



Centro de Pesquisas sobre
Governação e Desenvolvimento

**The Rule of Law: Evaluation of Performance of
Mozambique Electoral Democracy**

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EXECUTIVE SUMMARY

This study evaluates the rule of law covering more than a decade of performance of Mozambique electoral democracy using Afrobarometer public opinion data. This is complemented with an initial exploration of expert opinion data from the Worldwide Governance Indicators (WGI) from 1996 to 2017. The report provides a valuable baseline study as part of CPGD's ongoing initiative to monitor the performance of Sustainable Development Goal 16 (Peace, Justice and Strong Institutions) in Mozambique up until 2030.

The study uses a demand-supply model to evaluate the rule of law in terms of the extent to which citizens themselves demand rules to guide the practices of the society – that is, *demand for the rule of law*; and the extent to which the public feel that they are being supplied with the rule of law from their public officials – that is, *supply of the rule of law*.

The initial exploration of the WGI data reveals very low levels of the rule of law in Mozambique with longitudinal changes in an inverted 'U'-shape.

The public opinion data reveals that of five indicators measuring ***demand for the rule of law***, Mozambicans present high levels in three. Mozambicans are likely to view that:

- ↑ they should obey government no matter who they voted for;
- ↑ it is better to find legal solutions to problems even if it takes longer; and
- ↑ the use of violence is never justified today.

Yet they are less likely to see that:

- ↓ the president must always obey the laws and courts even if he thinks they are wrong; and
- ↓ Members of parliament should make laws for this country even if the president does not agree.

When considering the ***supply of the rule of law***, of four indicators measuring ***legitimacy*** of the rule of law, Mozambique has high levels on three. Mozambicans are likely to express that:

- ↑ the courts have the right to make decisions that people have to abide by;
- ↑ the police always have the right to make people obey the law; and
- ↑ the tax authority always has the right to make people pay taxes.

But they are less likely to say that:

- ↓ the constitution expresses values and aspirations of the people.

Of eight indicators measuring ***trust in state institutions***, Mozambique has high levels in seven. Mozambicans are likely to trust a lot the:

- ↑ president;
- ↑ parliament;

- ↑ electoral commission;
- ↑ ruling party;
- ↑ local councillors;
- ↑ police; and
- ↑ courts.

Nevertheless, they are less likely to trust a lot the:

- ↓ opposition political parties.

On **observance of the rule of law**, Mozambique has high levels in two out of four indicators. Mozambicans are likely to view that:

- ↑ authorities will enforce the law if a top government official commits a serious crime; and
- ↑ authorities will enforce the law if a top government official did not pay a tax on some of the income s/he earned.

About half view that:

- ↓ party competition leads to violence.

Mozambicans are less likely to view that:

- ↓ the president ignores the constitution.

With respect to **corruption**, of nine indicators Mozambique has high levels in two. Mozambicans are less likely to perceive corruption in:

- ↑ the president and officials in the presidency; and
- ↑ among members of parliament.

Yet they are likely to perceive corruption in:

- ↓ the police;
- ↓ teachers and school administrators;
- ↓ national government officers;
- ↓ local councillors;
- ↓ tax officials;
- ↓ health workers; and
- ↓ judges and magistrates.

Mozambique shows high levels of the rule of law in all five indicators measuring **victimization**. Mozambicans are less likely to be a victim of paying a bribe, giving a gift or doing a favour to government officials in order to get:

- ↑ document or permit;
- ↑ household services;
- ↑ school placement;
- ↑ medicine or medical attention; or
- ↑ avoid problems with police.

The study reveals that **demand and supply of the rule of law in the country is widespread but low and declining**. Mozambicans are likely to demand for the rule of law and view that they are being supplied with the rule of law in 22 (63 percent) out

of 35 indicators used in this evaluation. But that likelihood is of shallow levels and levels declining over time.

Comparing presidential terms, after being low during Chissano's years (1995-2004), most indicators of the demand-supply model declined during Guebuza's terms (2005-2014) to the extent that in the first year of Nyusi's term (2015 – present) it remained low. The WGI expert opinion data indicates the critical period of decline during the first year of Guebuza's second term (2010) while the Afrobarometer public opinion data indicates the third year of Guebuza's second term (2012). However in some indicators the rule of law declines in other years: 2005 and or 2008.

There are a number of factors that might have contributed towards the decline of the rule of law and or its low levels in the country: political control of public media; organized crime through kidnappings in 2011-2013; bypass of the legislature on \$2.2 billion loan with European banks between 2012 and 2014; political tensions and military confrontations between armed Renamo fighters and the defence and security force in 2013-2014; and physical violence against outspoken individuals in the context of political crisis with an armed opposition and \$2.2 billion hidden debts.

The most recent military confrontations between armed Renamo fighters and the defence and security force in 2015-2016, recent violence against an outspoken journalist in early 2018; the detention of a journalist in Cabo Delgado in 2019 by the army and insurgent attacks in Cabo Delgado in 2017-2019 suggests a continuing decline in the rule of law in Mozambique or its low levels today.

The aftermath of this seems to suggest that when the rule of law is subverted public participation declines, as civic groups may be unable to organize and advocate and voters find it difficult to hold rulers to account; accountability is constrained, as corruption and abuse of power run rampant since agencies of horizontal accountability are unable to function properly; political competition is distorted and unfair, as the resourceful and connected have vastly more access to justice and power; and civil liberties and political rights are diminished.

INTRODUCTION

Following the adoption of a democratic constitution by Frelimo¹ one-party rule in 1990, Frelimo signed a peace agreement with Renamo² in 1992, ending 16 years of civil war in Mozambique. The founding multiparty election was conducted in 1994 with subsequent regular national multiparty elections carried out in 1999, 2004, 2009 and 2014.³ At the subnational level, the country has conducted five regular municipal elections in 1998, 2003, 2008, 2013 and 2018. Besides elections being regular, Mozambique applies universal suffrage to its elections. They have been characterized by more than one serious political party participating and competing for power⁴ and with the presence of alternative sources of information. In addition to state owned media there have been private and or independent media informing on and monitoring the country's elections.

Nevertheless, it is not clear whether these elections have been free and fair. International electoral observers tend to avoid stating clearly whether the elections are free and fair or not, but instead observe in their reports irregularities or misconduct that may have taken place in voting stations. In addition, electoral institutions are not independent. Both of the institutions that administer and supervise elections – that is, the National Electoral Commission (CNE)/Technical Secretariat of Electoral Administration (STAE) and the one that validates election results – the Constitutional Council (CC) are dominated by officials from parties within parliament and subsequently the dominant party controls them.

This therefore suggests that Mozambique's electoral democracy performs relatively well in a number of indicators in terms of the quality of elections but poorly in one. It does well on the use of universal suffrage; conducting elections regularly; having alternative sources of information available to help voters decide who to vote for; and presenting more than one serious political party to voters to make a choice. But it appears that elections tend not to have been free and fair. Or if they have been, that they tend to be with minor and sometimes major problems.

However, conducting elections is not the only necessary condition for democracy,⁵ we also need to consider other elements such as evaluating its quality. One dimension that can be used to measure the quality of democracy is to look at procedure.⁶ To put this in context: what happens after elections (good or bad) have

¹ Front of Liberation of Mozambique (Frelimo) is the dominant party that has been ruling since the country's independence in 1975. It led Mozambicans to fight against colonialism.

² National Resistance of Mozambique (Renamo) is the former rebel movement. It is currently the main opposition party.

