COMPARATIVE STUDY OF TRANSITIONAL JUSTICE IN AFRICA

RELATIONSHIPS IN TRANSITION IN MOZAMBIQUE 1990-2011

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# Title: Relationships in Transition in Mozambique 1990-2011

**Project:** African Comparative Transitional Justice Project

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Introduction
The temporal focus of this comparative research project is between 1990 and 2011. Nevertheless, the analysis of the choices made by the political elites in Mozambique in terms of transitional justice mechanisms cannot be made without taking into account the nature of the political violence in the country during the colonial period and the reckoning with the past in the transition from colonialism to independence 1978-1982. Furthermore, a focus on the cartographies of transition by heuristically analyze dynamics at national and local levels is also necessary given the existence in Mozambique (as well as in Sub-Saharan Africa in general) of cultural and legal pluralism which influences processes of coming to terms with experiences of mass political violence. What this analysis specifically reveals is the centrality of resetting relationships in periods of transition, both at the level of national politicians and among ordinary citizens that endured most of the brunt of the civil war.

The establishment of relationships following peace agreements, and new democratic elections as part of the broader process of postwar reconstruction in low-income countries has been an underestimated domain of analysis in transitional justice studies. Relationships in transition means that the terms of reference that dominate the interactions between former war foes and war-affected populations are defined by a set of legacies of serious past violations. At the level of national politicians, principles of equality (e.g. as representatives of the people) and a consistent focus on forward-looking propositions gets compromised because divisive memories of the violence are made to persist and are used strategically as weapons to damage the reputation and credibility of political opponents. In this regard, the specificity of the relationships in transition, or what keeps the flame of the transition alive, is the way in which the contested past interrupts or is made to disturb the search for a common ground on matters of expansive democratization and public policy, such as, decentralization, improvement of levels of transparency of the electoral processes, and reform of the security sector and the armed forces. In turn, at the level of local communities, divisive memories of past violations are also used, but these are deployed as part of strategies to attain resolution because injustices have detrimental impacts on people’s bodies and health, and everyday survival depends upon fostering of positive relationships. In this regard, this case study focuses on two level of analysis, the national political actors and actors at the community level.

To properly engage with both levels of analysis, the case study pays due attention to the recent history of violence in the country. First, the armed struggle for independence that pitted the Frelimo liberation movement against Portuguese colonialism (1964-1974). Second, the postcolonial civil war (1976-1992) which pitted the Frelimo government against the Renamo rebel movement, and was resolved through national and international mediation and culminated with signing of the Acordo Geral de Paz (AGP, General Peace Agreement) on October 4 1992. These two historical periods, the dilemmas that each of parties involved faced and the challenges that
followed these two periods sheds light into the choices made by the political leaders and ordinary citizens around issues of transitional justice mechanisms. At the community level, the analysis dwells on the former epicentre of the civil war in Gorongosa, a district in the centre of Mozambique.\footnote{Gorongosa is a district of Sofala province in the centre of Mozambique. Gorongosa society is founded on patrilineal kinship, polygyny, and an agricultural system of production. Although colonial Portuguese officials attempted for more than a century to classify the ethnicity of the Gorongosas, the local people identify themselves with a place rather than an ethnicity. They call themselves Ma-Gorongosianos, referring to the constellation of the Gorongosa Mountains, which are said to possess mystical powers. The family is the basic unit of society.} In this context, the following questions are raised. At the national level, how can the former war foes, Frelimo and Renamo members, find ways of resetting relationships in order to proceed with the general pacification and democratization of the country? What kind of relationships is possible to construct when former war foes have to work together both in a competitive manner but also search for common ground for the collective interests of the country? At the local level, how can these survivors, with numerous experiences of violence and victimization, live together and rebuild their devastated lives in peace? What form can justice takes that is capable of at once addressing the complexities of the cycles of violence and victimizations and simultaneously foster peace and reconciliation in Gorongosa? How detrimental or irrelevant is the official adoption of an amnesty law by the government authorities for the populations in Gorongosa?

**Methodology**

This analysis draws broadly on my long-term research activities in Mozambique, both at the level of national political actors and at the community level. My research activities initiated in 1996 and unfolded in the Mozambican national parliament and in the rural communities in the centre of the country. The specific results presented in this report were obtained through research activities in Gorongosa district and in the national parliament in the capital city Maputo. In Gorongosa, I conducted in-depth interviews with people in the region about their experiences with the civil war and famine. I gathered their oral life histories and I conducted participant observation by witnessing the deliberations in the local community courts. The case study that I present in this report was gathered during research activities in 2008, and involved two main protagonists, a woman called Mi quilina and a man named Cincoreis. The study also involved participant observation in the house of two healers, one paza healer and one gamba healer. I worked with four community judges who dealt with the case of Mi quilina.
in a systematic way. Additionally, I spoke with an unspecified number of community members who intervened with opinions about Miquilina’s case in the community court and in the house of the gamba healer. A considerable part of this study dwelled on the recording of arguments and counterarguments that were made as part of the search for the resolution of this problem. I conducted follow-up observations and interviews in February and November of 2009. In the national parliament, my interviews have been ongoing since 1997 as part of a long-term study about political relationships in transition.

Historical Context of Political Violence

Colonialism and the Independence War

Mozambique has gone through almost three decades of war. The anti-colonial war (1964-74) pitted the nationalist liberation movement, the Liberation Mozambican Front, (FRELIMO) against the Portuguese colonial regime. The majority of colonial regimes exerted influence in the colonies through exploitative policies, Catholic religious groups, the colonial army and police. In former Portuguese colonies, the colonial authorities expanded their territorial presence in the beginning of the twentieth century by defeating local kingdoms and chiefs and gradually began imposing colonial order. The Portuguese colonial officers also understood the need to ritualize violence as a way to legitimize their mechanisms of coercion. Thus, in the center of Mozambique, people’s memories of colonization and some of the mechanisms of accountability have focused on certain violent actions of the Portuguese administrators and the cipaios. The latter were a group of African men that worked for the colonial administration as policemen. They violently coerced the local populations into paying the hut tax and forced them into labor camps (Pitcher 2002). However, the collaboration and complicity between cipaios and some of the community members, who betrayed their families and neighbors and contributed to increment violence in the communities, has received scant attention in studies of the legacies of colonialism in Mozambique.

Local people feared the Portuguese administrators and cipaios because of the brutality of their ruling methods. The process of recruiting men for compulsory work involved extreme violence. In return for the heavy physical labour, displacement from their home villages and harsh living conditions, the workers used to receive meagre amounts of financial compensation. Almost every man over 40 years old that I have interviewed over time has a lived memory of these experiences. Other men avoided forced labour by escaping at that time to the neighbouring former British colony (the former Rhodesia where forced labour had not been imposed since the 1940s). The Portuguese fostered the strategy of divide and rule. Armed with the Christian religion, their patriarchal
and misogynist practices, the gradual effect was the marginalization of women in society. Prior to colonization, there is ample archaeological and historical evidence that in numerous communities in pre-colonial Africa women used to play central roles in society (Whyte 1978). Gender and sexual inequalities were “first religiously defended as God-given and natural” (King 1995: 8-9).

Following nearly thirty years of effective Portuguese colonization, the FRELIMO, was founded in 1962 to wage an armed struggle for independence. While Frelimo represented a united military front, it was plagued by serious internal conflicts, some of which predated colonization. At the time, the Frelimo leadership called these conflicts ‘our tribal quarrels’ and proceeded to shape the anticolonial struggle. Thus, the united front was built on fragile compromises, whereby the leadership established the need ‘to eliminate first the thing that came from outside [colonialism] and then resolve our internal problems.’ Lack of consensus on the priorities of the armed struggle coupled with internal struggles for control of the leadership resulted in numerous dissentions and assassinations within the Frelimo ranks. Nevertheless, Frelimo successfully led the anticolonial struggle (1964–1974). Particularly in the northern and central areas of Mozambique, Portuguese troops bombarded the region, killing civilians and causing internal displacement. Both the Portuguese and Frelimo troops used civilians as human shields, and many individuals were tortured and killed by both armies on accusations of collaboration with the enemy.

The armed struggle for independence ended with the signing of the Lusaka Accords on 7 September 1974. This accord marked the beginning of attempts to build a new political order in Mozambique under the leadership of Frelimo and Samora Machel, the first president of the country (Abrahamsson and Nilsson 1994). Of special interest for the theme of this report was the decision of the new government under the FRELIMO rule to implement a process of dealing with the legacies of colonialism, which bears some similar features with what is now known as transitional justice.

