris Declaration on Aid Effectiveness An international agreement to improve aid effectiveness. A concept of accountable against a series of indicators and targets as a way of combating poverty in developing countries.

Participation is concerned with organized efforts to increase control over resources and regulative institutions in given social situations on the part of groups and movements of those hitherto excluded from such control. As a concept, participation is a contested subject. The World Bank Participation Sourcebook (1998) defines participation as, "... a rich concept that means different things to different people in different settings. For some, it is a matter of principle; for others, a practice and for still others, an end in itself." There is no one comprehensive definition that describes how participation works in development.

Partners The individuals and/or organisations that collaborate to achieve mutually agreed upon objectives.

PEFA Public Expenditure and Financial Accountability. Internationally agreed methodology for the assessment of recipient country public expenditure and financial accountability systems.

Performance The degree to which a development intervention or a development partner operates according to specific criteria/standards/guidelines or achieves results in accordance with stated goals or plans.

Performance Management Framework A framework including well-defined objectives and targets for performance management and a series of tools to be used to collect the information necessary.

Performance measurement A system for assessing performance of development interventions against stated goals.

Performance monitoring A continuous process of collecting and analysing data to compare how well a project, program, or policy is being implemented against expected results.

Performance Review An assessment of whether a country programme and its management are on track with regard to stated goals, plans and procedures, giving recommendations on possible adjustments required. Performance Reviews are the key quality assurance instrument to assess whether PMF tools are used consistently. They are undertaken approximately every third year in all programme countries and South Africa.

Prosecution²³ is the legal party responsible for presenting the case through a criminal trial, against an individual suspected of breaking the law. Crimes are offences against the social order and government officials are responsible for the prosecution of offenders.

²³ In some legal systems, prosecutors will advise or supervise the work of the police or other evidence-gathering institutions, and they will also enforce the judgments of a court.

Process Action Plan (PAP) is a plan providing a description of the process and activities for a subsequent phase in the programme or project process.

Programme A time bound intervention involving multiple activities that may cut across sectors, themes and/or geographic areas.

Programme-Based Approach An Approach based on the principle of co-ordinated support for a locally owned programme of development, such as a national poverty reduction strategy, a sector programme, a thematic programme or a programme of a specific organisation (Learning Network on Programme Based Approaches, definition adopted by).

Project An individual development intervention designed to achieve specific objectives within specified resources and implementation schedules, often within the framework of a broader programme.

Public Defence systems²⁴ result from the state obligation to ensure legal assistance for those who cannot afford a lawyer. Public defense institutions provide advice, representation and can contribute to legislative reform activities through test cases for citizens who would otherwise remain unprotected.

Quality assurance Quality assurance encompasses any activity that is concerned with assessing and improving the merit or the worth of a development intervention or its compliance with given standards.

Recommendations Proposals aimed at enhancing the effectiveness, quality, or efficiency of a development intervention; at redesigning the objectives; and/or at the reallocation of resources.

Relevance The extent to which the objectives of a development intervention are consistent with beneficiaries' requirements, country needs, global priorities and partners' and donors' policies.

Results The output, outcome or impact (intended or unintended, positive and/or negative) of a development intervention.

Results-Based Management (RBM) a management strategy focusing on performance and achievement of outputs, outcomes and impacts.

Review An assessment of the performance of an intervention, periodically or on an ad hoc basis.

Review Aide Memoire Report produced after a programme review and signed by the team leader. The Review Aide Memoire will include recommendations concerning programme adjustments, such as modifications of components, budgets and activities, as well as recommendations concerning work plans and budgets for the next year. Recommendations in the Review Aide Memoir have to be endorsed by the Steering Committee or similar body.

Risk Analysis An analysis or an assessment of factors (called assumptions in the logframe) affect or are likely to affect the successful achievement of an intervention's objectives.

Sector Development Programme A specific, time-bound and costed set of actions and activities, which support a sector strategy.

Sector Programme Support (SPS) A long-term framework for a broader assistance to a national endeavor (called a national sector programme).

Sector Wide Approach (SWAp) A programme-based approach operating at the level of an entire sector.

Stakeholders are those who have an interest in a particular decision, (either as individuals or representatives of a group). This includes people who influence a decision, or can influence it, as well as

²⁴ The organization and operation of public defence institutions differs widely, and these procedures and policies can have wide ranging effects on client representation.

those affected by it. A stakeholder should be able to participate meaningfully in decision making and play their part in delivering sustainable development

Steering Committee Decision-making body above the daily management level established for the purpose of joint management by the partner.

Sustainability The continuation of benefits from a development intervention after major development assistance has been completed.

Target Group The specific individuals or organisations for whose benefit the development intervention is undertaken.

Terms of Reference (TOR) Written document presenting the purpose and scope of an assignment, the methods to be used, the resources and time allocated, and reporting requirements.

Annex VII Overview of the Justice Sector

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Acronyms

| | |
|---------------|---|
| CFJJ | <i>Centro da Formação Jurídica e Judicial</i> , or Center for Legal and Judicial Training |
| CSMJ | <i>Conselho Superior da Magistratura Judicial</i> , or Superior Council of the Judiciary |
| IPAJ | <i>Instituto do Patrocínio e Assistência Jurídica</i> , or National Legal Aid Service |
| OAM | <i>Ordem dos Advogados de Moçambique</i> , or the Mozambican Bar Association |
| PIC | <i>Polícia da Investigação Criminal</i> , or Criminal Investigation Police |
| SNAPRI | <i>Serviço Nacional das Prisões</i> , or National Service for Prisons |
| UCM | <i>Universidade Católica de Moçambique</i> , or Catholic University of Mozambique |
| UEM | <i>Universidade Eduardo Mondlane</i> |
| UTUSP | <i>Unidade Técnica de Unificação do Sistema Prisional</i> or Technical Unit for the Unification of the Prisional System |

Definition of the Legal and Judicial Sector

The legal and judicial sector is composed of four main institutions: the Ministry of Justice, the Attorney-General's Office, the Supreme Court and the inferior courts, and the Administrative Court. With respect to each of these institutions (except the Administrative Court) and to other legal and judicial sector institutions' the main regulatory instruments, the mandate and mission, functions and responsibilities are identified below.