³ The next national multiparty election is scheduled to take place on 15 October 2019.

⁴ The two major parties competing for elections in Mozambique are Frelimo – the dominant party and Renamo – the main opposition. They have participated in all national elections.

⁵ In the *Surprising Significance of African Elections*, Lindberg (2006) found that conducting elections regularly has fostered democracy in Africa.

⁶ For more information on the dimensions of the quality of democracy see Diamond and Morlino 2005:xii.

been conducted? Do people themselves have sovereign power to evaluate whether the government provides liberty and equality according to the rule of law? Can people and their organizations and parties participate and compete to hold elected officials accountable for their policies and actions? Do they monitor the efficiency and fairness of the application of the laws, the efficacy of government decisions and political responsibility and responsiveness of elected officials? Do government institutions hold one another accountable before the law and the constitution?

This report focuses on one aspect of democratic procedure: the rule of law. The rule of law (or *estado de direito* in Portuguese) is one of the procedural dimensions of democracy (see Diamond and Morlino 2005).⁷ For this democratic procedure, it can be said that a polity is democratizing or consolidating its democracy when constitutionalism or respect for the constitution and rule of law is ongoing, high or “the only game in town”.

The Rule of Law

The rule of law means that all citizens are equal before the law and that the laws themselves are clear, publicly known, universal, stable, non-retroactive, and fairly and consistently applied to all citizens by an independent judiciary (Diamond and Morlino 2005). These characteristics are fundamental for any civil order and a basic requirement for democratic consolidation along with other cognate features of constitutional order – such as civilian control over the military and the intelligence services, and an elaborate network of other agencies of horizontal accountability complementing the judiciary (Diamond and Morlino 2005). The rule of law exists when:

- “The law is equally enforced toward everyone including state officials; no one is above the law;
- The legal state is supreme throughout the country leaving no space areas dominated by organized crime, local oligarchs, or political bosses who are above the law;
- Corruption is minimized, detected and punished in the political, administrative and judicial branches of the state;
- At all levels, the state bureaucracy applies the laws competently, efficiently and universally and assumes responsibility in the event of an error;
- The police force is professional, efficient and respectful of individuals’ legally guaranteed rights and freedoms including right to due process;
- Citizens have equal and unhindered access to the courts to defend their rights and to contest lawsuits between private citizens or between private citizens and public institutions;
- Criminal cases and civil and administrative lawsuits are heard and resolved expeditiously;
- The judiciary at all levels is neutral and independent from any political influence;

⁷ Other democratic procedures include participation, competition and accountability.

- Rulings of the courts are respected and enforced by other agencies of the state; and
- The constitution is supreme and is interpreted and defended by a constitutional court” (Diamond and Morlino 2005:xiv).

The rule of law is recognised as an important component within the global sustainable development goals (SDGs) which have been adopted by all UN member states as part of the 2030 Agenda for Sustainable Development, namely as part of SDG 16 Peace, Justice and Strong Institutions⁸. This report therefore provides a valuable baseline study on the state of the rule of law in Mozambique and forms part of CPGD’s ongoing initiative to monitor the performance of SDG16 in Mozambique up until 2030⁹.

How to Evaluate It?

The rule of law can be evaluated by using objective official data. In doing so, the evaluator can check from official government records (in)consistencies between the law and its implementation. This requires accessibility to government records as well as devoting time in government archives and libraries. But it is also possible to check for (in)consistencies using subjective data from elites within government institutions and the civil service. This requires identifying key informants within the government for interviews.

In addition, one can evaluate the rule of law using subjective assessments from those who benefit from democratic governance – that is, the citizens, public or masses.¹⁰ At mass level, how citizens view aspects of the rule of law tell us the degree to which it exists in a polity. This requires conducting public opinion surveys.

This study evaluates the rule of law in Mozambique using more than a decade of electoral democracy performance data from Afrobarometer public opinion surveys from 2002 (corresponding to the round 2 survey), 2005 (round 3), 2008 (round 4), 2012 (round 5) and 2015 (round 6)¹¹. In 2002, 1400 citizens were surveyed using a face-to-face structured questionnaire with a nationally representative, random, stratified probability sample of ordinary Mozambicans. The subsequent surveys, following the same methodological protocols, were conducted in the country with 1198 citizens in 2005; 1200 citizens in 2008; and 2400 ordinary citizens in both 2012 and 2015.

The survey samples were drawn by taking the smallest geographic units, Census Enumeration Areas (EAs), and stratifying all EAs across the country into separate lists according to province and urban or rural status. In 2002, 2005 and 2008, 150 AEs

⁸ Target 16.3 of SDG16 is to promote the rule of law at the national and international levels and ensure equal access to justice for all. For further information see: <https://sustainabledevelopment.un.org/sdg16>

⁹ New and updated reports will be produced as new rounds of Afrobarometer data become available.

¹⁰ One way to view how democracy performs is by evaluating it from assessments of the beneficiaries of democratic governance (Bratton, Mattes and Gyimah-Boadi 2005).

¹¹ Mozambique was not included in Round 1 of Afrobarometer.

were then randomly selected from these lists with the probability proportionate to its size in the overall population, ensuring that every eligible adult had an equal and known chance of being selected. In 2012 and 2015 300 EAs were selected since the number of interviewees doubled. Eight households are randomly selected within each EA, and a respondent 18 years of age or older was randomly selected from each household. A gender quota ensured that every other interview must be with a female.¹²

Operationalizing the Rule of Law

The rule of law can be viewed in a demand-supply model. From this perspective we can investigate the existing rule of law in Mozambique by evaluating the extent to which citizens themselves demand rules to guide the practices of the society – that is, *demand for the rule of law*; and the extent to which the public feel that they are being supplied with the rule of law from their public officials – that is, *supply of the rule of law* (see Table 1).

Table 1: Demand-Supply Model of Rule of Law

Demand-supply model of rule of law		
Dimensions	Demand for rule of law	Supply of rule of law
Sub-dimensions	Support for rule of law	Legitimacy
	Understanding of corruption	Trust state institutions
		Official observance of rule of law
		Corruption
		Victimization

The demand-supply model of the rule of law has two dimensions: demand and supply. The demand dimension has two sub-dimensions – that is, *support for the rule of law* and *understanding of corruption*. The assumption underlying these sub-dimensions is that the rule of law exists if citizens have support for it and understand what corruption is. On support for the rule of law, we evaluate Mozambicans’ assessments on whether they:

- 1) view that they should obey government no matter who they voted for;
- 2) see that it is better to find legal solutions to problems even if it takes longer;
- 3) view violence as something that is never justified;
- 4) observe that parliament is the one that makes laws versus the president; and
- 5) view that the president respect laws versus ignores them.

With respect to understanding of corruption, we can evaluate whether Mozambicans’ assessments on whether they view 1) *nepotism*, 2) *extortion* and 3) *clientelism* as corruption or not. However, these questions were only asked in round 1 of Afrobarometer surveys and since Mozambique was not included in round 1 we are not able to analyse them.

¹² For information about Afrobarometer data and methodology look at www.afrobarometer.org where the data can be also downloaded.

Moving to supply, there are five sub-dimensions, namely: *legitimacy*, *trust in state institutions*, *official observance of rule of law*, *corruption* and *victimization*. For this dimension, the rule of law exists if citizens express that they do accept the rules of the polity; trust state institutions; view that state officials respect rule of law; that there are low levels of corruption; and are less victimized. On *legitimacy* we evaluate citizens' assessments on whether they:

- 1) view the constitution as something that expresses their values and interests;
- 2) view that courts make binding decisions;
- 3) view that people obey the law; and
- 4) see that people must pay taxes.