**Reckon with the Past in the Transition from Colonialism to Independence 1978-1982**

Following independence, the new government under Frelimo vowed to make a break with the political and economic structures of ancient colonial regime. The Frelimo government introduced a new constitution, dismantled the military and security forces, the justice and educational system of the colonial Portuguese government (Sachs and Honwana-Welch 1991). To foster the restructuring process of the state institutions, the Frelimo leadership put in place a number of initiatives to reckon with the past which unfolded in two phases. The first phase unfolded between 1975 until 1977. Before independence in February 1975, the Frelimo leadership proposed “We must not forget the time that passed.” Such refusal to forget the past aimed partly with enacting a purge of the so-called “reactionary elements within Frelimo” (Leguèbe 1976: 13). The purge consisted in the creation of re-education
camps to discipline the reactionaries within Frelimo and the collaborators of the Portuguese regime. It is asserted that in April 1975 around 240 to 300 “political detainees, whom Frelimo had rounded up since the inauguration of the transitional government, were paraded in Nachingewa during a show trial” (Henriksen 1978: 227; Cabrita 2000: 82; Hall and Young 1997: 47). While the transitional government initiated a process of reckoning with the violations allegedly perpetrated by the collaborators of the Portuguese colonial regime, this initiative was not consistent with how transitional justice is defined today. The transitional government had no mandate to undertake these types of justice processes; the accused had no legal rights; the trials were based on the presumption of culpability; and the final results were kept secret by the various Frelimo-led governments to this date.

In the aftermath of independence in June 1975, the country was engulfed in “fear and suspicion” and “coercion became an ever more important component of mobilisation and discipline” (Alexander 1997: 4). In a speech proffered in 1978, the then secretary for the Frelimo party organization, Óscar Monteiro, indicated that “we have our policy, we arrest; we arrest the reactionaries, boateiros (gossipers), we have no fear regarding this. We punish.” Alleged reactionaries within and without Frelimo party, traditional authorities and Christian religious leaders (Geffray 1990; see also Florêncio 2005; Igreja and Dias-Lambranca 2009; Igreja 2010a), and numerous other Mozambicans accused of past collaboration with Portuguese colonialism were arrested and sent to re-education camps (Hall and Young 1997; Cabrita 2000; Cahen 2004).

The second phase, the Frelimo leadership proposed a strategy to deal with the so-called “The Compromised.” These were an unspecified number of black Mozambicans who had allegedly worked for some of the former significant institutions of the colonial regime: PIDE (International Police for the Defence of the State); ANP (National Popular Action Party) and GEP (Special Parachutes Groups). The Frelimo government publicly articulated the reckoning initiative as a “reintegration strategy”, “mental de-colonisation”, or “the inner combat to liberate consciousness.” This strategy unfolded between the end of 1978 and 1982. The political purpose of this initiative was to legitimise the new regime and delegitimise the Portuguese regime and their alleged supporters in Mozambique. The narrative of the Frelimo government was that without a public acknowledgment of guilt by the compromised about their former ties with colonialism, it would not be possible for them to free themselves from the ‘impure load’ harbedour in their consciousness. President Machel ordered that in all work places and residences, the compromised had to be known by all, popular vigilance should be enacted upon them, their names and the memories of their experiences of betrayal should be written down and together with their photos posted on boards in all work places. The compromised lost civil and political rights (Hanlon 1984: 171). Machel also informed that the secret services, army, police, Frelimo’s ranking officials, and the democratic organisations of the masses would monitor this strategy.

After four years of vigilance, purges and re-education camps, “the closure meeting took place in mid-1982 under the command of Machel during 5 days.”\(^4\) As a whole, this transitional initiative combined different aspects related to the handling of legacies of violent predecessor regimes, namely the politics of memory, revolutionary justice and transitional justice. It has been observed that revolutionary justice often risk the tendency of becoming a summary justice system, where due process is disregarded entirely” (Jopson 2014: 245). In this regard, revolutionary justice is an oxymoron as “acts of vengeance are always part of the revolutionary process” (Fitzpatrick 2001: 579). The justice process applied in the post-colonial transition in Mozambique differed from transitional justice as it is currently known and practiced, in that Frelimo did not establish an independent commission of inquiry, a formal protocol to guide the investigations, state the rights of witnesses or set out the timeframe of the process (Igreja 2009; c.f. Huyse 2009; Werbner 1998). Its main aim was the stated goal of publicly dealing with crimes committed by the Portuguese colonial regime. Additionally, this justice process was one-sided given that it only dealt with the alleged Mozambican collaborators, while excluding Portuguese colonial officials and any investigation of the alleged crimes committed by Frelimo within their own ranks prior to and after independence (Ncomo 2003; Cabrita 2000).

Performatively (or the dynamic of the meeting), memory was central to the meeting and broader strategy of justice process: the compromised had to narrate their experiences of colonial affiliation by revealing dates, names of people and places, and the plots that they participated in. Yet since the compromised had a life filled with contradictory experiences, there was a disjuncture between the narratives of memories that Machel wanted to hear and what the compromised narrated. This disjuncture gave rise to a serious clash, giving further visibility to the revolutionary justice dimensions of the strategy. The clashes caused Machel to iteratively threaten the compromised to talk, based on the “assumption of guilt, repentance, punishment and re-education” (Coelho 2003: 191). Overall, this justice strategy, while it created political spaces for the public narration of contested memories, it also had the unintended effect of motivating many Mozambicans to join the rebel movement Renamo in the protracted civil war against the Frelimo-led government (Igreja 2010a). The fact that this strategy failed to bring reconciliation to the country, and fuelled violence partly shaped the decisions of the Frelimo party leaders to avoid active justice processes in the context of the transition in the 1990s from civil war to peace, and peace to democratization. The decision of the Frelimo government not to seek the truths and pursue justice processes in the 1990s was also motivated by the fact that both the Frelimo-led government army as well as the Renamo rebels, by their own admission, had been involved in the perpetration of serious human rights violations and crimes (Igreja 2008, 2010a). Therefore, they preferred not to look too deeply into the crimes committed in the war.

\(^4\) *Tempo* No. 609, 1982.
The country attained independence on 25 June 1975 at the height of the Cold War, and under the sole control of the Frelimo party. In 1977, Frelimo transformed itself into a Marxist-Leninist party. The one party state system was transformed into an authoritarian rule, dissent was not tolerated and violence became a mechanism of control and persuasion of the general public to join the ranks of Frelimo. Military tribunals were created in country to try and punish, often with death sentences, those regarded as subverting the socialist revolution (Matsinhe 2009; The Revolutionary Military Tribunal 1979). In this context, there was a measure of continuity from Portuguese colonial rule to the one party state system under Frelimo on matters of governance, political mobilization and the use of memories for political partisan goals. The euphoric celebration of independence did not resolve the conflicts that were unleashed in the context of colonial occupation. Over time, the processes adopted to deal with legacies of colonialism and the liberation struggle contributed to widespread internal dissatisfaction against the Frelimo party, which was strategically exploited by the rebel movement Renamo for their own advantage (Cabrita 2000; Ncomo 2003). The white minority regimes in apartheid South Africa and former Rhodesia (now Zimbabwe) also fueled the civil war in Mozambique through the military support for Renamo.

In 1976, Mozambique was invaded by the Ian Smith forces from ex-Rhodesia on the grounds that the Mozambican authorities were harbouring in Mozambique ZANU-PF guerrillas as part of their armed struggle for Zimbabwe’s independence. The military invasion resulted in the commission of numerous crimes and the perpetration of the notorious Inhazonia massacre in August of 1976 in the central province of Manica. The Rhodesian invasion culminated with the beginning of the Mozambican protracted civil war between the Frelimo government and RENAMO (Mozambican National Resistance). Yet explanations over the origins of the civil war remain a matter of serious dispute between the Frelimo and Renamo and among various intellectuals (Cahen 2004; Geffray 1990; Hall, and Young 1997; Hanlon 1984).

In spite of these political and intellectual contestations over the causes of the civil war, there is agreement that the Mozambican internal strife was one of the most viciously destructive wars during the mid-80s in Africa and created an overwhelming humanitarian disaster. Conventionally the war pitted two internal belligerents but it involved foreign troops from the ex-Communist Bloc and from the former regimes of Rhodesia and apartheid South Africa (Shubin 2008). Both the Frelimo government and Renamo perpetrated serious human rights violations and crimes against civilian populations. The civil war was spread all over the country. In Gorongosa, there were areas controlled by the government army and by the Renamo rebel forces (as the case study reported below involving Miquilina and Cincoreis demonstrates). Nevertheless, these areas continuously shifted control from one army to the other. The civilians living under each of the opposing military regimes were considered as part of the enemy by the belligerents in the conflict. As a result civilians were made direct targets of the violence. There was destruction of villages, aerial bombardments, forced conscription to fight in the war, torture, mutilation of human bodies,
indiscriminate killings of civilians suspected of collaborating with “enemy forces”, kidnapping and rape of young girls and adult women and compulsory marriages, forced starvation as well as indiscriminate killing through landmines (Igreja 2015a). The civil war was intercalated by periods of severe drought resulting in extreme famine, which created a massive exodus of war-affected populations and caused the deaths of many more civilians.

In the midst of this grave man-made humanitarian disaster, civilians living in the epicentre of the war in central Mozambique, both on the side of the government and of Renamo, attempted to maintain a social life. Between uncertain routines and being closely watched by militias (Frelimo) and mujibas (Renamo policemen), civilians celebrated marriages; they gave birth to babies and buried those that died because of illnesses and insufficient health care. They practiced small-scale farming and hunted animals, and travelled inside the war-zones to do small business in order to survive. Yet social life was shaped by a permanent peril in which the soldiers, militias and mujibas instigated deep divisions among even the most intimate communities. The war that had started as part of a fierce political conflict between two belligerents broke down the initial demarcated warfronts, intensely invading the domestic and community sphere of life of the civilian populations. Neighbours and family members became suspicious of one another; they formed danger alliances and spied on each other; practiced torture to rule among themselves, and committed acts of betrayal that culminated in the murder of intimate community members. These grisly events and experiences created profound divisions and bitterness locally to the extent that the visibility of its legacies challenged the will of those advocating for silence and forgetfulness. It should not be downplayed however that to build evidence, in this terrain of household and community life, to prove allegations of serious wartime crime and abuse is a very murky endeavour. The case below demonstrates the complexity that judges face in the adjudication of such cases.