The Ministry of Justice

Main Regulatory Instruments

The Ministry of Justice is governed principally by the following legal instruments:

- Presidential Decree n.º 5/95 of 1 November, which defines the objectives and functions of the Ministry of Justice ("PD 5/95")²⁵;
- Ministerial Diploma n.º 201/2004 of 30 November, that sets forth the internal by-laws (*estatuto orgânico*) of the Ministry of Justice ("MD 201/2004")²⁶;
- Ministerial Diploma n.º 43/2003 of 16 April, established the terms of the prisional system unification; and
- Decree n.º 7/2006 of 17 May, establishes the terms of the national prisional system.

Mandate and Mission

The mandate and mission of the Ministry of Justice, set forth in PD 5/95, is as follows:

- To provide legal advice to the Government
- To participate in the technical preparation of legal instruments
- To ensure the recording of acts and contracts required by law
- To supervise the management and organization of the prison system
- To promote the training and professional qualification of the legal and judicial sector staffs'
- To guarantee citizens' right to a legal defense
- To promote respect for legality
- To promote the legal education of citizens
- To establish coordination mechanisms with the Courts and with the Attorney General's Office, and
- To maintain contacts between the State and religious communities²⁷.

In April 2003, the Government established the Technical Unit for the Unification of the Prisional System (UTUSP), to support the Ministries of Justice and of the Interior in the unification of the prisional system process²⁸. Subsequently, in May 2006 creates the National Service for Prisons (SNAPRI)²⁹, an auxiliary organ in the justice's administration, headed by a general-director, appointed by the Prime-Minister, as the sole body responsible for the management of the prisons in Mozambique, subordinated to the Ministry of Justice.

SNAPRI's main attributions are:

- a) To verify the legality of the detentions;
- b) To execute the penalties depriving a person of his freedom and security measures;
- c) To supervise the management of the prisons establishments and of the execution of security measures;
- d) The re-education of the prisoners;
- e) The security and protection of the prisons establishments and of the execution of security measures;
- f) To promote and manage the employment contracts of the prisoners;
- g) The design and implementation of draft policies and strategies of delinquents' social reintegration.

²⁵ Repealed the Presidential Diploma n.º 69/83 of 29 December.

²⁶ Repealed the Ministerial Diploma n.º 68/97 of 03 September.

²⁷ PD 5/95, Article 2.

²⁸ Ministerial Diploma n.º 43/2003 of 16 April.

²⁹ Decree 7/2006 of 17 May.

Functions and Responsibilities

PD 5/95 also sets out the functions and responsibilities of the Ministry of Justice. Specifically, the Ministry of Justice has the following functions:

- In respect of providing legal advice to the Government:
 - To prepare legal opinions for the President of the Republic, the Prime Minister and the Council of Ministers.
- In respect of citizens' right to legal defense and legal aid:
 - To ensure defense, consultation and legal aid to citizens, in particular guaranteeing and promoting legal representation in court for those with insufficient means, and
 - To promote mechanisms of coordination between the Government and the OAM.
- In respect of developing legislation:
 - To prepare draft legal instruments, and
 - To supply opinions on draft legal instruments, giving methodological guidance on their preparation.
- In respect of legality:
 - To coordinate with the Attorney-General's Office and the OAM to guarantee the defense and development of legality, and
 - To create mechanisms of coordination with the police forces to ensure respect for the fundamental rights and liberties of citizens.
- In respect of registries and notarial services:
 - To direct, expand and coordinate all the activities of the registries and notaries, and
 - To ensure the recording of the acts required by law, specifically those in personal sphere of citizens, the activities of legal persons and those of political parties.
- In respect of the prison system:
 - To define, implement and develop prison policy,
 - To organize and manage the prison system, and
 - To promote the rehabilitation, reintegration and return to society of delinquents.
- In respect of training:
 - To promote the training and maintain or enhance professional qualifications of jurists and other professionals linked to the legal and judicial sector.
- In respect of citizens' legal education:
 - To promote the dissemination of laws and other legal texts, making the main legal instruments accessible and comprehensible, and popularizing their use,
 - To educate citizens to respect the law,
 - To systematize documentation, and
 - To promote the publication of legal materials.
- In respect of the courts:
 - To promote a correct institutional relationship between the Government and the courts.
- In respect of religious affairs:
 - To establish mechanisms for the relationship of the State and the various religions³⁰.

The Office of the Attorney-General

Main Regulatory Instruments

The Office of the Attorney-General is governed principally by Law n° 22/2007 of 1 August³¹. In letter and spirit the Law 22/2007 conforms to the new Constitution of the Republic of 2004³². The Law formally establishes the Office of the Attorney-General internal structure and the Public Magistracy by-laws.

³⁰ PD 5/95, Article 3.

³¹ Repealed the Law n.° 6/89 of 19 September.

³² Approved by Parliament on December 16, 2004, Title X, Articles 234 to 240.

