

THE ROLE OF THE PARLIAMENT IN THE MOZAMBIQUE DEMOCRACY

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Introduction

The 1994 general elections opened the way for Mozambique to enter the community of world multiparty democracies. This was a direct result of the 1990 Constitution, which paved the way for the signing of the peace deal brokered by the United Nations in 1992. “The 1990 Constitution introduced the Rule of Law, founded in the separation of powers and pluralism, launching the structural parameters of modernization, contributing in a decisive way to the installation of the democratic climate that led the country to the first multiparty elections”¹.

Since the inauguration of the multiparty democracy in 1994, Mozambique has held four general elections - presidential and legislative; three municipal elections and for the first time the provincial elections in 2009.

As the country progress in the democratic path, the prescribed in the preamble of the Constitution seem to be far from realization - the separation of power is not visible, pluralism is narrowing, and the rule of law is compromised. The current sitting of the parliament, with the ruling party composing a parliamentary majority of 76.4%, makes the desirable pluralism and democratic climate a mirage.

In a true democracy the decision making is shared by the legislative and the executive, and this interaction is prescribed in the preamble of the Constitution. But the current scenario of wide majority of the ruling party and the influence that the executive has over policy formulation raises the question of what role is reserved to the parliament in the Mozambique democracy?

¹ Constituição da República de Moçambique, CRM,

In the Mozambican setting the president holds much power, controls the state apparatus, has at his hands staff dedicated to make policies and programs that the executive implements, produces most of the legislation that is passed by the parliament, literally taking over the mandate of the parliament of making laws.

There is a consensus among scholars that the role of parliament is three-fold: representation, lawmaking and oversight. And a functioning parliament is expected to fully perform these: represent the citizens; be the highest institution in lawmaking, which regulates the functioning of the society; and oversees the executive spending and how the policies and programs are implemented.

Understanding the role of the Mozambican parliament is of utmost importance, particularly when we witness a major shift in its composition, and with the ruling party advocating for the “elimination of the opposition or its reduction to an insignificant group of spectators”².

The role of the parliament

In modern democracies, parliaments are the most important, most vibrant and the strongest institution. As the central institution of democracy, the parliament personifies the will of the people in government, and carries all their expectations that democracy will be truly responsive to their needs and helps solve the most pressing problems that confront them in their daily lives. As the elected body that represents the whole society in all its diversity, the parliament has a unique responsibility for reconciling the conflicting interests and expectations of different groups and communities through the democratic means of dialogue and compromise. As the body entrusted with the oversight of the executive, it is responsible for ensuring that executive is fully accountable to the people.

Unfortunately, the parliament of Mozambique has not lived up to these principles. The parliament has become a civilized battleground of the two former enemies that once opposed each other during the civil war; they replaced the gun fires with hate speeches, personal attacks and accusations. That is the image that transpires to the society, which relates the role of the parliament to the plenary discussions. Parliament is more than that. Parliament is oversight,

² Interventions in plenary sessions of 2009

control of executive spending and performance; it is the only place where the people, through their representatives, can question the executive and point out mistakes.

As José Sarney, the speaker of the Brazilian Senate rightly pointed out in his opening speech of the 2010 session of the Brazilian senate: “without a parliament there is no democracy. Without democracy there is no freedom, and without freedom the human being is simply a survivor. Without a strong parliament there is no strong democracy”³.

Parliament is the most prestigious institution in any democratic society, and all should be done to safeguard this principle.

Representation

Parliament is supposed to be the branch of government closest to people than any other institution; the most transparent and most accessible of all the three branches of government. Members of Parliament are expected to represent the interests of the diversity that comprise the Mozambican society, and convert their interests into policy.

The performance of the Mozambican parliament on representation is questioned when a relatively high number of the MPs have fixed residence in the capital city of Maputo where the parliament is hosted, and there is no formal mechanism by which MPs are compelled to establish a permanent link with the constituencies (electoral circles) where they are elected from. While we do agree that representation does not mean simply leaving in a specific geographical area, it involves listening to those they claim to represent.

In a context of Mozambique, where over 50% of the population is illiterate, and communication facilities is still not easily accessible, particularly in the rural areas where the majority of the population live, personal contact still the only effective way for people to relay their concerns to their elected MPs, so that decisions can be made on their behalf at the national level.

By being close to their constituents MP can easily identify their needs and raise these issues on policy debates. The more MPs and citizens interact, the more facilitated information sharing will be and easily hold the executive more accountable. MPs can also help achieve this outcome by informing citizens about legislative actions, ensuring that citizen’s voices are reflected in budgets

³ http://www.senado.gov.br/comunica/imprensa/detalha_noticia.asp?data=02/02/2010&codigo=71763

and public policy. MPs help improve constituency relations by making regular visits to constituencies, particularly when Parliament is on recess.