Touching on *trust in State institutions*, we probe whether citizens trust the following: 1) the president; 2) parliament; 3) National Electoral Commission; 4) local councillors; 5) governing party; 6) opposition parties; 7) police; and 8) courts.

With respect to *official observance of the rule of law*, we evaluate citizens' assessments on whether they:

- 1) view that party competition leads to conflict;
- 2) view that the president ignores the constitution;
- 3) see that law is enforced when a political leader committed a serious crime; and
- 4) see that law is enforced when a political leader evaded tax.

For *corruption*, we can investigate whether citizens view corruption on the following: 1) the president; 2) members of parliament; 3) national government officials; 4) local councillors; 5) police; 6) tax officials; 7) judges and magistrates; 8) health workers; and 9) teachers and school administrators.

Regarding to *victimization*, we analyse whether citizens have been a victim to pay a bribe for 1) document or permit; 2) school placement; 3) receive household service; 4) avoid problem with the police; and 5) avoid problem with a tax official.

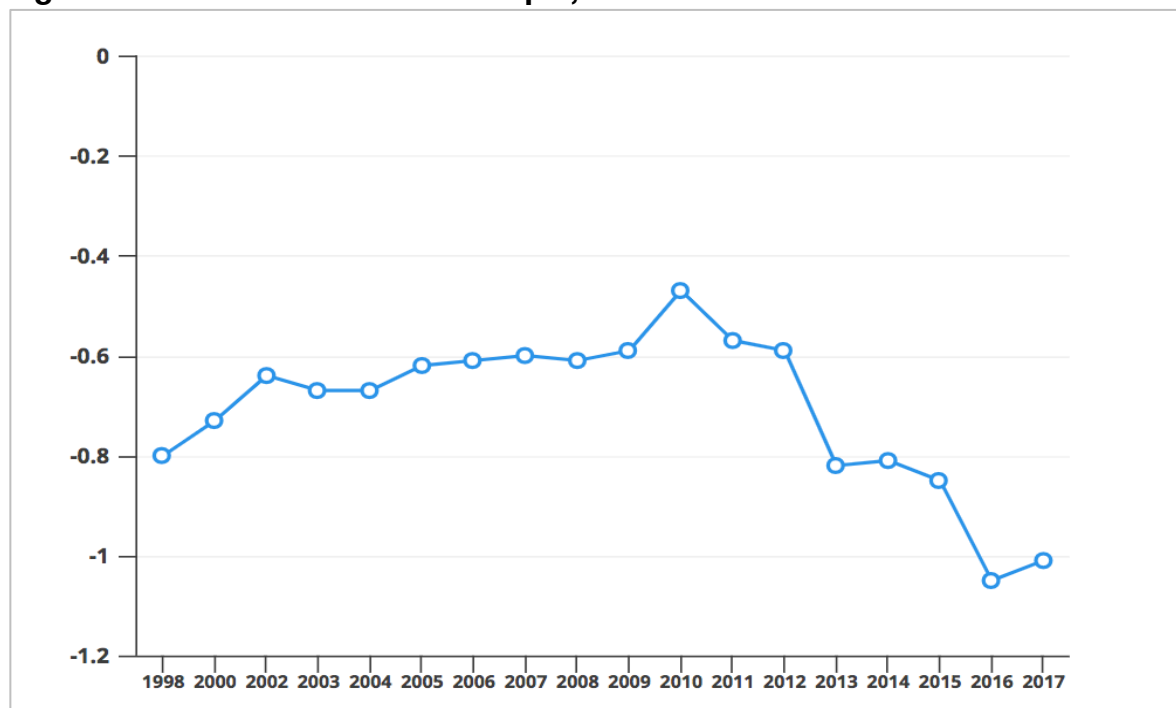
THE RULE OF LAW: EVALUATION OF PERFORMANCE OF MOZAMBIQUE ELECTORAL DEMOCRACY

Before moving to the main data, we conduct an initial exploration to evaluate the rule of law using Worldwide Governance Indicators (WGI) data. The WGI project constructs aggregate indicators of six broad dimensions of governance: *Voice and Accountability*; *Political Stability and Absence of Violence/Terrorism*; *Government Effectiveness*; *Regulatory Quality*; *Rule of Law*; and *Control of Corruption*. The indicators are based on over 30 underlying data sources reporting the perceptions of governance of a large number of survey respondents and expert assessments worldwide.¹³ It covers almost all countries in the world including Mozambique from 1996 to 2017 with annual updates.

The WGI defines the rule of law as “perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence” (Kaufmann, Kraay and Mastruzzi 2010). The WGI rule of law data estimates range from -2.5 to 2.5 where a negative score means low levels of the rule of law and positive scores indicate high levels.

Overall, the rule of law in Mozambique is low as seen by the WGI experts. In fact, the estimates of the rule of law in Figure 1 are below zero or negative.

Figure 1: Rule of Law in Mozambique, 1996-2017



Source: Data generated from Worldwide Governance Indicators.

¹³ <http://info.worldbank.org/governance/WGI/#home>

Comparing the rule of law, we observe changes over time. The rule of law was low during the presidential terms of Joaquim Chissano (1995-1999, 2000-2004) although there was a significant positive change in 2002. It improved slightly during Armando Guebuza's first term (2005-2009) and improved significantly in 2010 – that is, the first year of Guebuza's second presidential term (2010-2014), reaching the highest point. The reason for this is not known however it is possible that after one decade of electoral democracy, officials became more aware of the functioning of the rule of law and commenced respecting it to the extent that they matured in 2010. This would support the theory that conducting regular elections improves the quality of democracy (see Lindberg 2006).

But from the second year of Guebuza's term in 2011 the rule of law started declining significantly to the extent that the WGI experts consider that the levels of the rule of law now during Nyusi's term are much lower than those of Chissano's first years. For Guebuza's last years, the decline might be associated with political control of public media;¹⁴ kidnappings,¹⁵ bypass of the legislature,¹⁶ and political instability and military confrontations between Renamo armed men and the defence and security force in 2013 and 2014.¹⁷ For Nyusi's years, the decline could be in part due to an increase in physical violence against outspoken individuals in the context of political crisis with an armed opposition and the exposure of the \$2.2 billion hidden debts;¹⁸ political instability and military confrontations between Renamo armed men and the defence and security force in 2015 and 2016;¹⁹ and violence in the northern province of Cabo Delgado. Other studies shown that:

“participation in public affairs was shallow during Chissano's terms, as during his terms citizens and their organized groups were learning about their rights in the early stages of the political and economic transition to democracy and free market. Participation increased during Guebuza's terms, as a result of maturing organisations, a more provocative leadership style and long-term donor support to CSOs on advocacy. But it declined in the first two years (2015-16) of Nyusi's term, due to an increase in physical violence against outspoken individuals in the context of political crisis and discovery of 'hidden debt'” (Shenga 2018).

¹⁴ There has been political control of the media with the dismissal of media editorial directors as public media receive top illegal orientations (Mário 2016). By analysing variation of civic space in Mozambique from 1989 to 2018, Shenga (2018) found that civic space closed from 2013 in the country when the government commenced control of the public media.