Mandate and Mission

The mandate and mission of the Office of the Attorney-General set forth in this law is as follows:

- To manage the process of indictments for crime;
- To implement criminal law activities;
- To monitor the legality detention and duration of detentions;
- To ensure the defense and representation in court of minors, absent parties and legally incompetent persons;
- To protect miscellaneous and collective interests; and
- To exercise any other functions provided at law³³.

Functions and Responsibilities

The functions and responsibilities of the Public Ministry, the corps of magistrates that comprises the main operational grouping of the Attorney-General's Office, and operates under the supervision of the Attorney-General, are as follows:

- To implement criminal law activities;
- To monitor conformity to the legality and compliance with the laws and principles of law;
- To manage the process of indictments for crime;
- To ensure the defense and representation in court of vulnerable groups that the State has a particular obligation to protect namely, minors, absent parties and legally incompetent persons;
- To participate in court sessions, cooperating in the discovery of facts and the correct understanding of law, including examining parties and promoting actions that lead to the discovery of the material truth;
- To lodge appeals of judicial decisions with appellate courts;
- To represent and defend before the courts the assets and interests of the State and Governmental agency, the miscellaneous and collective interests, as well as others provided at law;
- To monitor the legality and duration of detentions;
- To promote the defense and representation in court of the State and other public corporation in litigation before foreign courts;
- To inspect the procedural acts of the criminal police bodies;
- To ensure that prisoners serve only the jail time to which they were sentenced to;
- To inspect the operations of the prison system;
- To issue opinions with respect to petitions to commute sentences, as well as for conditional liberty;
- To monitor and orientate, in terms of methodology, State bodies empowered to detain citizens and charge them; and
- To exercise any other functions provided at law³⁴.

The Supreme Court and the Inferior Courts

Main Regulatory Instruments

The Supreme Court and the lower courts, along with the community courts, are governed principally by the following instruments:

- The Constitution of the Republic of Mozambique, and specifically Articles 212 to 233;
- Law 18/92 of 14 October, creating the Labor Courts;
- Law 24/2007 of 20 August, creating the Organic Law of the Courts³⁵;

³³ Law 22/2007, Article 15.

³⁴ Law 22/2007, Article 4.

³⁵ Repealed the Law 10/92 of 6 May.

- Law 4/92 of 6 May, creating the Community Courts³⁶;
- Law 7/2009 of 11 March, creating the by-laws of the Judicial Magistracy³⁷;
- Decree 16/2001 of 16 May, approving the staffing tables of the Supreme Court and inferior courts; and
- Decree 40/93 of 31 December, creating the Police Court of the City of Maputo and the Minors' Court of City of Maputo, among other matters.

Other relevant legislative instruments to the life of the judicial system:

- Law 24/2007 of 20 August, updating the jurisdictional amounts of the judicial courts in civil matters, and
- Decree 14/96 of May 21, 1996 updating the Code of Court Costs.

Mandate and Mission

The mandate and mission of the courts in general are set forth in Articles 212 and 213 of the Constitution. The courts are to:

- Ensure and reinforce legality as an instrument of legal stability, ensure respect for the law, secure the rights and liberties of citizens, as well as the legal interests of the different bodies and entities with legal personality;
- Educate citizens in the conscientious and voluntary fulfillment of the laws, establishing just and harmonious social relations;
- Punish violations of the law and judge cases as provided at law.

The Constitution provides for a number of specialized courts in addition to the Supreme Court and the inferior judicial courts. These are:

- The Administrative Court;
- Military courts;
- Customs courts;
- Tax courts;
- Maritime courts;
- Labor courts;
- Arbitral courts; and
- Community courts³⁸.

The courts are organized in general and specialized jurisdiction divisions, and its jurisdiction is divided in the matter, hierarchy, value of matter in controversy and territory.

Functions and Responsibilities

Supreme Court

The highest body within the hierarchy of courts of justice, exercising general jurisdiction throughout the national territory, is responsible to ensure the uniform application of the law within its sphere of jurisdiction, in the interests of the Mozambican people³⁹. It is based in Maputo and is composed by a number of professional judges and elected judges⁴⁰.

The Supreme Court exercises appellate jurisdiction, as provided by law and sit:

- a) in divisions, as a court of first and second instance;
- b) in plenary session, sitting either as a court of second instance or as a court of sole instance, in cases expressly provided for in the law.

Certain subject matter is heard in plenary, but most is considered by a division of the court⁴¹.

Inferior Judicial Courts

The judicial jurisdiction at inferior judicial courts is exercised by:

- a) Superiors' Courts of Appeals (Tribunais Superiores de Recurso);
- b) Provincial Courts, one for each of the 10 provinces and for the City of Maputo (which has the status of a

³⁶ In institutional terms, the community courts are not part of the official judicial system. Nevertheless, their activities are directly analogous to those of the courts.

³⁷ Repealed the Law 10/91 of 30 July.

³⁸ Constitution of the Republic 2004, Articles 223, paragraphs 1, 2 and 6, and 224.

³⁹ Ibid., Article 225.

⁴⁰ Law 24/2007, Article 42, Constitution of the Republic 2004, Article 226.

⁴¹ Ibid., Articles 43, 45, 46, 47, 50 and 51; Constitution of the Republic 2004, Article 227.

- province for these and other purposes); and
- c) District courts.

a) Superiors' Courts of Appeal⁴²

The superiors' courts of appeal are by essence, courts' of appeal, assisted by a court office, judicial offices' and eventually support services. Organized in general or specialized jurisdiction divisions, the superior court of appeal acts as a court of first and second instance.