When the war was officially over, the ex-soldiers that had committed serious violations, the civilian survivors that had taken part in the violence and the victims alike, all went on to live in the same sites where the horrific acts had occurred. Community mechanisms of justice shifted from violent modes of resolution to the acceptance of community courts as central in the resolution of various types of conflict. Before focusing on the postwar conflicts and mechanisms of resolution, I first present the peace process which culminated with the signing of the General Peace Agreement in October of 1992.

Summary

✓ A civil war, 1976-1992
✓ For the Frelimo government, it was a war of aggression, thus, they prefer to use the term the 16 years’ war
✓ For Renamo, it was a civil war in response to Frelimo’s socialist repressive policies and practices following independence
The General Peace Agreement

At the end of the 1980s the impossibility of a military resolution to the war was evident. The Frelimo government made politico-legal reforms to boost the peace prospects by 1990 adopting a multiparty constitution which introduced the multi-party political system and recognized the cultural and religious diversity. In 1990, the representatives of the Frelimo government together with Renamo undertook peace negotiations brokered by national and international mediators over a two-year period (1990-92) in Rome (Italy).

The direct mediators were members of the Community of Sant'Egidio (a Rome based congregation) under the auspices of Don Matteo Zuppi, members of the Ministry of Foreign Affairs of the Italian government, and Dom Jaime Gonçalves in representation of the Mozambican Christian Council (Serapião 2004). There were also members of the Italian government as well as a group of international observers for the negotiations represented by the Portuguese government, Russia, United States, United Kingdom and the United Nations.

During the peace talks, the issue of transitional justice was not discussed. As one of the Mozambican peace brokers in the peace negotiations between Frelimo and Renamo in Italy revealed, “The debacle of the justice process in the transition from colonialism to independence influenced our approach in the peace negotiations. We explained our counterparts, the Italian mediators, how in the name of justice things had gone so badly following independence in Mozambique.”

It is possible that the late Dom Jaime Gonçalves was genuine in relation to this point as he had been imprisoned at the time of independence because of his religious activities and denunciations of violations perpetrated by members of the Frelimo government. Additionally, when the peace talks were initiated in the earlier 1990s, ideas about post-war transitional justice were not in vogue at the international level. At the time of the 1990s the key focus of the United Nations was on peacebuilding and democratization (Hayner 2001).

Thus, the guiding principle of the negotiation proceedings was “to get a focus on what unites and rule out what divides.” Criminal accountability as part of transitional justice processes was perceived as divisive and was precluded from the negotiations. At this juncture, there was a consensus on the side of the Frelimo government, Renamo rebels and the negotiators that issues of justice could not serve the peace negotiation process. For instance, interviews conducted by Priscilla Hayner (2001) in Mozambique some months after the peace agreement revealed that a significant number of politicians involved in the negotiation process as well as academics and journalists did not even know what transitional justice was all about. In this regard, in October 4 1992, the parties to the negotiations signed the General Peace Agreement referred to in Portuguese language as Acordo Geral de Paz (AGP) (see annex, copy of the complete agreement).

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5 Personal interview with the late Beira Archbishop Don Jaime Gonçalves. Beira city. 16 August 2004.
Transitional Justice in the 1990s

Nature of the Transition
The transitional justice process in the 1990s occurred in the rather complicated enactment of an amnesty law, hesitations over national commemorations, a restrictive set of reparations and a complex struggle to determine the type of appropriate relationships that the former war foes, Frelimo and Renamo, could develop in order to consolidate the peace agreement and the democratization process. Frelimo passed the amnesty law in order to protect themselves and Renamo from prosecutions as well as to avoid derailing the nascent peace process. Both the Frelimo-led government army and the Renamo rebels perpetrated serious human rights violations and crimes. Therefore, there was no incentive on the side of Frelimo to pursue any form of postwar justice. Local and international civil society groups were almost none existent in the country at the time of the peace talks. The few international NGOs (e.g., Save the Children Norway - Redd Barna, Red Cross) based in the country focused on humanitarian relief efforts given that the end of the civil war there was a severe drought and famine that ravaged the country. Additionally, the civil war had lasted sixteen years, it was spread all over the country and serious violations had been perpetrated all over the country. It could have been a daunting task to investigate all serious crimes perpetrated in the country. Moreover, foreign troops from Zimbabwe, Tanzania and Cuba that had partaken in the civil war had been implicated in serious violations, making it challenging to determine culpability. The nature of the transition involved an analysis of the elite coalitions and identity politics and transitional justice choices.

Summary
✓ The pre-transition state was a military authoritarian regime; it can also be a socialist repressive regime
✓ The nature of the pre-transition state shaped the post-civil war transition given that the political and military rulers were allegedly involved in the perpetration of serious violations
✓ The Frelimo government had a prior experience of carrying an exclusive justice process during the transition from colonialism to independence in 1975. The overall result was detrimental to peace and security, which also shaped the TJ choices during the 1990s transition
✓ A peace process/peace deal negotiation
✓ Local elites drove the democratization process with the support of the United Nations, European Union, Portugal, United States, Russia, Zimbabwe, Kenya and South Africa
✓ The duration of the civil war 1976-1992, and the anti-colonial war 1964-1974, shaped the position that it was difficult or rather impossible to properly investigate what had happened during these periods
Elites Coalitions and Identity Politics

Summary

✓ The Frelimo government was constituted by a broad coalition of individuals originating from the whole country, although the first three presidents Eduardo Mondlane, Samora Machel and Joaquim Chissano were from the same southern province of Gaza

✓ Renamo was composed in large measure of individuals from the center and north of the country

✓ Political and military elites coincided so that there was high overlap between political and military elites during the pre-transition and post-transition

✓ Economic elites were not visible as the socialist policies following independence in June 1975 gross mode nationalized private properties

✓ Regional and historical factors overlap with identity issues. Frelimo gets its electoral support in the south and north of Mozambique, while Renamo gets its support from the center and center-north of the country

✓ The link between Frelimo and the north is related to anti-colonial armed struggle which originated in the region. Frelimo’s support in the south is related to the leadership of the movement which originated from the south

✓ For Renamo, the leadership originated in the center of Mozambique particularly the Ndu ethnicity. Overtime, Renamo broadened the origins of the leadership structure. Yet their support remains heavily drawn from the center and center-north regions

Transitional Justice Choices

Summary

✓ The Frelimo government decided on its own merits to adopt the amnesty law

✓ The Frelimo treated this issue as an internal affair of the Mozambican state while the international community did not show interest in the setting of TJ in Mozambique

✓ Frelimo passed the amnesty law in order to protect themselves and Renamo from prosecutions as well as to avoid derailing the nascent peace process. Both the Frelimo-led government army and the Renamo rebels perpetrated serious human rights violations and crimes. Therefore there was no incentive on the side of Frelimo to pursue any form of postwar justice

✓ Local and international NGOs were almost none existent in the country at the time of the peace talks. The few international NGOs (e.g., Save the Children Norway - Redd Barna, Red Cross) based in the country focused on humanitarian relief efforts giving that the end of the civil war coincided with a severe drought and famine that ravaged the entire country

✓ The Frelimo government had over time learnt to deal with the international partners so that these international partners were not in a position to impose justice processes other than the democratization process and liberalization of the economy
Amnesty Law No. 15/92

Ten days after signing the AGP, the Frelimo government sponsored a debate and passed on the Amnesty Law no. 15/92 for crimes committed between 1979 and 1992 (see annex, copy of the law) in the then Popular Assembly represented only by members of the Frelimo party (Igreja 2015b). It is difficult to know how many members of parliament were present in the parliamentary session. The Frelimo passed the amnesty law in order to protect themselves and Renamo from prosecutions as well as to avoid derailing the nascent peace process.

The initial amnesty draft law contained only one article, which stated that the law:

“… grants amnesty to crimes committed against the security of the people and of the popular state, foreseen in Law no. 2/79, of 1 March and in Law no. 1/83, of 16 March, the crimes against the security of the state foreseen in Law no. 19/91, of 16 August, and the military crimes foreseen in Law no. 17/87, of 21 December.”