Although we cannot ascertain to what extent this does happen, it is true that when parliament is in recess very few MPs visit constituencies to hear their views and concerns. If that happen they do report to their party delegations and are assigned tasks to carry within the party agenda - Frelimo MPs will meet with its constituency base and Renamo will also meet with its constituency base.

Lawmaking

Apart from representing the interest of the citizens, one of the key roles of parliament is to make laws that, when implemented correctly, will bring benefits for the majority. This is the weakest link of our parliament. Understaffed and underfunded, the parliament of Mozambique performs poorly on lawmaking indicator.

The majority of laws passed by the Mozambican parliament are not originated by the parliamentary groups or individual MPs. The executive takes lead in this process, with the advantage of having the staff and all the financial resources needed to elaborate laws. Under the circumstances where the parliament is low in producing laws, the executive has used abusively the Constitutional provision that allows it to legislate in the form of decrees.

In the 2008 session, for example, the parliament had tabled 35 bills for debate and according to then speaker of parliament Eduardo Mulémbwè, it managed to achieve a performance rate of 85% of bills debated.⁴ Looking at the percentage of the plenary debates one would conclude that our parliament is very productive and that it is successfully accomplishing its role of making laws. But the truth is that six of the bills tabled for debate in 2008 were forwarded to the 2009 session, including the most publicized Law Against Domestic Violence.

Of the 29 bills that were actually debated in the 2008, only one, the *Law of Defense and Combat against Discrimination and Stigmatization of People Living with HIV/AIDS* was originated within the parliament, and the remaining proposals were prepared by the executive and submitted to the parliament. This is a clear indication that the parliament is not fulfilling its mandate as the

⁴ In jornal Notícias edição de 27 de Dezembro de 2008

principal lawmaking body in the structure of a democratic government. As we mentioned earlier, the executive has taken this responsibility and using the Constitutional provisions, it is replacing the parliament in the law making process.

A point to highlight how the parliament has been bypassed by the executive in its functions of making laws, is the recent statement made by the minister of finances to the media on February 24, when he confirmed that the executive was already implementing the budget in all its budget lines – expenditures and revenues. At the time of this statement the parliament was still to meet and deliberate on the proposed budget.

The budget is one of the key instruments that are approved by the parliament to regulate the executive expenditures. This is also a key instrument for the parliament to effectively oversight the executive's performance in terms of carrying its functions within the established limits. The question one may ask is what budget the parliament will discuss when it meets next week?

The other aspect that substantiates the reference made earlier that the executive dictate the functioning of the parliament is that the current sitting of the parliament was sworn in on January 12, but it was not until March 22 that the parliament convened its first plenary session. According to sources within the parliamentary structure, the delay was due to the fact that the executive had not submitted the economic and social plan (PES) and the budget proposal for consideration by the parliament. This by itself shows how much the institution of parliament is diluted.

Eventually if the ruling party had not won the wide majority that enjoys at the moment, the parliament would impose its respect. The line of command at party structure is also followed in the parliamentary groups.

Oversight

The third key function of the parliament is to oversight executive activities and keeps track of government spending. This is the way parliament ensures that the executive is complying with the resolutions of the parliament as to the annual economic and social plan and the annual budget that it approves. If we agree that the power and resources that the executive holds belong to the people and that it should be executed on behalf of the people, then the oversight role of the

parliament is the key in checking whether programs are carried out legally, effectively, and for the purposes for which they were intended.

The parliament has not performed this role to the content. Many factors contribute to this fact namely the low level of qualifications of the majority of MPs that cannot understand some of the complex documents submitted to the parliament in such a short notice, especially the budget document and the report of the Administrative court on the General State Accounts.

The high dependence of the parliament on the executive for resources allocation is another factor that leaves the people's house dependent on the executive will to allow the parliament to play its role in a more meaningful way.

Parliament committees are not allocated sufficient funds to perform their task, the little that the executive provides is only enough to carry field work for one month per year. And for an extensive country like Mozambique, with poor communication infrastructure, this has proven not to be reasonable, and therefore the oversight role of the parliament cannot be performed satisfactory.

The few occasions the parliament does play this role with a relative efficiency is during the questioning period, when MPs have a chance to question minister on specific issues concerning their ministries; the debate of the administrative court report of the General State Accounts; and the public accounts committee. Although the public accounts committee's performance has been questioned for years due to its composition⁵, this has been considered the main parliamentary committee whose deliberations are followed with great attention.