As a court of second instance, the superior court of appeal is responsible to:

- a) adjudicate the appeals of provincial courts decisions', under laws of process;
- b) adjudicate conflicts of jurisdiction between judicial courts and other entities' of its area of jurisdiction;
- c) adjudicate conflicts of jurisdiction between judicial provincial courts of its area of jurisdiction;
- d) exercise any other functions provided at law.

As a court of first instance, the superior court of appeal is responsible to:

- a) adjudicate criminal proceedings in which professional judges' of judicial provincial courts' and Public Ministry judges' are the accused one's;
- b) adjudicate criminal proceedings in which elected judges' of judicial provincial courts are the accused one's, for acts related to the exercise of their functions;
- c) cognize and decide the loses and damages actions sued against professional judges of judicial provincial courts and Public Ministry judges', for acts related to the exercise of their functions;
- d) cognize *habeas corpus* applications' which in terms of procedural law must be sent to this court;
- e) exercise any other functions provided at law.

b) Judicial Provincial Courts

The judicial provincial courts acts as a single judge or a collective court, as determined by procedural law or other legal diploma assisted by a judicial office headed by a clerk of court. The judicial provincial court acts as a court of first and second instance.

As a court of first instance, on civil matters, the judicial provincial court is responsible to:

- a) cognize causes' beyond the jurisdiction of other courts;
- b) cognize and decide the loses and damages actions sued against judges of inferior courts and Public Ministry judges', for acts related to the exercise of their functions, in the judicial district courts.

As a court of first instance, on criminal matters, the judicial provincial court is responsible to:

- a) adjudicate criminal infractions that should not be cognized by other courts;
- b) cognize criminal proceedings in which professional judges' of judicial district courts' and Public Ministry judges' are the accused one's;

As a court of second instance, the judicial provincial court is responsible to:

- a) cognize the appeals applied of the judicial district courts decisions' and of others that by law should be submitted;
- b) cognize conflicts of jurisdiction between judicial district courts of its area of jurisdiction;
- c) adjudicate the appeals applied of decisions of arbitral courts or other conflict mediation organs';
- d) cognize *habeas corpus* applications' which in terms of procedural law must be sent to this court.

c) Judicial District Courts

The judicial district courts acts as a single judge or a collective court assisted by a judicial office headed by a clerk of court; As courts of first and second instance, are organized as general jurisdiction courts, eventually if the volume, nature of conflicts or other reasons justify may organize in specialized jurisdiction divisions.

As first instance courts judicial district courts act as 1^a or 2^a class courts.

As a 1^a class judicial provincial court acting in first instance, the judicial provincial court is responsible:

1. On civil matters to:

- a) adjudicate matters regarding family relations and minors courts proceedings;
- b) adjudicate judicial actions whose values does not exceed one hundred times national minimum salary, for which other courts have not jurisdiction;
- c) other matters whose knowledge does not belong to other courts.

2. On criminal matters to:

- a) adjudicate criminal infractions which knowledge is not assigned to other courts;
- b) adjudicate criminal infractions which is corresponding to no more than twelve years of punishment by confinement.

⁴² Ibid., Articles 58 to 67.

As a 2^a class judicial provincial court acting in first instance, the judicial provincial court is responsible:

1. On civil matters to:

- a) adjudicate civil actions' whose values does not exceed one fifty times national minimum salary and for which other courts have not jurisdiction;
- b) cognize other matters whose knowledge does not belong to other courts.

2. On criminal matters to:

- a) adjudicate criminal infractions which knowledge is not assigned to other courts;
- b) adjudicate criminal infractions which is corresponding to no more than eight years of punishment by confinement.

As a second instance court, 1^a and 2^a class judicial provincial court are responsible to:

- a) adjudicate the appeals applied of decisions of community courts;
- b) cognize *habeas corpus* applications' which in terms of procedural law must be sent to these courts.

Other Organizations

The Ministry of the Interior

Main Regulatory Instruments

The Ministry of Interior is governed by the following legal instruments:

- Presidential Decree n.º 18/2000 of 21 November⁴³, that sets forth its attributions and competences; and
- Ministerial Diploma n.º 68/2001 of 2 May, that sets forth its internal by-laws (*estatuto orgânico*)⁴⁴.

Mandate and Mission

The Ministry of the Interior is the central organ of the State, responsible to ensure public order, security and peace, the identification of national and foreign citizens, the immigration control, and the prevention and fight of fires and natural disasters. The Ministry of the Interior also plays an important role in the administration of justice insofar as it controls the police forces.

Functions and Responsibilities

To achieve its objectives and specific functions the Ministry of the Interior is divided according to the following areas of activities:

- a) Police;
- b) Civil Identification;
- c) Migration;
- d) Fire brigades.

The Ministry of the Interior is responsible for the main police forces in Mozambique:

- a) the Criminal Investigation Police (*Polícia da Investigação Criminal* "PIC")⁴⁵;
- b) the Police of the Republic of Mozambique (*Polícia da República de Moçambique* "PRM")⁴⁶.

⁴³ Repealed the Presidential Decree n.º 66/83 of 29 December.

⁴⁴ Repealed the Ministerial Diploma n.º 86/93 of 22 September.

⁴⁵ The role of PIC in the criminal justice process is particularly important. It is supposed to investigate criminal activity and prepare dossiers with respect to suspects for presentation to the judges (*juizes de instrução criminal*) responsible for preparing arraignments.

⁴⁶ Constitution of the Republic 2004, Articles 254 and 255.