The initial position of the government was that the Amnesty Law was only necessary to provide legal guarantees for non-prosecution of Renamo soldiers. This discursive stance reflected the Frelimo leadership position, which was their proclamation that Frelimo never committed war crimes. During the parliamentary debates, however, some Frelimo members of parliament (MPs) complained that the government soldiers and state officials were being excluded from the proposed amnesty law. Nevertheless, the proposed article 1 did not specify who was, and who was not, covered by the amnesty because the Frelimo leadership was certain that the amnesty law was for Renamo. For the Frelimo leadership, the only group that had committed crimes was Renamo. The concerns of the Frelimo MPs derived from the discursive stance of the leadership, which kept insisting that Frelimo had not committed any crimes therefore the proposed law was not applicable for them. One Frelimo MP, Jorge Tembe, did not accept the discursive therefore rebuked by asserting that ‘I have my foot on the earth, not on the moon’ and appealed to his colleagues to change the rhetorical stance and recognize that government soldiers and some state officials had been implicated in serious crimes during the war. He stated, ‘My proposal and appeal is that instead of leaving us here raising questions to one another, looking at each other worried, why not right away open the book’.7 Prior to this appeal, another deputy and former minister of the security, Colonel Sérgio Vieira, cautiously stated that:

Unfortunately, also from the side of the agents of authority, the agents of order, the agents of the state and sometimes normal citizens, there were excesses committed; there were crimes committed which are not necessarily covered by the law of the crimes against the security of the people and of the popular state or the law of military crimes. There are other aspects which are only covered by the penal code, and allow me to say with certain realism that all of us, more or less, knew of cases in which a detained prisoner was beaten in search, sometimes, of important information.\(^8\)

The general perception of Frelimo deputies was that the exclusion of the crimes allegedly perpetrated by Frelimo cadres could prove dangerous in the future, as survivors could present legal claims against them. These arguments swayed the government to change its discursive stance and request that the parliamentary Commission for Constitutional, Juridical and Legality Issues, together with a team of legal experts from the Ministry of Justice, find ways of granting amnesty for Frelimo members as well, thereby allaying the fears of the deputies. The parliamentary Commission decided to introduce an article no. 2, which stated that,

“[the law also grants] amnesties to crimes committed against persons foreseen in the common penal code and whose criminal procedure was not yet initiated by 1 July 1988.”

This broadening of the scope of the Amnesty Law, which rebuked the entire penal code, was justified by the then Minister of Justice on the grounds that all criminal activity that had occurred during that period were related to the war. The then president Chissano also justified the broader scope of the amnesty law by rhetorically asserting,

“It is said ‘mutjelo ya mbiro, mbiro’. What is it, it is a mole isn’t it? It has no end, the more that we dig a hole it moves even further, the mammal keeps moving and we never manage to get it, it has no end. Therefore, we said that the best formulation would be this one.”\(^9\)

Article no. 2 was an additional guarantee that, irrespective of the nature of the crime that Frelimo officials had been involved in, it was exempt from criminal accountability. Only with the introduction of the second article did Frelimo MPs effectively approve the amnesty law. Following the approval of the amnesty law there were no notable cases of individuals attempting to pursue justice through formal courts to deal with serious human rights violations during the civil war. Frelimo passed the amnesty law in order to protect themselves and Renamo from prosecutions as well as to avoid derailing the nascent peace process. Both the Frelimo-led government army and the Renamo rebels perpetrated serious human rights violations and crimes. Therefore, there was no incentive on the

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side of Frelimo to pursue any form of postwar justice. Local and international civil society groups were almost nonexistent in the country at the time of the peace talks. The few international NGOs (e.g., Save the Children Norway - Redd Barna, Red Cross) based in the country were focused. Additionally, the civil war had lasted sixteen years, it was spread all over the country and serious violations had been perpetrated all over the country. It could have been a daunting task to investigate all serious crimes perpetrated in the national territory. Moreover, foreign troops from Zimbabwe, Tanzania and Cubans had partaken in the civil war and had been implicated in serious violations to which it could have been extremely difficult to determine culpability.

**Summary:**

- Given the suspicions that a number of government security and military forces were allegedly involved in the perpetration of serious human rights violations, the Frelimo government alone decided for an unconditional amnesty law.
- The Amnesty Law 15/92 was consistent with the interests of the Frelimo ruling class.
- Although Renamo did not participate in the making of the law, the party benefitted from the law.
- The amnesty law included everyone in society from the political, security and military sectors to the entire population in Mozambique.
- The TJ approach was neither restorative nor punitive. It was more an attempt to promote amnesia.
- The international actors mentioned above had little or no involvement in the discussions about amnesty law. The former general secretary of the Red Cross in Mozambique, Janet Mondlane, participated in the amnesty law discussions, but she participated as a Frelimo cadre.
- No models were cited during the discussions that led to the amnesty law.

**Commemorations**

One important commemorative date of the transition period in the 1990s was the date of signing the general peace agreement. However, for ten years the Frelimo government refused to legally acknowledge this date as an official commemoration day. The reasons given for the refusal were that “We were not certain that Renamo would keep the promise of not reverting to violence in the initial period following the signing of the peace agreement.”

The Renamo continuously made public appeals to turn the October 4 into a remembering day and public holiday, but to no avail because they did not have enough seats in the national parliament to pass such a law. Only ten years after the end of the civil war, in 2002 did the Frelimo government acknowledge the 4th of October, as an official public holiday to commemorate peace and reconciliation (through Law 12/2002 of 30 April 2002). The law did not.

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mention the suffering of the victims of the civil war, but this gesture was regarded as politically meaningful as it acknowledged the significance of the war and paved the way for the legal recognition of reparation to benefit a certain category of civil war survivors. The law did not mention “victims” because from the perspective of the Frelimo government, the civil war only produced winners and the people were the winners. During these commemorations, the government insists with the slogan that this is a day of national reconciliation, which means that people need to focus on “what unities and leave aside what divides.” There are not specific victims that are remembered nor victims that are excluded.

Summary

- The state was less committed. For example, it took ten years for the government to adopt the October 4 as the day of peace and national reconciliation
- Following ten years of rejection, the government decided to transform the 4th of October as the day of peace and national reconciliation. The shift was undertaken once the Frelimo government perceived that Renamo had lost a leading role in the promotion of the date of the signing of the peace agreement
- Commemorations were inclusive as it was approved to commemorate those that died as a result of the armed violence perpetrated by both armies in conflict, the Frelimo government forces and Renamo, as well as by actions of the general population that were caught in the conflict

Reparations

The new Mozambican Constitution of 16 November 2004 stated “the State secures special protection for those that became handicapped during the armed conflict that terminated with the signature of the General Peace Agreement in 1992, as well as for the orphans and other direct relatives” (Article 16.1). The law did not include reparations for torture victims nor for those that had lost their properties. The handicapped were included given the sheer numbers of soldiers that were handicapped during the civil war. It was mostly the former soldiers that had been handicapped that swayed the government and opposition parties in parliament to address the problems of people handicapped due to the civil war. The basic law did not specify how exactly state institutions would grant this right or how war survivors benefit from it. This has proved problematic, since no specific reparations law has been passed to date. Law 2/1995 created the parliamentary standing Commission of Petitions by virtue of the article 80 of the 1990 Constitution and Article 79 of the 2004 Constitution, which states “every citizen has the right to present petitions and complaints to the competent authority to demand the reestablishment of his violated rights or in defence of the general interest.” According to Law 2/1996, which regulates the right to present petitions and complaints to
competent authorities, the Commission of Petitions accepts petitions submitted by any Mozambican whose rights were violated by state authorities or private institutions.

The law does not mention the right for reparations for civil war victims, but in the few cases in which rulings were made, state institutions were ordered to grant reparations for losses incurred during the civil war. The commission is composed of fifteen deputies (ten of them representing the Frelimo and five the Renamo-Electoral Union Coalition). According to the Regiment of the National Assembly, the number of members of the various specialized commissions is determined by the proportional representation of the overall number of votes. As the Frelimo party has the majority of votes, consequently the party has a bigger representation in the specialized commissions including the Commission of Petitions. The eligibility criteria for petitioning is to have experienced injustices as a result of state or non-state administrative acts or a failure of the state or non-state agents to act according to the legally stipulated administrative procedures. The alleged injustices do not include incarceration or torture. The Commission does not offer reparations but can recommend that state or private institutions responsible for human rights violations repair the damages sustained by Mozambican citizens. According to Law 2/1996, the failure to act according to the rulings or recommendations of the Commission of Petitions is considered a crime of disobedience punishable by the courts. Since its creation in 1996, the Commission of Petitions has received around 1,000 complaints mostly concerning work-related violations or injustices perpetrated by state officials or private sector managers. Only very few cases were related to losses incurred as a result of the civil war. It is not clear why only few people have solicited the interventions of the Commission of Petitions. Perhaps, people prefer to solicit the interventions of human rights groups in civil society; perhaps the government did not popularize enough the workings of this commission; or still perhaps the bureaucratic process to submit a petition is too complex to deter people from approaching this commission. This is work that requires further investigation in the future including the internal dynamics of this commission in terms of resources, degrees of independence from the executive powers as well as the scope of their own powers to intervene in cases of human rights violations perpetrated by the members and institutions of government.