¹⁵ From 2011 to 2013 alone it appears that there were 22 kidnappings or attempted kidnappings of which three occurred in 2011, nine in 2012 and ten in 2013. See “Cronologia dos sequestros em Moçambique desde Junho de 2011”, www.jn.pt

¹⁶ Between 2012 and 2014 a top government official bypassed the legislature and secretly signed \$2.2 billion in loans for 3 state backed companies. The loans were a corrupt scheme arranged by Credit Suisse, the Swiss bank and Russia's VTB Capital with government officials from Mozambique.

¹⁷ See “Momentos de instabilidade politica em Moçambique – uma cronologia”, www.dw.com

¹⁸ Two outspoken scholars: one brutally assassinated in 2015 and another abducted and shot in 2016. More recently an outspoken journalist was abducted and beaten in 2018.

¹⁹ See “Cronologia do Conflito Armado entre Renamo e o Governo de Moçambique”, www.dw.com

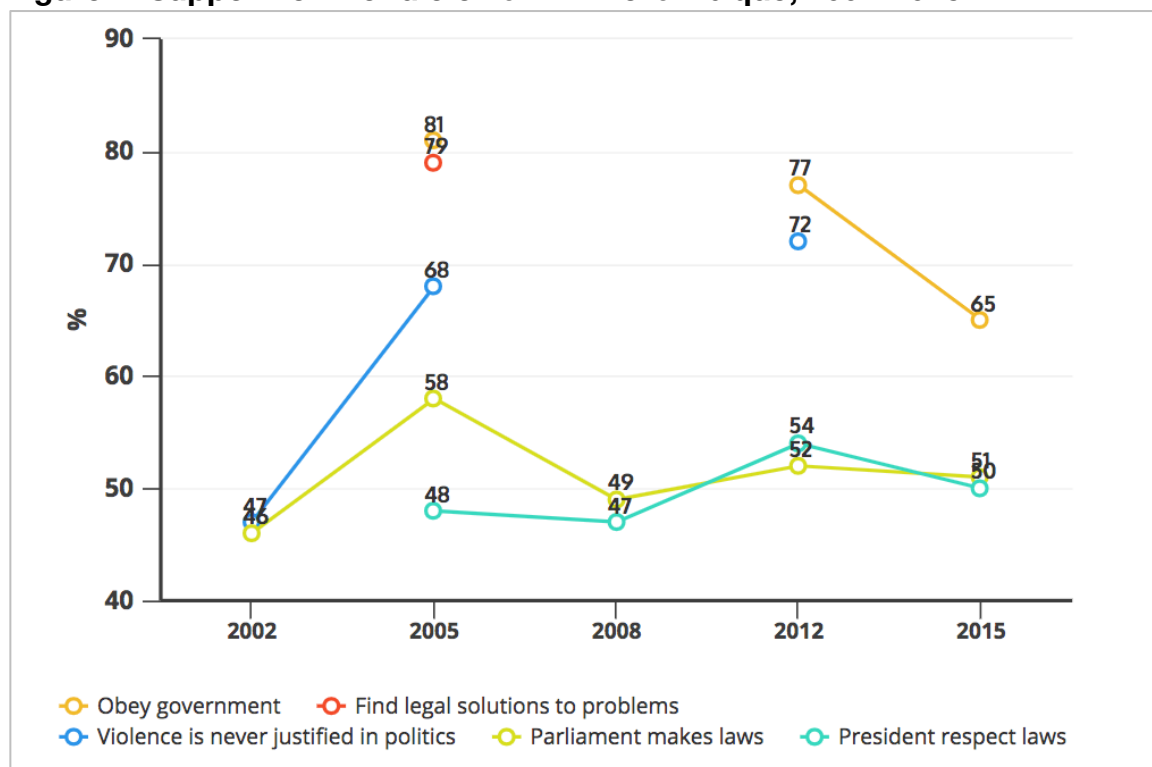
This seems to suggest that when the rule of law is subverted other democratic procedures like participation are also constrained. As Diamond and Morlino (2005) put, “when the rule of law is weak participation of the poor and marginalized is suppressed; individual freedoms are tenuous and fleeting; civic groups may be unable to organize and advocate; the resourceful and connected have vastly more access to justice and power; corruption and abuse of power run rampant as agencies of horizontal accountability are unable to function properly; political competition is distorted and unfair; voters have hard time holding rulers to account; and thus, linkages to securing democratic responsiveness are disrupted and severed” (Diamond and Morlino 2005:xv).

Demand for Rule of Law

Support for rule of law

Rule of law exists if the subjects of it, that is the people, support it. To what extent do ordinary Mozambicans have support for the rule of law in their country? Figure 2 presents assessments of Mozambican citizens themselves. As the indicators being evaluated here were not asked in all Afrobarometer rounds, some data is missing. The results show, on the one hand, high levels of Mozambicans saying they ‘agree’ or ‘agree very strongly’ that citizens should obey the government no matter who they voted for; and it is better to find legal solutions to problems even if it takes longer. On the other hand; the data reveals low levels of Mozambicans expressing they ‘agree’ or ‘agree very strongly’ that parliament is the institution that makes laws rather than the president; and the president should respect laws rather than ignoring them. In addition, Mozambicans’ rejection of political violence is in between the two.

Figure 2: Support for the rule of law in Mozambique, 2002-2015



Note: The figures correspond to those who responded ‘agree’ or ‘agree very strongly’.

Comparing support for the rule of law, about 81 percent of respondents expressed in 2005 that they should obey the government no matter who they voted for. But ten years later that percentage declined to 65 percent.

With respect to finding legal solutions to problems, this question was only asked in one survey round in 2005 with 79 percent of Mozambicans saying that it is better to find legal solutions to problems even if it takes longer.

Only less than half (47 percent) viewed that the use of violence is never justified in politics today. But that percentage increased significantly in 2005 to about two-thirds (68 percent) and remained about the same in 2012 (72 percent).

On the legislative institution, only below half (46 percent) in 2002 thought that the Members of Parliament (MPs) represent the people, therefore they should make laws for the country even if the president does not agree. While that percentage increased in 2005 to 58 percent it declined in 2008 (49 percent) and remained about the same in the most recent years: 2012 (52 percent) and 2015 (51 percent).

Regarding the president, there is little longitudinal variation. The level of people that think that the president should respect laws remain about the same in 2005 (48 percent) and 2008 (47 percent). Although it increased in 2012 (54 percent) it stayed about the same in 2015 (50 percent).

