



## **Parliament, Politics and AIDS:**

### **The Case of Mozambique**

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## ACRONYMS AND ABBREVIATIONS

AMOPROC	Associação Mocambicana para Promoção da Cidadania (Mozambican Association for the Promotion of Citizenship)
ARV	Antiretroviral
CASGA	Comissão dos Assuntos Sociais, do Género e Ambiente (Committee for Social Affairs, Gender and Environment)
CNCS	Conselho Nacional de Combate ao SIDA (National Council for Combatting AIDS)
CNCSP	National AIDS Control Programme (Ministry of Health)
FRELIMO	Frente de Libertação de Moçambique (Liberation Front of Mozambique)
GoM	Government of Mozambique
GASDE-UEM	Grupo de Activistas ANTI-SIDA e DTS- Universidade Eduardo Mondlane (Anti-AIDS and STDs Group of Activists– Eduardo Mondlane University)
HIV	Human Immuno-deficiency Virus
IDASA	Institute for a Democratic South Africa
INE	Instituto Nacional de Estatística (National Institute of Statistics)
IPU	Inter-parliamentary Union
KINDLIMUKA	Associação das Pessoas, (literal translation ‘wake up,’ an association of people living with HIV/AIDS)
MoH	Ministry of Health (MISAU in Portuguese)
MONASO	Mozambique Network of AIDS Service Organisations
MTCT	Mother-to-child-transmission
NACP	National Aids Control Programme
NGO	Non-governmental organisation
NHDR	National Human Development Report
OTM	Organização dos Trabalhadores Moçambicanos (Mozambican Workers’ Organization)
PEN	Plano Estratégico Nacional (National Strategic Plan for HIV/AIDS)
PLWA	People Living With HIV/AIDS
RENAMO	Resistência Nacional de Moçambique (Mozambique National Resistance)

# 1. INTRODUCTION

## 1.1 Background and Problem Statement

The 87<sup>th</sup> Inter-parliamentary Union (IPU)<sup>1</sup> conference held in Yaoundé, Cameroon in 1992, adopted a resolution on the impact of the HIV/AIDS pandemic, its threat to world economic growth, political and social stability, and the promotion of policies to transform knowledge into public policy and increase social and public commitment to mitigate its effect. In 1998, the Windhoek resolution was adopted to intensify action to combat HIV/AIDS in view of its devastating effect on all spheres on life. The Mozambican parliament was represented at these meetings and is a signatory to all the resolutions; therefore it is expected that a number of policies and programmes will take place to ensure the effective mitigation of the pandemic in Mozambique.

This study undertakes to assess the role of the Mozambican parliament, the parliamentary committees and individual MPs in their response to HIV/AIDS. In order to achieve the objective mentioned above, it will look at:

- ⌘ The record of parliamentary oversight related to past and existing HIV and AIDS programmes;
- ⌘ Parliament's record in exercising its budgetary oversight role to promote spending and allocations towards sectors affected by HIV and AIDS;
- ⌘ Documenting the respective roles of parliament, parliamentary committees and individual MPs in mobilising efforts within constituencies and by government ministries and civil society organisations around HIV and AIDS actions;

- ✂ The changes, if any, in parliament's oversight functions with the large influxes of donor funds and Global Fund finance for HIV and AIDS initiatives;
- ✂ A record of the kinds of legislation and policies parliament has put in place to protect People Living with HIV and AIDS (PLWAs).

The results of this study are based on the work carried out by parliament from 1994 to 2004, the first 10 years of the multi-party system in Mozambique. The current legislature was only sworn in during March 2005 after the December 2004 elections, so it is still too early to assess what is being done and its implications.

## **1.2 Objectives of the Research Project**

In an effort to fill those gaps and to contribute to an emerging area of inquiry in HIV and AIDS research that looks at the impact of the pandemic on governance, the Institute for Democracy in South Africa (IDASA), in partnership with the Canadian Parliamentary Centre (via its Africa-Canada Parliamentary Strengthening Program), hopes to achieve the following broad objectives:

- Focus some debate on the role that parliaments and representative oversight institutions can play in 'agenda-setting' for HIV and AIDS;
- Provide a series of 'snapshots' of how various parliaments in Africa are exercising effective oversight (financial, programmatic, monitoring) over HIV and AIDS work in the face of very different country contexts and prevalence rates;
- Suggest ways in which representative institutions can play a more proactive role in prioritising the needs of their constituents;

- Begin a process among parliaments in Africa of networked learning about best practices in oversight and accountability mechanisms employed to respond to the challenges posed by HIV and AIDS on the continent.

## **1.3 Methodology**

Different research methods were used to gather the data for the present study.

### **1.3.1 Literature review**

A literature review was conducted of all the documentation available at the Parliamentary Documentation Centre relating to HIV/AIDS. It is important to state that most of the information is still very scattered and not systemised, which impairs easy access to information. A significant amount of material is still in audio form and has not been transcribed. Information on national statistics was gathered from the National Institute of Statistics (INE).

Due to the lack of information available, the National AIDS Council (CNCS) was unable to provide any material on the role of parliament and the fight against HIV/AIDS. This suggests data collation by CNCS is still in an initial phase but it also points to a lack of activities on the part of parliament and a weak relationship between parliament and CNCS.