Superior Council of the Judiciary (CSMJ)

Main Regulatory Instruments

The Superior Council of the Judiciary is governed principally by:

- The Constitution of the Republic of Mozambique, specifically Articles 220 to 222;
- Law n° 7/2009 of 11 March, creating the by-laws of the Judicial Magistracy, specifically Articles 128 to 146.

Mandate and Mission

The Superior Council of the Judiciary is the collective body responsible for the management and discipline of the judiciary, supervises and regulates the corps of judicial magistrates and court officials.

The CSMJ is composed of:

- a) the President of the Supreme Court;
- b) the Vice President of the Supreme Court;
- c) members appointed by the President of the Republic;
- d) members elected by the Assembly of the Republic, according to principles of proportional representation;
- e) members of the judiciary in different categories, elected by their peers in the terms of the Judges' By-laws.

Functions and Responsibilities

The Superior Council of the Judiciary is responsible to:

- a) nominate, appoint, transfer, promote, exonerate and evaluate professional merit, take disciplinary action and, in general, carry out all acts of the same nature in relation to members of the judiciary;
- b) evaluate professional merit and take disciplinary action in relation to officers of justice, without prejudice to the disciplinary powers assigned to judges;
- c) propose extraordinary inspections, inquiries and investigations to the courts;
- d) give opinions and make recommendations on the policy of the judiciary, on its own initiative or at the request of the President of the Republic, the President of the Assembly of the Republic or the Government.

The Center for Legal and Judicial Education (CFJJ)

Main Regulatory Instruments

The main legal instruments governing the CFJJ are:

- Decree n.º 34/97 of 21 October, and
- Ministerial Diploma n.º 11/99 of 3 March, est. the CFJJ staffing table.

The mandate and mission of the CFJJ are:

- Training, capacity-building and certification of judicial magistrates and prosecutors, conservators, notaries, legal assistants and other legal and judicial sector professionals;
- In respect of training, to conduct both courses for new recruits to the legal and judicial sector, continuing education for sector employees, as well as seminars and workshops; and
- Undertake law-related research, produce and organize legal documentation and information, and participate in the education of citizens in the law⁴⁷.

Although legally constituted in 1997, the CFJJ only began its first training course in November 2000. Some of the interim period was spent resolving an ongoing debate about the methodology to be used by the institution. While the methodologies of the law faculties of the country tend to be classical in approach, with instructors lecturing about the content of the law while students take notes, the CFJJ tends to use a more interactive approach between teachers and students. It also includes in its curriculum a strong sociological component, to prepare future judges and prosecutors for the realities of rural areas. Also, the legal professionals are provided with some limited training in management, since it is expected from them to run the judicial or prosecutorial offices in the districts in which they are placed.

⁴⁷ Decree 34/97, Article 3.

Functions and Responsibilities

The CFJJ's functions and responsibilities are set forth in Article 2 of its By-laws. These are:

- To train the professionals named above;
- In respect of documentation, to organize a Legal and Judicial Documentation Center, publish scholarly and similar works on law, and publish magazines, brochures and similar publications; and
- In respect of legal research, to participate in studies on the country's social situation and its repercussions in law, and produce comparative law studies.

Access to Justice

The Bar Association and the Legal Profession

The practice of law as a liberal profession in independent Mozambique is a fairly recent phenomenon. Shortly after independence, the private practice of law was made illegal. Later, when the need for an organized system of legal representation became increasingly necessary, the National Institute for Legal Aid (INAJ)⁴⁸ was formed, and all provision of legal services to individuals was supposed to be channeled through it. More recently still, with the passage of the 1990 Constitution and the reorientation of the economy along market lines, the need for a modern bar association, the *Ordem de Advogados Moçambicanos (OAM)*, was recognized. Hence, in 1994, the Parliament passed Law 7/94 of September 14, 1994 creating the Bar Association⁴⁹. The Bar charter has recently been amended by the Parliament, but the law approving the amendments has not yet been published in the official gazette.

Among the purposes of the Bar Association are the: (i) defense of the rule of law, (ii) cooperation in the sound administration of justice; (iii) contribution to the legal culture of the nation, (iv) defense of the interests of its members and apprentices (lit., *estagiários*); and (v) professional discipline of its members.

The Bar Association leadership's attempts to interest donors' active in the legal sector in the group's mission and, in particular, in the renovation of an important historic building that the Government has granted to the organization to serve as its future headquarters, have not met with success. The newly elected Bar leadership is not in favour of the present government policy to support IPAJ in detriment to build capacity in the Bar to assist the poor requiring legal services.

Under the terms of the Bar Association's charter, a lawyer has general obligations as a servant of justice and the legal order. Furthermore, lawyers also have specific obligations to the public and Bar Association. A lawyer must, among other things, accept appointment by the Court as a defense attorney (in principle for indigent criminal defendants).

Lawyers admitted to the Bar are not the only sources of legal advocacy services in Mozambique. "Legal technicians" (lit. *técnicos jurídicos*) and "legal assistants" (lit., *assistentes jurídicos*) who must operate under the aegis of IPAJ, also provide such services. Although in theory IPAJ is supposed to serve Mozambicans without means to pay for legal services, in practice it serves a much wider range of consumers.

Legal technicians are persons who have attended some classes in a law faculty and who have been admitted to IPAJ. Legal assistants are persons who have passed special courses for the purpose organized by the Ministry of Justice. Legal technicians and legal assistants may practice before courts as a lawyer admitted to the Bar would, but only in areas in which there is an insufficient number of lawyers. Whether the number of lawyers in any given place is sufficient is determined by the Bar Association. Presently only Maputo City, Maputo Province and Beira are considered as having sufficient lawyers.