Supply of rule of law

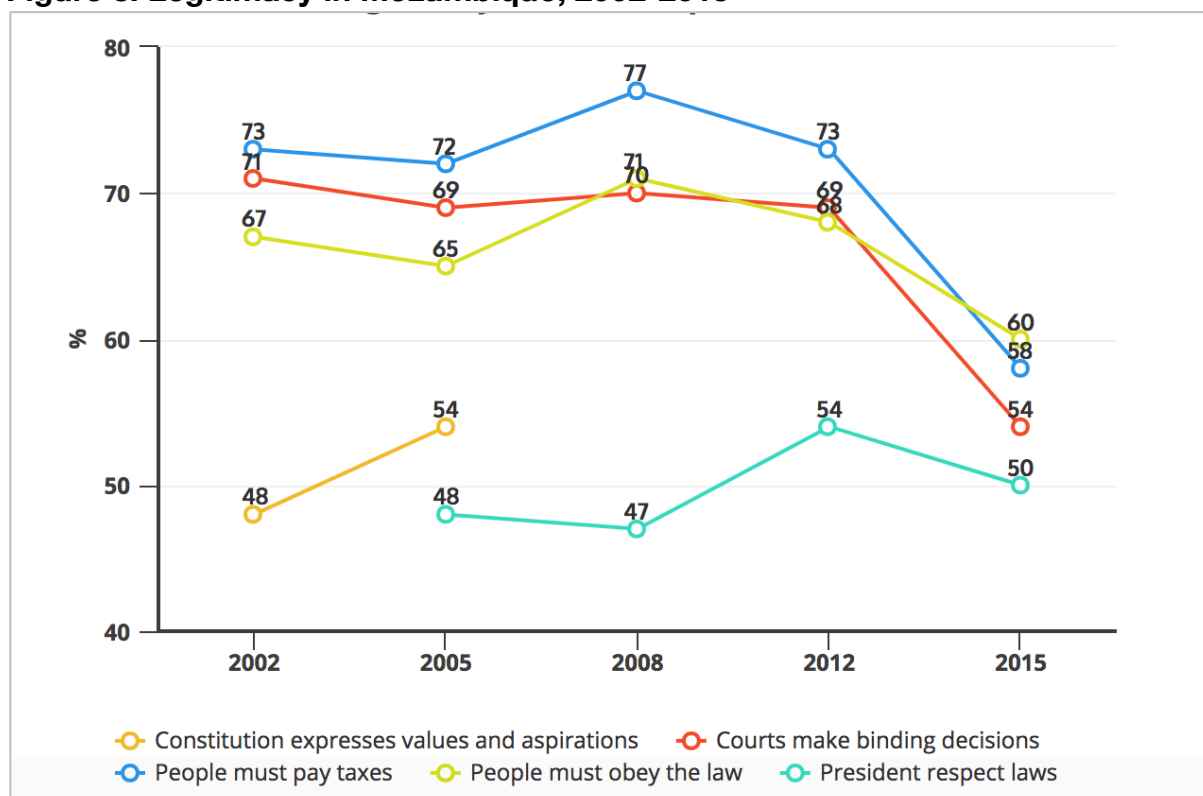
Legitimacy

From a public opinion perspective, we assume first that the rule of law is supplied if the masses legitimize the constitution as well as the institutions of the rule of law. To what extent do Mozambicans legitimize the constitution and institutions of the rule of law: courts, the police and tax authority? This question is unpacked into the following sub questions: To what extent do Mozambicans legitimize their constitution as a set of procedures and substances that aspire to their values and aspirations? To what degree do they view courts as the institutions that have the right to make decisions that people have to abide by? To what extent do they view the police as an institution that has the right to make people obey the law? To what degree do they view the tax authority as an institution that has the right to make people pay taxes?

The results, shown in Figure 3, show low levels of Mozambicans who think that the constitution is legitimate. Less than half (48 percent) in 2002 'agreed' or 'agreed strongly' that their constitution expresses the values and hopes of the people. But that level increased in 2005 to 54 percent.

Legitimacy to institutions of the rule of law such as courts, the police and tax authority is high but tends to decline over time. In 2002 about 73 percent of Mozambicans viewed that the tax authority has the right to make people pay tax. That level remained about the same in 2005; it increased in 2008; it remained the same again in 2012; and it declined in 2015.

Figure 3: Legitimacy in Mozambique, 2002-2015



Note: The figures correspond to those who responded 'agree' or 'strongly agree'.

About 71 percent of Mozambicans reported that the courts have the right to make decisions that people have to abide by in 2002. That percentage stayed about the same in 2005, 2008 and 2012 and declined very significantly in 2015.

About two-thirds (67 percent) expressed that the police have the right to make people to obey the law. While that percentage stayed about the same in 2005, it increased in 2008 but remained about the same in 2012 and declined in 2015.

Trust in state institutions

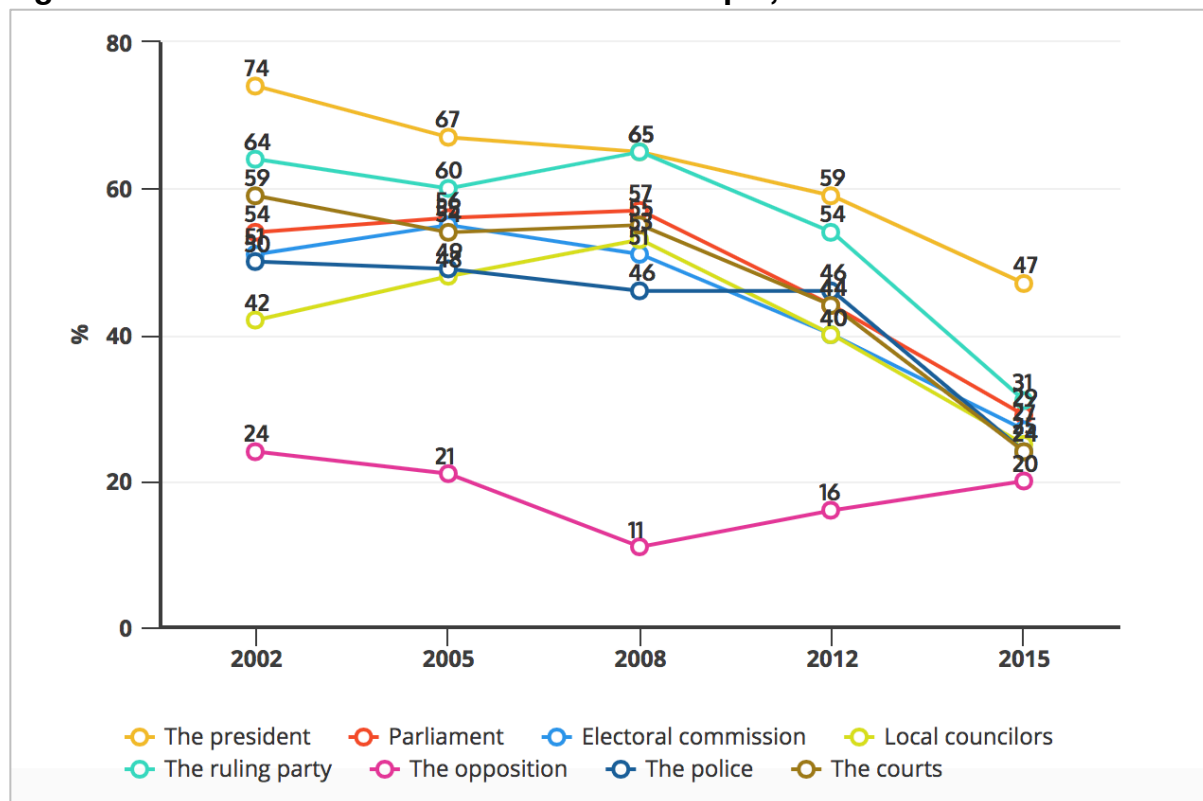
Secondly, the rule of law is supplied when ordinary people trust state institutions. To what extent do Mozambicans trust state institutions? The evidence shows that Mozambicans trust 'a lot' the president followed by the ruling party; the courts; the parliament; the police; and local councillors. The opposition political parties are the least trusted.

Trust in state institutions (Figure 4) declined or stayed about the same in 2005. In 2008 it stayed about the same, with the exception, on the one hand, to trust in the ruling party and trust in local councillors, which both increased. And, on the other hand, trust in the opposition which declined.

The year 2012 was one of decline with respect to trust in state institutions. With the exception of the police where levels of trust remained about the same, the levels of trust in the president, parliament, electoral commission, local councillors, the ruling

party, and courts declined in 2012. At the same time, there was an increase in the number of people saying that they trust a lot the opposition political parties.