In 2003, four individuals demanded reparations for the trucks they had ceded, through an agreement, to the Mozambican National Defense Forces during the civil war. The trucks were burned and destroyed during military ambush, but the owners were never compensated by the state for the loss. Petitions were submitted to the Commission of Petitions and the Defense Ministry was summoned to provide clarification on the cases. The Commission concluded that the Ministry had failed to fulfill its obligations as stated in the wartime agreement and should therefore repair these wartime damages. The Defense Minister promised to pay the reparation for the trucks. This case illustrates transitional justice through reparation, but the limited amount of reparations for wartime losses was given in the absence of a Law on Reparations. In the ruling, the Commission was less concerned with deciding
the appropriate level of war damages than with recognizing that the state had failed to fulfill its contractual obligations with these four citizens. In general, the Frelimo-led government refused to address the issue of reparations on the grounds that all Mozambicans suffered therefore the government would not have the resources to compensate every single individual in the country. Many citizens felt marginalized and aggrieved given the responses of the Mozambican government. Yet these grievances were not enough to unleash the new cycle of political violence that erupted in 2015. The reasons for the new cycle of political violence between Frelimo and Renamo are related to the unresolved issues particularly absence of transitional justice to address the long-term grievances between the Frelimo and Renamo parties.

Summary

- The national government and the international donors were heavily committed to implement the financial payment or reparations of the former combatants
- The national government was not heavily committed to the payment of financial compensation for the individuals that presented their petitions to the Commission of Petitions in the National Parliament
- The Frelimo government was highly committed in passing the Amnesty Law 15/92
- The Frelimo government was not initially committed to transform the date of signing of the peace agreement into a national public holiday
- The Renamo party was heavily committed to transform the date of signing of the peace agreement into a national public holiday

Relationships in Transition and the Contests over Legitimacy 1990-2011

Following the signing of the AGP and the Amnesty Law no. 15/92, the country undertook the first multiparty elections whereby many political parties and individual candidates participated in 1994. The Frelimo party won the contest and the overall results led to the constitution of the first multiparty national parliament composed of the Frelimo, Renamo and União Democratic parties. As set by the constitution, each legislature has four years and these three parties, particularly the former war foes, Frelimo and Renamo, had the great responsibility to forge relationships that could facilitate the formulation of the first laws in a national democratic context and advance the democratization process.

The focus on relationships during the transitions in Mozambique is pertinent given that in spite of the appeals for national unity and reconciliation, one aspect that animated the postwar dispensation and fostered a sense of an unending transition was the management of the political relationships between the former war foes, Frelimo and Renamo. It was more difficult for the members of the Frelimo party to fully accept the new political reality whereby they had to engage with members of the Renamo party as well as compete for power. The national parliament that came out of the first democratic elections in the country in 1994 was the center stage where the
meaning of the relationships in transition was emboldened. Both parties invested less in resetting their political relations to craft consensus, and instead relied on the institutional framework to direct their interactions through the formal mechanisms of the Regiment of the Assembly of the Republic. Time and again, the Frelimo party betted on the regiment and other institutional frameworks to eschew a focus on political reconciliation while putting at bay their political opponents. The background of this unresolved conflict lies in the control of the historical narrative. Since the beginning of the civil war and over time, the Frelimo government adamantly refused the notion that the civil war in the country was the product of internal dissatisfaction and mobilization by Renamo forces to wage an armed rebellion against the Frelimo’s central government. For the Frelimo cadres and many pro-Frelimo academics, in the post-independence period, Mozambique faced an external aggression conducted by the former Rhodesian regime (now Zimbabwe) and apartheid South Africa (Hanlon 1984; Saul 1985). According to this narrative, Renamo forces were the by-product of the proxy wars of the Cold War and the visible manifestation of the machinations of the Rhodesian and apartheid regimes to destabilize and prevent the development of a socialist revolution in Mozambique.

In the context of the transition from civil war to peace, pluralistic elections and parliamentary democratic rehearsal, the Frelimo party continuously used this narrative to deny Renamo an ideological legitimacy. In turn, Renamo refused this predicament alleging that this history had been given to them it therefore did not reflect who they were as a movement and subsequently as a political party. Over time, this clash of historical narratives was heightened and memories of the civil war and of short-lived socialist revolution were used as weapons to deny one another ideological and political (e.g., inability to make compromises) legitimacy (Igreja 2015e). While Renamo entered the national parliament through competitive elections, for Frelimo, Renamo was a mirror of apartheid, therefore, they could not be trusted and their acts could not be regarded as political as evidenced through the speech of a prominent Frelimo cadre in the national parliament,

‘Renamo will never ever be a government in this country because it’s a terrorist party that killed in this country ... the history of Renamo is connected to apartheid ... you belong to the racists that created you and nothing more.’

Outside national parliament, Frelimo’s disregard of Renamo was consistent through accusations levelled against the Renamo leader, Afonso Dhlakama,

“He [Dhlakama] is a terrorist by nature, with a capacity to destroy, he is a destruction machine...”

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13 Felicio Zacarias, Former Sofala Governor, in the newspaper Diário de Moçambique, Maputo & Beira, 23 April 2004 (my translation).
The goal of these public allegations were not to ignite judicial interventions. The goal was instead to perpetuate the image of Renamo and their leader that had been well established in the contemporary history of the proxy wars in Southern Africa, to score political points and discredit their (now democratic, party) opponents.

The Renamo members of parliament often responded to these allegations with accusations of their own, as demonstrated by one MP who asserted that,

“In fact the apartheid regime was cruel and bad. But the Frelimo regime, the Frelimo Marxist regime was worse. At least the apartheid allowed Nelson Mandela to live and today he is your brother-in-law. The Marxist regime was more cruel than apartheid because it assassinated all the people that were in the reeducation camps in Niassa.”

In turn, the third force that existed in parliament, the Democratic Union, a coalition of three minor parties that did not take part in the civil war, attempted to play a mediating role in the Frelimo and Renamo crisis. For instance, Antonio Palange, at the time secretary-general of the Democratic Union, a coalition of three minor parties that won nine seats in Parliament in 1994, warned the president of the national parliament with the following statement,

“Mr President, the situation is degrading for the worse. I think that we cannot continue in this way. I, therefore, appeal to national reconciliation and to the spirit of tolerance, we must not consider one another as assassins (…) don’t tell me that Frelimo did not destroy cities, they did destroy, for sure, for sure, go to Marromeu and ask. Renamo did not have Migs [fighter aircraft of Russian origin], did they have? Did Renamo have Migs? (…) We all make mistakes, but we did not come here every day to hear that ‘you made mistakes’, ‘I did not make mistakes’; we all make mistakes. What exactly is happening? (…) We that did not kill anyone, we that did not fight, that did get hold of weapons, we cannot hear every day these confrontations, it makes us sad.”

These speeches were meaningful for understanding the relationships of former war foes in the context of the transition. The intervention of Antonio Palange provides further evidence of the necessity of studying political relations in the context of transitions given that the signing of the peace agreement between Frelimo and Renamo relations did not mend the relations between these former war foes. Instead the confrontational character of their relations, inspired by unresolved memories of the civil war and short-lived experience of the Marxist revolution, was maintained for more than a decade with a similar pattern. That is, the confrontational relationship between Frelimo and Renamo parties continued in a way that the battles moved from the bush and streets into national parliament.

Alongside these political skirmishes, particularly for Renamo cadres there was a significant issue that disturbed them but over which the Frelimo cadres and the government remained aloof and kept dismissing them. It was the pending integration of a number of Renamo former combatants into the state apparatus as it was stipulated

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15 The Democratic Union won nine seats in parliament through the general elections of 1994. Yet in the 1999 general elections won no seats in parliament.
in the Protocol IV and V of the General Peace Agreement. João Gonçalves, a Renamo MP in the first legislature, expressed this concern in the Parliament in the following terms,

“Why is that the Frelimo government is relentlessly refusing to integrate the Renamo former combatants in the police forces…while demagogically the party vows to be engaged in national reconciliation... why is that the Frelimo’s policy of keeping exclusivity in everything prevails? Does this posture contribute for the good of the country? Why is it that Renamo members are not being integrated in the police apparatus?”  

The above types of discussions dominated the first decade following the peace agreement. On the one hand, Renamo members demanded for the complete implementation of the peace accords. On the other hand, the Frelimo cadres insisted that Renamo were “bandits” and puppets of the defunct apartheid regime and that ‘the AGP expired its validity when the first democratic government assumed power in 1995.’ While insisting that Renamo were bandits there was never an interest in prosecutions partly because there was an amnesty law approved by the Frelimo government alone. Therefore, the Frelimo party and government believed that there was nothing else to negotiate with, or, improve the political relationships with Renamo.

Summary

- Popular legitimacy was established through democratic elections. The Frelimo government won the first democratic elections held in 1994.
- Popular legitimacy did not impact on how civil society actors engaged with TJ processes. The civil society did not participate in the amnesty law discussions.
- Civil society groups in rural communities such as traditional healers and community courts participated in community initiatives of TJ through ceremonies and court hearings whereby testimonies of serious violations perpetrated during the civil war and famine were publicly presented, negotiated and acknowledged.
- The inability to reset relationships between the former war foes, Frelimo government and Renamo, contributed to turn the democratic process into a zero-sum game.
- The Frelimo and Renamo parties and the civil society groups failed to attain consensus regarding the restructuring of the incipient democracy through decentralization, electoral mechanisms, reconfiguration of the security apparatus and the armed forces.
- The cumulative effects of the unsettled relationships in transition contributed to new cycles of political instability and violence which divided the country between government and Renamo military zones of control.