The oversight role of the parliament is often overshadowed by the executive, which through its so called "open presidency", the president and members of the executive travel across the country to oversight their own activities in the provinces and districts.

With so many weaknesses it becomes very difficult for the parliament to perform its mandate at desirable level. One would believe that this situation is deliberated by the executive, to take

⁵ This committee was, until very recently, chaired by a senior advisor to the minister of finances, which puts the seriousness of its deliberations questioned.

advantage of operating unchallenged by a weak parliament short of staff and financial resources to oversight its activities.

If there is money to hire expert to draft laws for the executive to submit to the parliament, why not allocate these resources directly to the parliament for the same purpose? If there are resources for the executive to tour the country on “open presidency” to oversight its activities, why not allocate these resources to the parliament, which is constitutionally entrusted with the oversight functions? We see that the parliament not being taken seriously, and the parliament has allowed itself to have its power eroded.

Apart from the few occasional moments that the executive appears in parliament to present the PES and the budget and for the questioning period twice a year, it ignores the parliament and runs the business of governing the country almost autonomously.

Under such circumstances, the oversight role is being carried out by the media and NGO’s who have more presence on the ground than the parliament.

A people’s house turned into a party’s house

With so many shortages, the parliament of Mozambique can be classified as a rubber stamp parliament. The kind of parliaments that simply endorse decisions made elsewhere in the political system, in this case at ruling party’s headquarters. The parliament of Mozambique’s operations follows the same model of the single party parliament that functioned until 1994, with a slight difference that this time there are 51 MPs from the former rebel movement Renamo and 8 MPs from the Democratic Movement of Mozambique (MDM). Like in the old days, the decisions being made in the parliament are ordered by the leader or the *Comissão Política* of the ruling party, and the parliament, with the ruling majority simply gives it the authentication endorsement.

In the history of our democracy, we have no memory of a single MP from the ruling party who had voted against an executive proposal, even the ones that were highly contested by the public. One of the publicly contested deliberations of the parliament in the recent years was the close-door debate on the report of the Complaints Committee. The briefings of this committee are

generally on issues concerning the general public, but they have been denied access to the people's house. The ruling party has voted in favor of this decision.

The party discipline is the *modus operandi* of our parliamentary groups, they are more responsive to the party than to the people they claim to represent; their loyalty goes first to their party leaders who determine whether and where they will be placed on the party list in the next election. This applies to all parties represented in the parliament. For that reason they cannot be expected to vote according to the interest of those they claim to represent, but according to the dictates of those who enlisted them.

For a parliament that operates under such arrangements, certainly there is no need to press on for the establishment of internal structure or bringing in expert staff to increase its performance in law making. The ninety days of full house activities appears to be more than enough for a parliament whose main task is simply to endorse executive proposals.

An unconcluded conclusion

The current arrangement of the parliament does not meet any of the conventional roles of a democratic parliament which is to represent the people, make law and oversee executive expenditure. Our parliament is literally a rubber stamp parliament whose primary role is to endorse Executive's positions. This is a parliament that is strongly controlled by the ruling party from outside the boundaries of the parliament.

It is interesting though that the ruling party with all its power to impose its policies, it prefers to pass them under the cover of formal legislative institution where it has a parliamentary majority. It follows rigorously all the procedural norms, counting the presences, closing the doors, calling the vote, and announcing the results of the voting, just to give a sense of integrity to the process. It conveys this aura of legitimacy, particularly to the donors who demand democratic structures as a pre-condition for aid or preferential trading arrangements.

In a few days the parliament will meet to take a decision on the general state budget. All the protocol and the procedural rules will be observed, in the presence of the diplomatic community and interested parties. The media will cover it and will give a detailed report of the process followed. But the outcome of the debate is known or at least predictable – all Frelimo MPs in the

room will produce votes in favor, MDM will add up 8, and the majority of Renamo group, if not all present, will vote against.

One would question why spending money in maintaining such an expensive structure that is not responsive to the people's needs or expectations?

The parliament has been used a market place for auctioning future opportunities in the executive or other state controlled companies. A number of former ministers now compose a select group of Ruling party MPs, either waiting for the next posting or set for retirement. Generals and other high rank military officers from both sides have also been granted retirement scheme in the parliament.

Parliament has also served as a mechanism to grant parliamentary immunity to those MP's who otherwise would have to adjust accounts with the justice. Those who manage to secure a parliamentary seat can, for a period of five years, engage in illicit activities with little fear of being prosecuted.

A question hanging in the air: How to make the Mozambican parliament a relevant institution to democratic structure of the country? How to make MP's accountable to people? Who will oversee the parliament?