In criminal cases and outside the City of Maputo (and even in the district courts in the periphery neighborhoods of Maputo), it is almost exclusively legal technicians and legal assistants who represent clients in court.

Legal Aid and Legal Services

Main Regulatory Instruments

The main legal instruments governing the provision of legal aid and services in Mozambique are:

- Law 6/94 of September 13, 1994, creating IPAJ ("Law 6/94");
- Decree 54/95 of December 13, 1995 setting forth the by-laws of IPAJ ("Decree 54/95").

⁴⁸ Law n.º 3/86 of 16 April.

⁴⁹ And repealing the Law n.º 3/86 of 16 April.

Mandate and Mission

The purpose of IPAJ is to ensure in practice the constitutional right to legal aid and services, by giving such assistance to citizens without the means to pay for it⁵⁰. IPAJ has its headquarters in Maputo and branches throughout the country⁵¹. IPAJ is a public agency of the Government of Mozambique.

IPAJ's mandate is as follows:

- To coordinate the supply of legal aid and services by its members;
- To coordinate the civic service to be performed by candidates to the Bar performing their articles;
- To ensure the observance of the rules of professional ethics;
- To exercise jurisdictional discipline over its members;
- To participate in the study and dissemination of laws and promote respect for legality;
- To raise the technical and professional knowledge of its members; and
- To promote close relations with analogous bodies abroad.

Functions and Responsibilities

Legal aid and services supplied by IPAJ are without charge to the client⁵²; If the client produces a declaration of poverty (*atestado de pobreza*) - a document issued by the City Council -, his/her case will be assigned to an IPAJ Legal Assistant and handled free of charge.

Members of IPAJ are divided into legal technicians and legal assistants, with their respective jurisdictional limits. Only legal technicians and legal assistants who are members of IPAJ may provide legal aid and services⁵³.

IPAJ's work is supposed to take three forms, and take place in three classes of locations: a) general legal consultation to the (qualifying) public at IPAJ's offices;
b) representation of clients at court; and
c) representation of clients at police stations and the PIC's offices⁵⁴.

The assignments of the IPAJ members are supposed to ensure that clients are duly served in the three classes of locations.

Although in theory IPAJ is an agency of the Government of Mozambique and the legal technicians and legal assistants are civil servants paid from general state budget funds, in practice only some members of IPAJ fall into this category. The remaining members have no formal contractual relationship with IPAJ, and do not receive any salary from IPAJ.

Legal Education

Legal education in Mozambique began in 1975, shortly before independence, with the opening of the Law Faculty of Eduardo Mondlane University. In the days following independence, the curriculum was strongly oriented to concepts of legality and justice arising from the socialist tradition. Indeed, as the private practice of law was abolished and most of the economic enterprises of the country were in the hands of the state, the perceived political and economic need for graduates who had mastered commercial law subjects was limited. Such matters were relegated to a secondary plane in legal education.

In 1983, the Government decided to close the Faculty of Law. This decision interrupted the course of study of many students. This further disrupted the studies of many who were part-time students due to their work assignments in the legal system. The Law Faculty reopened only in 1987.

For sometime, the UEM Law Faculty was the only one in the country. However, in 1996, the newly formed Catholic University of Mozambique (UCM) created a law faculty, at its Nampula campus in the north of Mozambique. More recently, other private universities were created with law faculties in Mozambique.

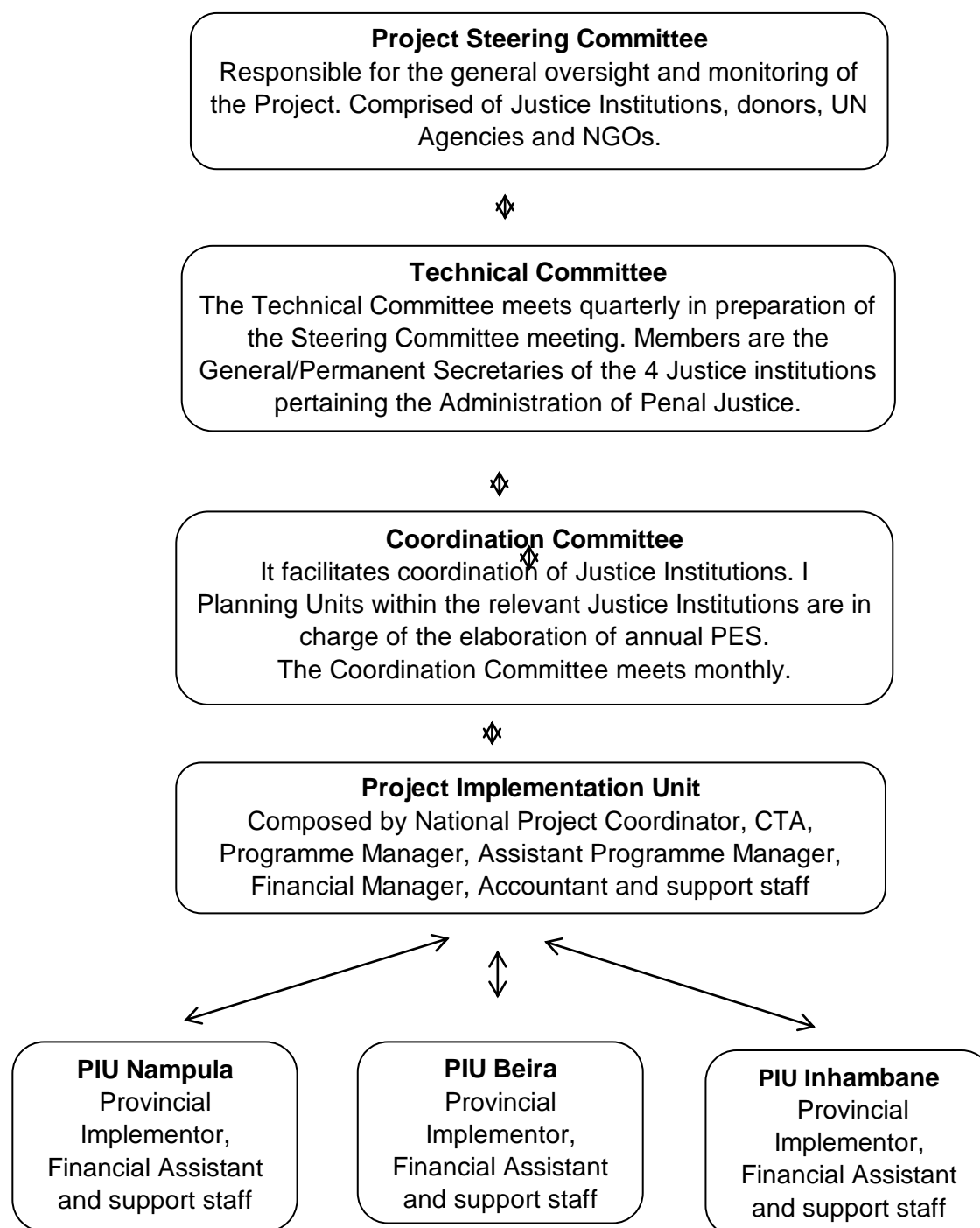
⁵⁰ Decree 54/95, Article 1, paragraph 1.