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18 Teodato Hunguana, former representative of the Frelimo government in the negotiation table in Rome. In newspaper DOMINGO, 1 December 2013 (my translation).
**Cartographies of Transition: The Local Level**

The notion of local level in this context does ignore the permeability of local, national and global levels. Instead, in some circumstances the porosity of the three levels is salient, whereas in other contexts and circumstances, people make strong claims for autonomy and the building of boundaries as strategies to resolve local conflicts. In this regard, the transition, focused in the period between 1990 and 2011, was a bifurcated process whereby at the level of national politics there were serious difficulties to advance the relationships between Frelimo and Renamo because of the legacies of the past. In turn, at the local level, as in the case of the central region of Mozambique, it was dominated by the commitment to deal with the legacies of the war. The processes of dealing with the legacies of the civil war were founded upon the cultural beliefs and practices around the body, testimonies and conflict resolution (Igreja 2010c). Unlike the formal state practices which are founded upon the notion that violence enacted by non-state actors violates a number of national and international laws, in many parts of Sub-Saharan Africa, violence is problematic because of its potential long-term effects on a person’s individual and collective bodies (Igreja et al., 2008).

This is very imperative to understand the overtones that conflict resolution or transitional justice take in many parts of the continent and in particular in Gorongosa. Unlike secularized notions of the body in Western cultures – which nevertheless have taken roots in the formal state institutions in Africa – whereby bodies are conceived of as physical entities that are stripped of agency after death, the body in Gorongosa is a porous entity that mediates between the visible and invisible forces that impinge in the social world. Thus, the local notion of the body is consistent with the idea that the body is at once a secular, political and religious entity (Csordas 1994: 4). In this conception, the body is a site of struggle and contestation, which means that the destruction of corporeal life opens up spaces for the politicization of death (Clarke 2009: 28). Politics or disputes after corporeal life is possible because the spirits of the dead are regarded as social actors capable of meddling in bodily and community functioning by taking possession of the bodies of the living (Lambek 1981). Meaningful community institutions and actors such as community courts, various types of “traditional healers” and Christian religious groups sustain such beliefs and practices.

Of particular interest on matters of dealing with the legacies of the violent past is the belief that the spirits of the dead have the power to return to the realm of the living to assert claims for justice (Meier et al. 2013). Such beliefs, which are common place in Sub-Saharan Africa (Boddy 1989; Igreja 2013; Lambek 1981; Masquelier 2001) and beyond (Perera 2001 for Sri Lanka; Zur 1998 for Guatemala; Kwon 2008 for Vietnam, etc.) culminated with the interventions of spirits that are believed to have emerged in the context of the Mozambican civil war.

The social world of the Gorongosas is permeated by a plethora of spirits. The belief in and interaction with spirits is encouraged by all sectors of the society, except by the Christian religious groups. As spirits are regarded as
persons (Lambek 1981), with their own volition and capable of negotiating the interpretation of striking events and propose new models of behaviour and social relations to society (Igreja 2012a), it is necessary to enter in communication with spirits to grasp the reasons for their manifestations through the bodies of living persons. The spirits disclose the aetiology of misfortunes and provide healing interventions through the work of healers. In Gorongosa, spirits can possess both men and women, and both genders can also be initiated to work as healers, an exception being the paza healers; these healers, who are always men, and are specialized in unveiling facts in cases shrouded in secrecy. However, more women than men tend to be afflicted by spirits or to work as healers. The practice of possession is enacted through a separation between the personalities of the spirits and of their hosts. This distinctive feature is expressed through the concept of txiquiro (host). Whereas in some cultures the same spirit can possess a number of persons simultaneously (Boddy 1989: 152), in Gorongosa this is not possible. Moreover, although spirits, as in other cultural contexts, may exhibit similar features (Brown 1991), each spirit is unique. He uses his own name and freely enacts aspects of his own personality without causing ambiguity in the eyes of the beholder over who is really who. When the spirit leaves, the host experiences post facto amnesia; this disjunctive mechanism turns spirit possession into a social activity.

Gamba Spirits and Efforts to Come to Terms with Experiences of Collective Injustices
In Gorongosa district, this commitment was visible through the actions of war-related spirits called gamba that broke the silence that prevailed in the first years following the signing of the peace agreement. Gamba is the name of spirits of soldiers that died during the civil war; it is the name of the affliction caused to the family of the individual accused of perpetrating a crime during the war; and it is the name of the healer responsible for mediating the resolution of the violation. Gamba spirits compelled war survivors and the post-war generations to settle accounts with the past injustices as preconditions for the living to reset relationships and consequently peacefully live together. Initially, gamba spirits were specifically related to violent events that took place during the civil war (Igreja, Dias-Lambranca and Richters 2008; Marlin 2001). Over time, the configuration of the gamba spirits changed to adopt multiple temporalities and denoting any past event and individual presumed to have died from an unjust death in the past (Igreja 2012a). Thus, multiple temporalities in the context of accountability refers to the acceptance or rejection to pursue liability for serious violations committed over an indeterminate time span and no longer specifically related to the civil war.

The gamba phenomenon is in marked contrast with the place and meaning of relationships at the level of national politicians (analysed above). At this level and in the context of the Gorongosa agrarian communities, relationships are fundamental for acts of reciprocity and successful agricultural production (Igreja et al. 2009), survival of the offspring (Igreja 2003a) and performance of collective healing rituals (Igreja 2003b). In this regard,
the interventions of *gamba* spirits constitute the reaffirmation of the local ethics of reciprocity, which rules that *micero ai vundi*, that is, conflicts, which stem from serious injuries that caused people’s deaths, do not rot unless there is redress in legitimate institutions. This ethics of reciprocity also establishes that impunity, and disregard of time flow, unpredictably disturbs the life of the living in profound ways. Therefore the living and the spirits have to argue and struggle to achieve a resolution (Igreja 2015c). Since the cultural identity of the people in Gorongosa, centres on the value of the collective, issues of responsibility and guilt, specific types of serious violations are also collective and subjected to constant negotiations among the people involved in order to determine the level of a person’s and group culpability (Igreja 2012b). In this regard, the locus of the *gamba* strikes in order to attain justice in the family group of the individuals responsible for the past violation. The settling of accounts triggered by the agency of *gamba* spirits can be done by “traditional” healers also called *gamba* healers as well as by *paza* healers, who are specialized to unveil facts in cases shrouded by secrecy; or by judges from community courts.

Community courts constitute an important resource that also addresses the legacies of the civil war but through the indirect intervention of *gamba* spirits, which paves the way for the parties in conflict to tell about their wartime experiences. During colonial and postcolonial periods these courts went through various transformative processes until they were legally recognized through the Law No. 4/92, which was termed “Law of the Community Courts.” The courts are open forums where everyone can participate. This community resource is accessible, as everyone can afford the fee charged to litigants, and even in cases when litigants do not have money the courts still deal with their cases (Igreja 2010b). Prior to the civil war, the extended family was the unit at the centre of handling intractable social conflicts and health problems (Janzen 1978). Following the civil war, community courts in Gorongosa evolved to play a key role as a social support institution by providing public hearings, and initial diagnoses and referrals of somatic problems. A similar dynamic from family resolution practices to community courts also occurred in other regions of post-civil war Mozambique (Santos and Trindade 2003). State-led processes supported such community justice initiatives. There were no calls for victims to go to the courts. It happened as part of ad-hoc initiatives when people felt the need to address their wartime unresolved conflicts so they did go to community courts. Throughout, Mozambique community courts adjudicate combining local cultural practises and a loose application of state laws. The conflicts adjudicated in these courts vary: debt, bodily harm, damage to property, health/sickness, witchcraft, and petty theft. In Gorongosa these courts also deal with conflicts over breaches of verbal contracts, incest taboos and public modesty, sexual assault, divorce and custody of children, extra-marital sexual relations and jealousy between couples, the illicit deflowering of young girls, *rucaro* (control of women’s sexuality), domestic violence, defamation, and abuses of power by the authorities (Igreja, 2010; Kyed and Buur, 2006).
The Amnesty Law no. 15/92 withdrew jurisdiction of any court in the country to adjudicate charges of wartime violations. However, when gamba spirits constitute part of the wartime charges, the judges of community courts engage in both “justifiable disobedience” of the amnesty law and “radical reinterpretation” of the case (Robert Cover, in Martha Minow et al. 1995: 147) to adjudicate allegations of serious wartime violations (Igreja 2015d). The judges allow the parties in conflict to present the case in court. In case the judges are unable to resolve because it deals with spirits, they have the option to transfer to gamba healers, or paza healers or Christian religious healers (Igreja and Racin 2013). A case study of serious wartime violation will help illustrate the dynamics of transitional justice at a local level in Gorongosa.

Case Study: Gamba Spirit Possession
The case was first reported in a community court in August 2008 by the plaintiff, a woman named Miqulina, against the defendant, a man named Cincoreis. At this occasion I was present in the court and I witnessed the proceedings. Miqulina reported this case because of the enduring suffering she was experiencing: She did not have children, as all six had died. She had married and divorced three times, as the ex-husbands had refused to live with a woman that gives birth and loses children sequentially. In one occasion, Miqulina almost died because of complications during delivery. Through the various consultations that Miqulina did with several healers, the main reason for her continued suffering was often asserted to be connected to the wartime violations relating to Cincoreis, who is her brother-in-law. In order to confront Cincoreis with this predicament she sought the adjudication of the community court.