Figure 4: Trust in state institutions in Mozambique, 2002-2015



Note: Figures correspond to those who responded trust ‘a lot’ or ‘a very great deal’ in 2002 and for subsequent surveys to those who said ‘a lot’.

The declining trend continued in 2015 with all state institutions, except opposition parties, registering the lowest levels of trust. Trust in the opposition continued to increase slightly.

What factors may have led to the decline in trust of state institutions in 2012? From mid 2011 onwards a number of high profile kidnapping and organised crime incidents²⁰ occurred, so it is possible that citizens associated these cases with an inability of state institutions to uphold the rule of law to control organized crime. The continuation of kidnappings in subsequent years; the bypass of the parliament on the \$2.2 billion loans between 2012 and 2014 that became publicly known in 2015; political tensions and military confrontations between an armed opposition and the defence and security forces in 2013 and 2014; and violence against outspoken individuals in 2015 are some key facts that could be associated with the decline in trust of state institutions in 2015.

Conversely, due to the same incidences, it is possible that Mozambicans saw hope in the opposition political parties. Although at lower levels than that of the ruling party, trust in the opposition increased as the trust in other state institutions declined.

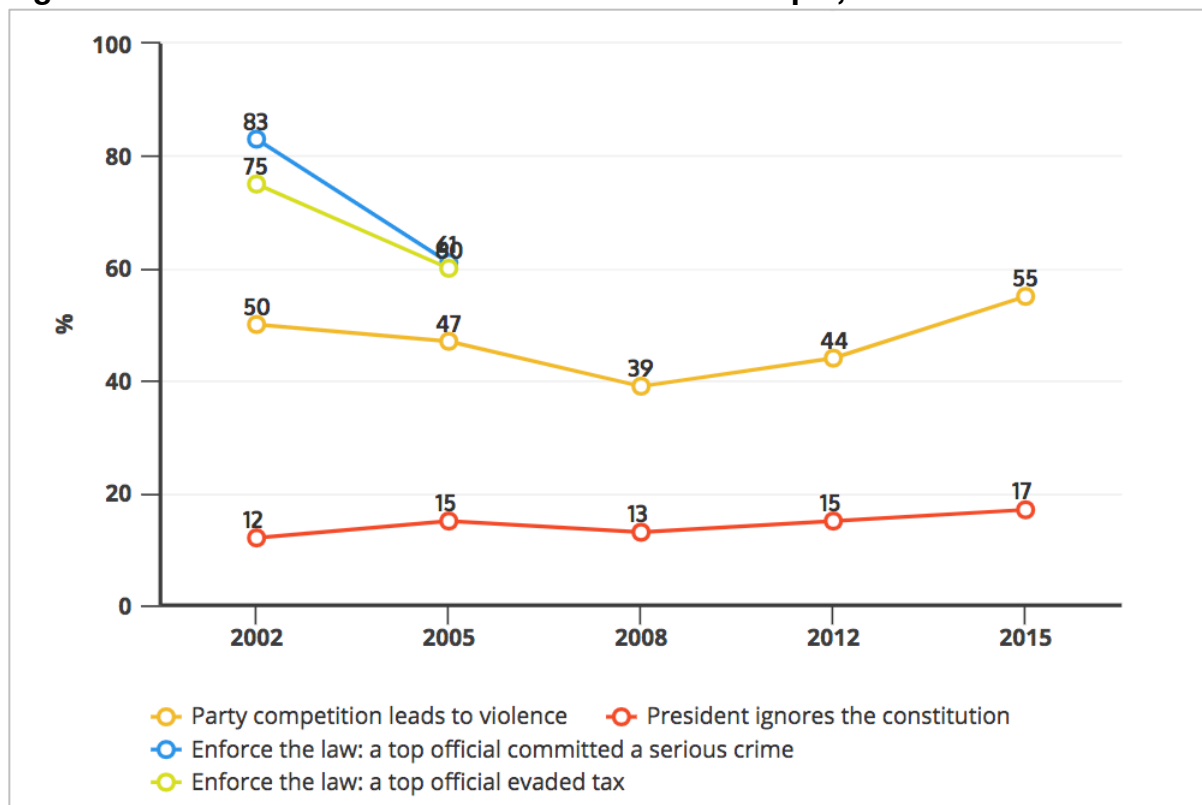
²⁰ See “Cronologia dos sequestros em Moçambique desde Junho de 2011”, www.jn.pt

Official observance of the rule of law

Thirdly we assume that the rule of law exists when there is official observance of it – that is, when multiparty competition does not lead to violent conflict; the president respects the constitution and laws; and the law is also enforced to those at the top of government - no one is unpunished when committing a serious crime or evades tax.

The results in Figure 5 show high levels of law enforcement in Mozambique. In 2002 Mozambicans were 83 percent more likely or very likely to say that the law is enforced if a top government official commits a serious crime. In the same year, 75 percent also said the same with respect to evading tax. But they were less likely to say so in 2005. In fact, the level of law enforcement toward top government officials when committing a serious crime or evading tax declined very significantly in 2005 to about 60 percent.

Figure 5: Observance of the rule of law in Mozambique, 2002-2015



Note: the figures correspond to those who responded ‘always’ or ‘often’ on party competition and president ignores the constitution; and ‘likely’ or ‘very likely’ to law enforcement.

Turning to how often citizens may view that multiparty competition leads to violent conflict or not, overall, Mozambicans say about half of the time. In 2002 about half (50 percent) of Mozambicans said that party competition often or always leads to violent conflicts. This is in the context that on 9 November 2000, there was a demonstration by the opposition party rejecting the 1999 national election results. Although the 2000 Renamo demonstration was peaceful across the country in certain parts, such as Montepuez, it was very violent.

“On the day of demonstration [9 November 2000], 44 civilians and 6 police officers died and 38 people were injured in the entire country. In the Montepuez district of the northern province of Cabo Delgado, 27 civilians and 6 police officers died. On the 18th and 22nd November 2000, respectively, 7 and 76 people that had been arrested in connection with the demonstration were found dead due to suffocation in Montepuez under police custody. In total 110 people died and 6 police officers died in Montepuez as result of the 9 November 2000 demonstration, of which 83 were found dead in police custody” (Shenga 2014:98)

After no apparent solution of the tensions between the ruling party and Renamo, which tended to use force for political cause, and the conduct of the 2004 national election, that level remained about the same in 2005 but it declined in 2008 (39 percent). This is likely to be in part that there was no similar type of violence after the 2004 election.

Nevertheless, Mozambicans’ perceptions that party competition leads to violence increased in 2012 to 44 percent, as tensions between the ruling party and main opposition Renamo escalated; and it increased even more in 2015 to 55 percent when those tensions translated in actual military confrontations in 2013 and 2015. Note that the tensions resulted from partiality of electoral institutions with Renamo not always legitimizing the election results; and military confrontation resulting from Renamo being an armed opposition.

Moving to the question on how often citizens view that the president ignores the constitution or laws, there are low levels. Comparing this over time, there is no significant variation from survey to survey but there is if the first survey (2002) is compared with the last one (2015). Here there is evidence to suggest that from Chissano to Nyusi there is an increase in the president ignoring the constitution or laws. This does not necessarily mean that Nyusi does not comply with the rule of law since Mozambicans surveyed in 2015 would have only experienced 1 year of his administration in that period²¹ but it is possible that accumulation of malpractices²² from previous administrations have triggered the public to perceive as such.