⁵¹ Ibid., Article 2.

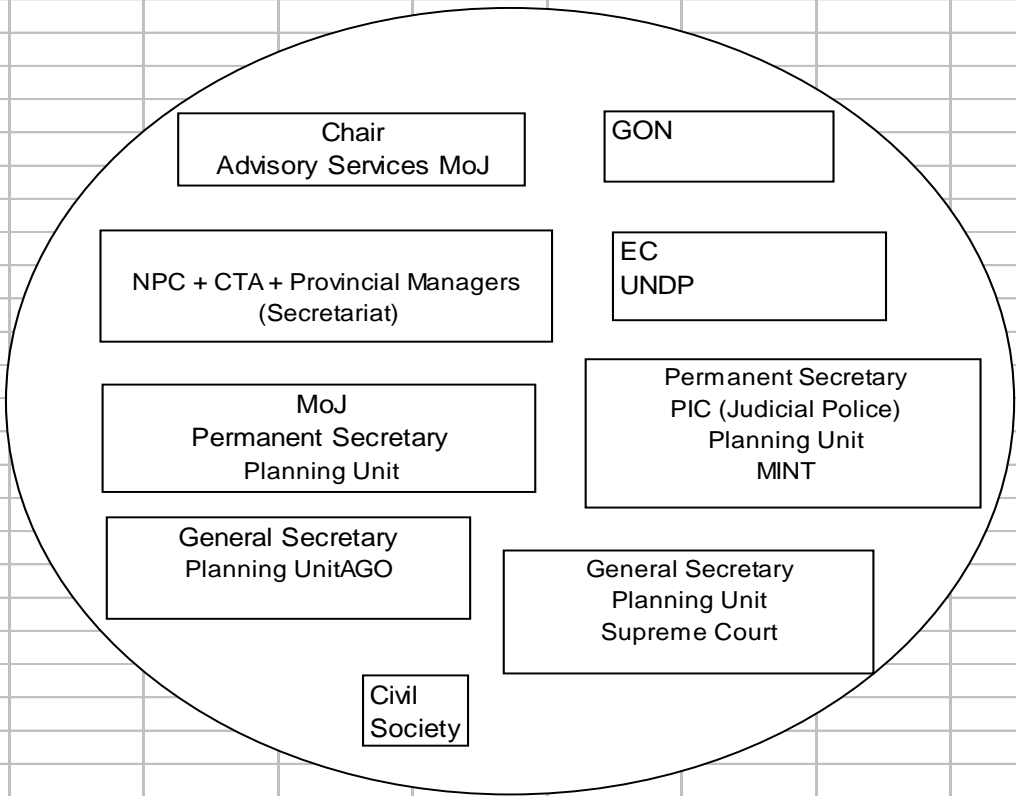
⁵² Ibid., Article 8.

⁵³ Ibid., Article 10.