For the judges to address a problem, the parties in conflict must reveal what is happening. At this occasion, a number of very grisly events related to the civil war were told for all present to listen. These events involved famine, alleged robbery, kidnappings, arrest, torture and the murder of a young mother and her recently born baby. During the civil war, both defendants were living in a Renamo controlled-area. At the time, Miqulina was still young and she was married to a deceased brother of Cincoreis. Miqulina’s version of the past events was narrated as follows: At the height of the civil war, Cincoreis was living in a different village but within the Renamo controlled-area. He used to travel to other villages to do small business. In 1987 there was a severe drought, which brought serious famine to the region. The Frelimo government troops operating in the area blocked any possibilities for the humanitarian aid to enter into the Renamo-controlled areas to assist the people under their regimes of control. One day Cincoreis came, accompanied by his wife Dita, to the house where Miqulina lived with her deceased husband and in-laws; Cincoreis had fish and he wanted to exchange for salt. The transactions were effectuated and Cincoreis and his wife Dita went back to their village. Some days later, the mother-in-law of Miqulina, who was also the aunt of Cincoreis, complained that someone had stolen her money. Initially Miqulina was accused of stealing the money, which she adamantly refused. Then her mother-in-law accused her nephew
Cincoreis of stealing her money, which he too denied. Until this stage of their testimonies there was an agreement between Miquilina and Cincoreis regarding the veracity of the events. The disagreement emerged in relation to how the events unfolded afterwards.

Miquilina said that her mother-in-law reported her case to the mujibas (Renamo police). They attempted to capture Cincoreis and bring him to her so that he could give back her stolen money. Miquilina also reported that when the mujibas arrived in Cincoreis’s house, he escaped to hide in the bush. Apparently as a way to compel Cincoreis to return and respond to the accusations that befell upon him, the mujibas captured Cincoreis’s wife, Dita who was eight-months pregnant at the time. The mujibas tied her up as if she was a fugitive and took her to Miquilina’s mother-in-law. Cincoreis rejected this version of the events. He said that he did not run away; rather that he came to his aunt’s house in the company of his wife and the mujibas. Miquilina said that the mujibas interrogated Dita in relation to the money and tortured her. They severely beat her with a bamboo stick, and broke one of her fingers. As a result of her state of shock her baby was prematurely and precipitously born, with a broken leg, and soon the baby died. Miquilina claims to have witnessed all the violence that took place in the household of her in-laws. She said to the court that when her mother-in-law realized that the mujibas had severely wounded Dita, Miquilina was ordered to prepare some food for the victim. Days later, as a result of the damage inflicted upon her, Dita passed away.

Cincoreis agreed with these descriptions surrounding the murder of his wife and baby, but he said that Miquilina was not present at all. He said that on that same occasion he was also severely tortured by the same mujibas and he had a near death experience. There was a major standoff between the two vis-à-vis the sequencing and reasons behind these wartime violations. In spite of the details that Miquilina kept presenting to the court about Dita’s death, Cincoreis insisted that Miquilina was not telling the truth because she did not witness these events. Miquilina insisted that she saw everything and that Dita was tortured and died because Cincoreis ran away to hide in the bush. She argued that Cincoreis only returned to face the accusation of robbery when he got the news that his wife had been tortured and her health status was deteriorating.

Within this context, the judges were unable to establish the veracity of the facts presented by both sides in order to issue a verdict. Did Cincoreis steal money, which precipitated the violent events that culminated with the death of his wife and baby? Did Miquilina witness these tragic events? In the aftermath of Dita (Cincoreis’ deceased wife) did he make special treatments to put the blame on Miquilina and for this reason Miquilina was not able to have a normal life after the civil war? Was Miquilina suffering because of what she witnessed during the civil war involving Cincoreis? The difficulties to get answers to these questions was aggravated by the absence of key witnesses namely the persons accused of being directly involved in the perpetration of the serious violations since all were dead. The very few relatives of Miquilina’s former mother-in-law (and aunt of Cincoreis) lived in

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very distant villages near the neighbouring Manica province, and they had not returned to the scene of the crimes since they escaped during the famine and civil war.

Furthermore, the question was, if Cincoreis did not perpetrate any violation against Miquilina or her kin, why did Miquilina present this case to the court? Miquilina argued that through the consultations with various traditional healers, it had been disclosed to her that since Dita died because of Cincoreis’s robbery and his consequent escape, Dita’s spirit punished him as a person morally culpable for Dita’s tragic death. Cincoreis felt that the punishment was unbearable to him and his family. Therefore he underwent an alleged ceremony with a traditional healer to demand the vengeful spirit of Dita to transfer the guilt and punishment to Miquilina because she was the real perpetrator, having stolen the money of her deceased mother-in-law. Miquilina argued that as a result of Cincoreis’s alleged ceremony she was undergoing great suffering which impaired her from having children of her own and stable relationships with a husband. She felt that this ordeal constituted a serious injustice, pointing out that, as others had done before her in this region, women suffered a lot during the civil war but still for a number of them little has changed since its end (Igreja, Kleijn and Richters 2006: 506). Cincoreis refuted the allegations of having launched the spirit of his deceased wife to ruin Miquilina’s life. In face of these allegations and counter allegations, the community court judges decided to transfer the case to paza, a healer specialized in unveiling cases enshrouded in secrecy and with deficient material evidence.

The paza healer did an examination to determine the veracity of the charge that Cincoreis had launched the spirit of his deceased wife to punish Miquilina. In the process, the versions and interpretations of each regarding the wartime violations were told again in the paza forum. But the paza healer did not give specific attention to these mutual accusations of wartime violations. He kept a strict focus of his examination upon whether Cincoreis had manipulated the world of the spirits to unjustly hurt Miquilina or not. The paza healer indicated that the previous healers that Miquilina consulted had failed to conduct a proper inspection of this case. The healer acquitted (ku pembera) Cincoreis. Nevertheless, the acquittal in this context has a specific meaning in that it does not mean that the conflict is resolved given that the efficacy of the healer’s decision can only be determined over time. The healer indicated that Miquilina was suffering because of terrible past conditions, but not the past conditions that Miquilina was rallying upon. He found the sources of suffering in other not less striking pasts. First, the spirit of her deceased husband that had committed suicide during the civil war was to blame. And second, the paza healer evoked a different temporality by suggesting that Miquilina was also suffering because of the spirit of her paternal grandmother that had died long before the civil war. In order to re-establish the health of Miquilina and ensure that she develops positive relationships with others, a special treatment process was recommended.

Given the paza healer’s approach to the conflict, the issue of the money that had been allegedly stolen during the civil war, the kidnapping and torture which led to the death of Cincoreis’s wife ceased to be central to
the resolution. The *paza* was concerned with the specifics of the accusation that was brought and presented to him. The case was transferred back to the court. The judges ruled that Miqulina should follow the recommendations of the *paza* healer and that she should not bother Cincoreis until completing the treatment and over time establish whether the *paza* healer was right or wrong in his ruling. Miqulina accepted the resolution; she went on to receive the treatment of the traditional healer, and the court remained determined to follow-up Miqulina’s treatment to establish the efficacy of *paza* healer’s intervention over time.

**Follow-Ups at Six and Fifteen Months**
Six months following the healer’s intervention, in February 2009, Miqulina was still suffering. Unexpectedly, Cincoreis and two of his children were also struggling with their health conditions, and one of Cincoreis’ wives had abandoned him because of his inability to properly sustain his extended family. The failure of Miqulina to recover after the *paza* healer’s intervention meant that the resolution was not right. Following the continuity in experiences of suffering, Cincoreis decided to undertake a ceremony so that he could relay what had happened during the civil war and what he had done afterwards. The forum took place in his yard and the judges were requested to take part as witnesses as well as Miqulina who had initially brought these events to light as a plaintiff. At this occasion I was also present as a witness, and Cincoreis had succeed to summon Miqulina’s former mother-in-law (his aunt) to return to Gorongosa to solve this wartime conflict. Once again the allegations were made but this time Cincoreis admitted that he had stolen the money and he had run away. His aunt claimed that she, nevertheless, had asked the mujibas to put pressure on Dita, but not to torture her to death. She claimed that she did not see when the mujibas were torturing Dita because otherwise she could have told them to stop. Miqulina responded that the former mother-in-law was not telling the truth given that she was actually agitating the mujibas to increase the pressure, which meant torture, over Dita, and she never complained to the mujibas that they were exaggerating in their violent actions against the deceased.

The judges requested the participants to avoid telling lies because this was the unique opportunity to resolve this conflict once and for all. Cincoreis said that this time he had told the truth, and he apologized for the fact that he was not aware that Miqulina had in fact been at the scene of the murder in her former mother-in-law’s house. The mother-in-law confirmed that Miqulina was present and that she actually cooked a meal in an attempt to help Dita survive the ordeal of torture and of losing a baby due to violence. The mother-in-law also apologized while conceding that she had been deeply disturbed by the loss of her money because it happened during the period of drought and famine, and the money was the only guarantee that she had to buy some food in the black-market in order to survive. She said that when she suspected that Cincoreis had stolen her money, she was no longer thinking as a person or as a human being like others. She claimed that she was consumed with fury, for this reason she did
not feel sorry at the time to see Dita being tortured because the only thing that mattered for her was her own survival and of her family.