Corruption

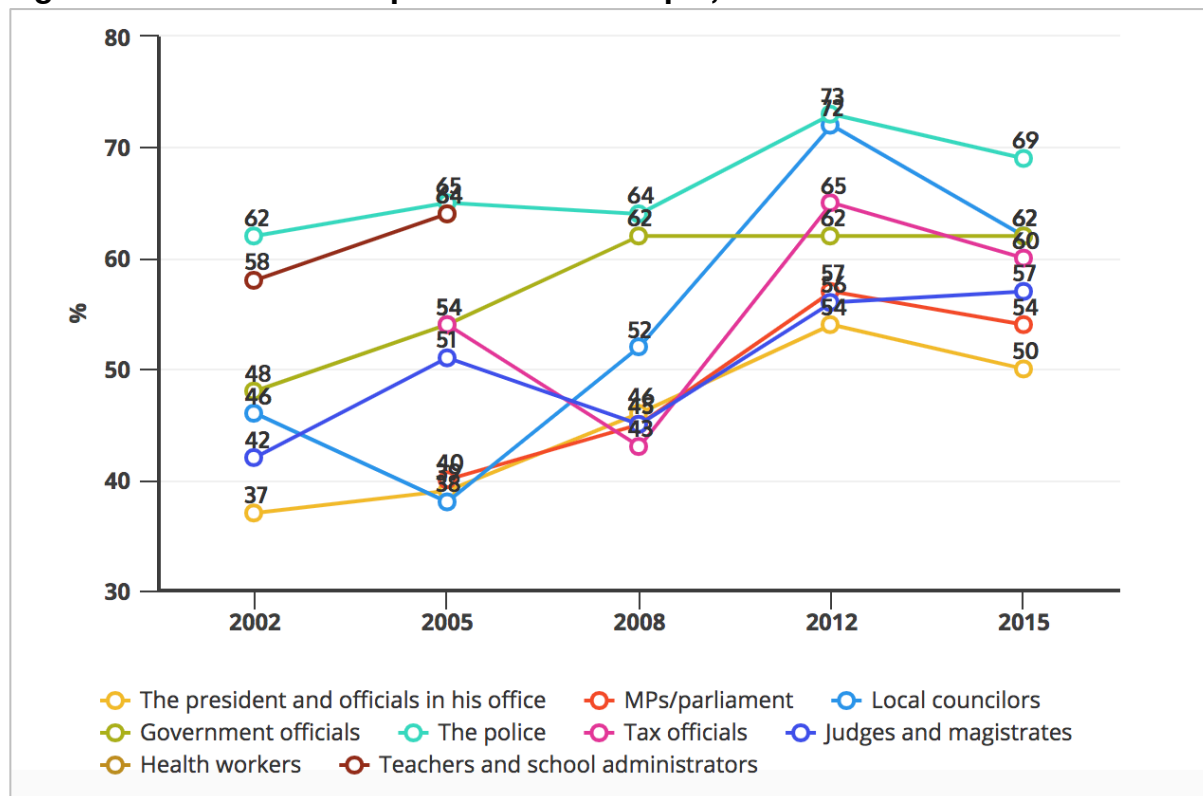
Fourth, the rule of law exists when citizens perceive no or low levels of corruption. To find out about corruption the Afrobarometer survey asks respondents the following question: How many of the following are involved in corruption: the president and officials in the president’s office; MPs/parliament; local councillors; government officials; the police; taxes officials; judges and magistrates; health workers; and teachers and school administrators?

²¹ President Nyusi was inaugurated into office on 15 January 2015

²² Such as the \$2.2 billion hidden debt scandal which only became publicly known about in 2015.

The public opinion evidence in Figure 6 is that Mozambicans’ perception of corruption is highest amongst the police followed by teachers and school administrators; and national government officers. Lower levels are seen among the president and officials from the presidency followed by members of parliament.

Figure 6: Perceived corruption in Mozambique, 2002-2015



Note: the figures correspond to those who responded ‘some of them’, ‘most of them’ or ‘all of them’.

Comparing the perceived corruption longitudinally, 2012 is the year that shows the highest levels of perceived corruption. Perceived corruption in the police remained about the same in 2002 (62 percent), 2005 (65 percent) and 2008 (64 percent) but it increased very significantly in 2012 (73 percent) and stayed about the same in 2015 (69 percent).

Similarly, perceived corruption among teachers and school administrators increased from 2002 (58 percent) to 2005 (64 percent). A nationwide study of Mozambican citizens’ political and socio-economic concerns NDI and CPGD (2018) provides some context to this. For example in many locations there are limited school places, particularly in certain school grades (1st, 8th and 10th grade) which means that school directors may charge ‘fees’ to parents/guardians to secure places for their children to progress to the next school grade.

With respect to national government officers, there have been increases in public perception of corruption with government officials in 2005 (54 percent) and 2008 (62 percent) with stagnation in 2012 (62 percent) and 2015 (62 percent).

Perceived corruption with local councillors and the presidency increased in 2008 and 2012 and dropped in 2015. But the increase was much more significant for local councillors as it was for the presidency.

Although it is difficult to spot in Figure 6 as it only has one point in time data, perceived corruption associated with health workers is high. About 64 percent of Mozambicans perceive that ‘some’, ‘most’ or ‘all’ of health workers are involved in corruption in 2005. According to the NDI and CPGD report (2018), Mozambicans’ main complaints about corruption in health care is that only those citizens that pay money (for what should be a free service) are well attended to i.e. if they do not have money they will remain at the end of the line or receive bad treatment. The report also cites the lack of basic medicines available in public pharmacies as a result of health professionals stealing medicines to sell them informally in the black market.

Comparing presidential terms, Mozambicans perceived more corruption during Guebuza’s era. The perceived corruption in Chissano’s era was lower. During Guebuza’s era it:

- increased in 2005 on teachers and school administrators; government officials; judges and magistrates; and government officials but it declined on local councillors.
- increased in 2008 on president and officials in his office, members of parliament; local councillors; and government official while it declined on judges and magistrates.
- increased in 2012 on president and officials in his office; members of parliament; the police; tax officials; and judges and magistrates.