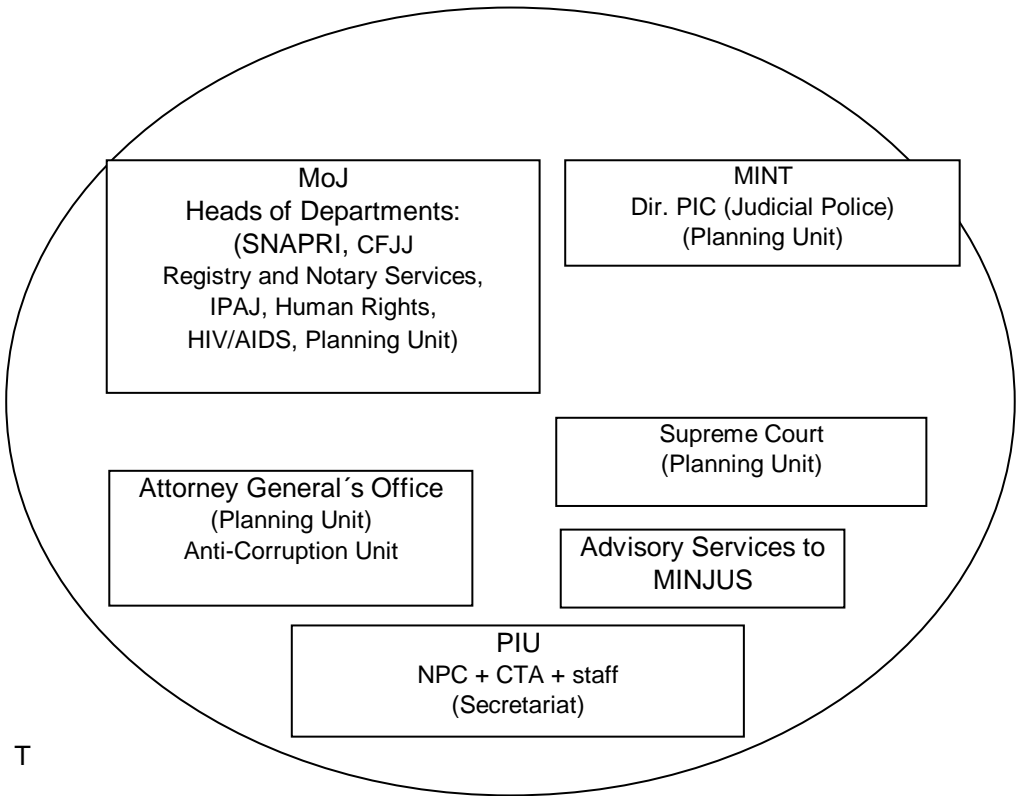
⁵⁴ Ibid., Article 18.



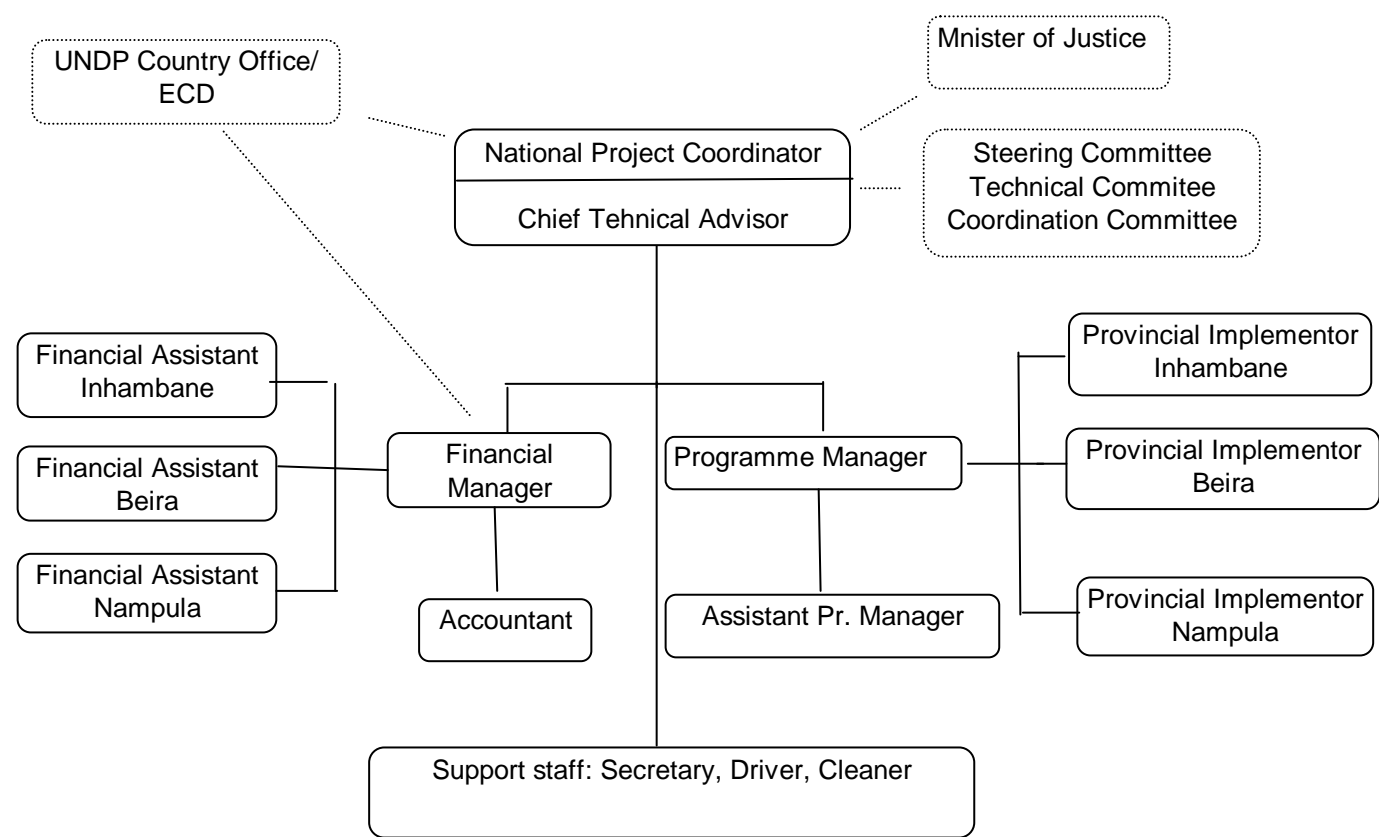
Annex IX Technical Committee



Annex X Coordination Committee



Annex XI PIU Structure



Annex XII Cooperation at implementation level