Following these revelations, the judges told the participants that they did not have the power to issue exculpations in such cases. They recommended that Miqualina, Cincoreis and the aunt and their respective extended families search for another healer that could call the aggrieved spirit of Dita and engage in a conversation to determine how to resolve this conflict. Few days later, all the involved parties participated in a session in healer’s house, the spirit of Dita was retrieved, and once again the spirit told what had happen during the civil war that triggered this conflict. To exculpate, the spirit of Dita decided that Cincoreis and the mother-in-law should mobilize money to pay for the treatment of Miqualina because she was suffering while she was innocent. The spirit of Dita also requested that Cincoreis and his aunt perform a yearly ceremony at the end of the second agricultural harvest, and before the harvest was eaten or sold, to commemorate the lives of all their relatives that had died during the famine in the middle of the civil war. All the involved parties accepted these orders.

At twelve-month follow-up, in November 2009, I met again Miqualina and she told me how she had been recovering very well. She had found a new husband and she was three months pregnant. She was certain that what was really causing problems in her life was related to the tragic events that she witnessed during the war involving Cincoreis and the fact that Cincoreis had attempted to avoid the guilt by manipulating the world of the spirits. Nevertheless, there was no doubts that the ongoing suffering of Miqualina and her struggles to find a resolution created the context and social spaces whereby a number of grisly wartime events and experiences were told, contested and retold in various public forums. The telling of these testimonies broke the silence that had prevailed in Miqualina’s life and family, contributed to advance the cause of justice in local cultural terms and to the broader accumulation of knowledge of the social history of the war violence in the former war-zones of Mozambique central. In the past fifteen years, I came across around 2,000 of such cases of grassroots healing and transitional justice processes (Igreja et al 2006, 2010). Such cases and the people’s responses could be considered a model for other local-level justice initiatives. When properly considered states could take up such practices as models for transitional justice at community level. By allowing war survivors negotiation and attain justice in their own terms, such practices have contributed to broader community healing as well as improve state-society relationships.

**Impacts and Conclusion**

Transitional justice processes in Mozambique during the period of 1990 until 2011 took different forms and dynamics. To properly analyse and understand that these processes, this report proposed a cartographic perspective whereby the transition was analysed at the level of national political actors as well as the interventions and actors
and interventions at the local level. At the national political level, the decision to adopt the Amnesty Law no. 15/92 was heavily influenced by the outcomes of another transition period that unfolded at the time of the country’s independence from Portugal rule in June of 1975. The postcolonial government under Frelimo rule adopted and implemented a policy of reckoning (1978-1982) with the legacies of the colonial violence. Consequently, a number of Mozambicans were accused of being compromised due to their alleged past affiliation with the political structures of the colonial government; they were purged, stripped of political rights and sent to re-education camps. After four years in re-education camps, they were made to publicly confess their alleged wrongdoing. While this policy gave the opportunity for the Frelimo government under Samora Machel to reassert their power and legitimacy over the alleged compromised, and visually to the country, the public confessions were broadcast on the budding national television, the policy also backfired in unanticipated ways. An untold number of alleged compromised apparently escaped and joined the nascent Renamo rebel movement to fight in the war against the Frelimo central government.

Thus, at the time of the transition from the civil war to peace and democracy in the 1990s, the Frelimo government decided not to embark in such confrontational processes of dealing with the legacies of the past. Instead, the government invested in an amnesty law with the hope that, according to one of the amnesty law proponents, such a law “erase(s) the past so that we can move a step ahead.” This pledge to erase the past and move on was never materialized. In spite of the amnesty law and vows to move ahead, politics in the parliament rendered visible the challenge of setting relationships between former war foes. For more than a decade, the national parliament became the centre stage of serious disputes about the past. Contested memories of the civil war and short-lived experiment with socialist revolution were used as weapons to deny one another ideological and political legitimacy. Yet, in spite of the disorganized character of these disputes, these occasions offered important glimpses into and lessons about the diversity of versions of the social history of the civil war in the country.

In turn, at the local level, and drawing upon events in the Gorongosa region, this report showed that the state amnesty law did not put an end to local struggles for justice for serious wartime violations. War survivors and postwar generations made use of their cultural beliefs and practices to actively engage with the legacies of the civil war. Gamba spirits played a linchpin role by creating social spaces whereby war survivors testified and unleashed serious accusations against one another with the goal of settling their wartime disputes. This goal was in marked contrast with how the relationships in transition unfolded between Frelimo and Renamo, who used memories as weapons to score political points. For the survivors at the local level, dealing with the wartime violations was a matter of survival given that in these agrarian communities, survival unfolds by resetting broken relationships. The

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local ethic of reciprocity is shaped by cultural beliefs about the human body and the social lives of spirits and it thwarts the efforts of survivors to move on in silence and without publicly dealing with past violations.

As shown by the case of Miquilina and Cincoreis, the resolution of some of the wartime conflicts consists of the intersections of different institutions and agents and involves alleged perpetrators and victims that are already dead; this attests to the complexities of transitional justice in this region of Mozambique. Either through the community courts or through the traditional healers, some of the resolution strategies are based on principles of procedural justice. Through its procedural form, serious violations allegedly perpetrated in the civil war, which the state and some survivors wished to seal off, are publicly exposed and denounced and the necessity of justice is strongly argued for; this process exemplifies the existence of a global dimension embedded locally regarding struggles against impunity for serious wartime violations. The intersections of the institutions, agents and procedures allow war survivors to peacefully struggle and attain justice for the serious violations committed during the civil war in central Mozambique.

Summary

✓ “Memories as weapons” as a transitional justice approach was exclusive and disorganized as it only included alleged crimes perpetrated by members of the rival forces, the Frelimo government and Renamo

✓ The alleged violations perpetrated by the civilians caught in the armed conflict were not mentioned as part of these memory wars

Implications for Future Policy Options

Summary

✓ Identify and rehearse legal and non-legal mechanisms to reset relationships in transition among bitterly divided national political groups as well as rivalries at community settings.

✓ Policy on TJ should be linked to democratic decentralization processes in order for local communities can freely develop their own mechanisms of dealing with legacies of violent conflicts without fear of interference by national governments.

✓ National governments should actively encourage local communities to develop their own TJ mechanisms as long as these mechanisms do not infringe with existing human rights norms.
References


APPENDIX

Protocol IV

Reform of the Security Forces

1. The Parties agree that the troop strength of the FADM up until the time when the new Government takes office shall be as follows:

(a) Army: 24,000

(b) Air Force: 4,000

(c) Navy: 2,000

2. The personnel of the FADM in each of the service branches shall be provided by the FAM and the forces of Renamo, each side contributing 50 per cent.

IV. Functioning of the National Service for People's Security

2. For the purposes indicated above, the Parties agree that the State Information and Security Service (SISE) established by Act No. 20/91 of 23 August 1991 shall continue to perform its functions under the direct authority of the President of the Republic of Mozambique and subject to the following principles:

7. (a) For purposes of verifying that the actions of SISE do not violate the legal order or result in violation of the political rights of citizens, a National Information Commission (COMINFO) shall be established.

(b) COMINFO shall be composed of 21 members whose professional and personal qualities and past record afford guarantees of balance, effectiveness and independence vis-à-vis all political parties;

(c) COMINFO shall be established by the President of the Republic of Mozambique within 15 days following the entry into force of the General Peace Agreement and shall be composed of six citizens nominated by Renamo, six nominated by the Government, and nine selected as a result of consultations to be held by the President of the Republic with the political forces in the country from among citizens meeting the requirements specified in subparagraph (b);

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(d) COMINFO shall have full powers to investigate any matter relating to the activity of SISE that is held to be contrary to the legal order and to the principles specified in paragraphs 1, 2, 3, and 5. A request for investigation may be rejected only by a two-thirds majority of its membership;

(e) COMINFO shall provide CSC with the reports and clarifications called for by the latter Commission;

COMINFO shall inform the competent State authorities of any irregularities detected, in order that they may take the appropriate police or disciplinary measures.

iii. FADM command structures

2. FADM High Command

(b) Until the new Government takes office, the command of FADM shall be exercised by two general officers of equal rank, appointed by each of the Parties. Decisions of the command shall be valid only when signed by these two general officers;

V. Depoliticisation and restructuring of the police forces

7. (a) For purposes of verifying that the actions of the PRM do not violate the legal order or result in violation of the political rights of citizens, a National Police Affairs Commission (COMPOL) shall be established;

(c) COMPOL shall be established by the President of the Republic of Mozambique within 15 days following the entry into force of the General Peace Agreement and shall be composed of six citizens nominated by Renamo, six nominated by the Government, and nine selected as a result of consultations to be held by the President of the Republic with the political forces in the country from among citizens meeting the requirements specified in subparagraph (b);

These are the articles of the Protocol IV that over time generated controversy and haunted the political relations between the Frelimo party and government and Renamo party given that Renamo cadres argued that these articles of the peace agreement were not being honoured by the government.