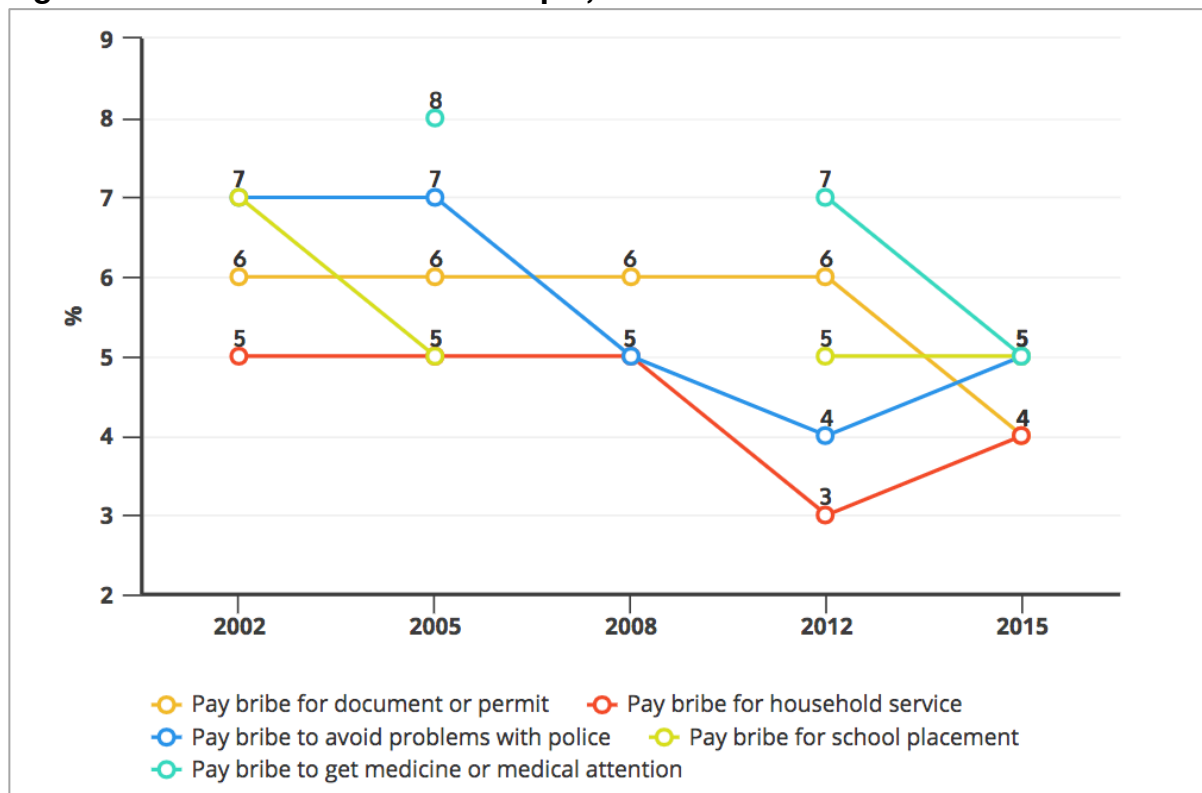
Perceived corruption declined during Nyusi’s era in 2015 on all aspects indicated in Figure 6. In summary, Mozambicans view Chissano’s era as the one with the lowest levels of corruption, followed by Nyusi’s and Guebuza’s era as the one with the highest levels of corruption.

Victimization

Lastly, the rule of law exists when it prevents people from being victimized by civil servants using their public position for private gain by asking for a bribe. This is probed by the following question: “In the past year, how often (if ever) have you had to pay a bribe, give a gift or do a favour to government officials in order to receive a document or permit; household services; school placement; medicine or medical attention; and avoid problems with police?”

The data in Figure 7 shows high levels of the rule of law in terms of victimization i.e. that Mozambicans are less likely to be victim of paying a bribe, give a gift or do a favour to civil servants in order to get a document or permit; household services; school placement; medicine or medical attention; and avoid problems with police. Comparing victimization over time, there are no significant changes.

Figure 7: Victimization in Mozambique, 2002-2015



Note: the figures correspond to those who responded 'often' or 'always.'

These findings could be viewed as surprising when compared with the perceived levels of corruption reported in Figure 6 and other studies such as the NDI and CPGD (2018) report which cites various examples of corruption experienced by citizens. For example to secure school places or medical attention, having to 'pay a refreshment' to workers to receive electricity installation event when though the connection has already been approved or to physically collect an ID or other type of official document after the application has already been submitted and approved.

CONCLUSIONS

This study evaluated the rule of law covering more than a decade of performance of Mozambique electoral democracy using public opinion data from Afrobarometer. In doing so it provides an important baseline study from which to monitor Mozambique's progress towards achieving SDG16 Peace, Justice and Strong Institutions

Initial exploration of the subject using expert opinion data from Worldwide Governance Indicators (WGI) from 1996 to 2017 revealed very low levels of the rule of law in Mozambique with some improvement in the first year of Guebuza's second term followed by a sharp decline from 2011 until the most recent years. Performance of the rule of law in Mozambique has changed over time, but its trend is in inverted 'U'-shape (Figure 1).

By employing a demand-supply model of the rule of law and public opinion data we evaluated the rule of law in more detail. Of the five indicators tapping demand for the rule of law, this study concluded that Mozambicans present high levels on three: Mozambicans are likely to view first, that they should obey government no matter who they voted for; second, that it is better to find legal solutions to problems even if it takes longer; and third, that the use of violence is never justified today. Yet Mozambicans are less likely to view that first, the president must always obey the laws and courts even if he thinks they are wrong; and second, as the members of parliament that represent the people, that parliament should make laws for the country even if the president does not agree.

Moving to the supply side of the rule of law, on legitimacy, this study concludes that Mozambicans present low levels of legitimizing their constitution as something that expresses their values and aspirations. But they present high levels of legitimizing institutions of the rule of law, such as: courts, police and the tax authority. They are likely to express that the courts have the right to make decisions that people have to abide by; the police always have the right to make people obey the law; and the tax authority always has the right to make people pay taxes.

With respect to trust in state institutions, it concludes that Mozambicans tend to trust the president, members of parliament or parliament; electoral commission; local councillors; ruling party, police, and courts and tend to trust less opposition political parties. However, since 2008 there has been shift with levels of trust in the opposition, albeit still low, showing a gradual increase whilst levels of trust in other state institutions showing a gradual decline.

On observance of the rule of law, there are high levels of support for law enforcement towards a top government official if he or she commits a serious crime and or evades tax; low frequencies of the president ignoring the constitution or laws; and about half of the time multiparty competition leading to violent conflicts in Mozambique.

Regarding corruption, ordinary Mozambicans perceive corruption to be higher among the police followed by teachers and school administrators, and national government

officers; and perceive low corruption among the president and officials in the presidency and members of parliament.

Finally, with respect to victimization, this study concludes that Mozambicans are less likely to be a victim of paying a bribe, giving a gift or doing a favour to government officials in order to get a document or permit; household services; school placement; medicine or medical attention; and avoid problems with police.

In summary, the findings reveal that demand and supply of rule of law in the country is widespread, shallow and declining over time. Of 35 indicators used in this evaluation, Mozambicans are likely to demand for the rule of law and view that their country is supplying to them with the rule of law in 22 (63 percent). But that likelihood tends to be low and declining over time.

Framing Afrobarometer public opinion trends on the rule of law with that from WGI expert opinion, they appear to show similar trends. After being low during Chissano's term, most indicators of the demand-supply model of rule of law declined during Guebuza's terms to extent that in the first year of Nyusi's term they remained low.

Possible incidents that may have contributed to a decline in the rule of law in the country could be political control of public media; organized crime through kidnappings in 2011-2013; bypass of the legislature on \$2.2 billion loans between 2012 and 2014; political tensions and military confrontations between Renamo armed men and the defence and security force in 2013-2014; and physical violence against outspoken individuals in the context of political crisis with an armed opposition.

By considering more recent events such as ongoing military confrontations between Renamo armed men and the defence and security force in 2015-2016, violence against an outspoken journalist in early 2018; and both the detention of a journalist in 2019 by the army and violence in Cabo Delgado in 2017-2019 one might predict that indicators of the rule of law in Mozambique (through Afrobarometer, WGI and others) will continue declining or remaining low.

Low levels of the rule of law suggests its subversion. When the rule of law is subverted public participation declines, as civic groups may be unable to organize and advocate and it may be difficult for to hold rulers to account; accountability is constrained, as corruption and the abuse of power run rampant since agencies of horizontal accountability are unable to function properly; political competition is distorted and unfair, as the resourceful and connected have vastly more access to justice and power; and civil liberties and political rights are diminished.

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