### **1.3.2 Semi-structured interviews**

In-depth interviews were undertaken with a number of members of parliament (MPs), senior staff of the national assembly, CNCS senior members as well as representatives of the Ministry of Health (MoH) and non-governmental organisations (NGOs).

### **1.3.3 Limitations and scope of study**

The most significant limitation is that the Mozambican parliament has not as yet been active and vocal in the fight against HIV/AIDS, as will be shown in the study. The second limitation stems from this; due to its limited activity, records on its statements and efforts in the fight against the pandemic are scarce and limited. In some cases, the lack of data from national sources obliged us to rely on primary sources, limited written data and reports from parliament's activities.

## **1.4 HIV/AIDS in Mozambique**

The 1997 census, the latest census published by the time of writing, puts Mozambique's population at almost 18 million. According to the census, about 30% are young people aged between 10 and 24 and women account for 53% of the total population. The average life expectancy is 47.5 years for women and 44.5 years for men.

The first case of HIV/AIDS in Mozambique was reported in 1986. Despite all the efforts made to contain the pandemic, Mozambique is amongst the ten countries in the world with the highest rate of HIV infections. National prevalence rates continue to escalate, with 13.6% of the population currently infected with the HI virus; this means that one in every seven Mozambican is HIV-positive. This amounts to approximately 500 new infections a day, 90 mother-to-child-transmission (MTCT) infections per day and 110 000 new AIDS cases a year (INE, 2004). By the end of the decade, the pandemic could lower life expectancy from the anticipated 50.3 years to 36.5 (Multisectorial Technical Group, 2002). Women are most vulnerable; nearly 57% of Mozambican adults (aged 15–49) living with HIV/AIDS are women (Multisectorial Technical Group, 2003). The gender disparity is even more striking in the 20–24 age group, where women living with HIV outnumber men by four to one (Government of Mozambique, 2002:5).

The main mode of HIV/AIDS transmission has been unprotected heterosexual sex. Social, economic and cultural factors such as gender inequality, poverty, unemployment, and ignorance or lack of and resistance to scientific information have been key determinants of people's attitudes towards the pandemic.

**HIV prevalence rates in adults (15–49 years old), by province and region, 2002**

Region	Province	Prevalence	
		Provincial	Regional
SOUTH	Maputo City	17,3 %	14,8 %
	Maputo Province	17,4 %	
	Gaza	16,4 %	
	Inhambane	8,6 %	
CENTRE	Sofala	26,5 %	16,7 %
	Manica	19,0 %	
	Tete	14,2 %	
	Zambézia	12,5 %	
NORTH	Nampula	8,1 %	8,4 %
	Niassa	11,1 %	
	Cabo Delgado	7,5 %	
NATIONAL			13,6 %

Source: INE, 2004

As a reaction to the growing evidence of the severity of the disease, in 1988 the Ministry of Health created the National AIDS Control Programme (CNCSP), which defined, implemented and monitored the guidelines and actions of every aspect of the HIV/AIDS pandemic.

On 1 December 1994, Mozambique was a signatory to the Paris Declaration on HIV/AIDS that came out of the Paris AIDS Summit which involved 42 heads of government who pledged to transform the fight against HIV/AIDS into a national priority, fight against poverty, stigma and discrimination, protect the rights of those infected and affected by the pandemic and support the work of the United Nations on AIDS and HIV.

Until 1999, HIV/AIDS was regarded mainly as a health problem. However, in 1999 the National Strategic Plan to Combat HIV/AIDS (PEN) was finalised. This emphasised the fundamental necessity of a multisectoral approach and implementation started the following year. Also of significance was the establishment in 1998 of the Interministerial Commission which comprised eight ministries. This was incorporated into the CNCS in 2000. The existence of these two bodies ensured that the issue of HIV/AIDS was mainstreamed in the government's five-year programme, which provides the guidelines and objectives for all HIV/AIDS activity.

The first National Aids Control Programme (NACP) initially fell under the MoH but is now coordinated by the CNCS. PEN, which was designed for the 2000-2003 period, falls under the CNCS and aims to prioritise the fight against AIDS; place human beings at the centre of the concerns; ensure the relevance of the national response; involve people living with HIV/AIDS; ensure the quality of the response is good enough and increase coverage of vulnerable groups; resolve the priority obstacles that make implementation of the national response difficult; promote a concrete multi-sectoral response; make the ministries responsible by area of operation, and involve civil society.

All the different programmes which existed before the establishment of the CNCS have been incorporated into it, and are now part of PEN. This enables the implementation of a focused common strategy and plan of action.

## **1.5 Parliament**

Mozambique's independence was proclaimed in 1975, with the Frente de Libertação Nacional (Frelimo) as the liberating force. Frelimo established a one-party state in

which political pluralism was eliminated. Despite gains in health and education in the first years of independence, the first two decades were characterised by civil war and sabotage by the Mozambican National Resistance (Renamo), a rebel force fostered and sponsored by the illegal minority and fascist governments of then-Rhodesia and South Africa.

In 1990, constitutional reforms ended the state's formal commitment to the single-party state and provided for a market-based economy and free multi-party elections. A general peace agreement between Frelimo and Renamo was signed in 1992 which ended the civil war.

In 1994 Mozambique held its first democratic election, which Frelimo won, and Renamo became the official opposition. The Mozambican parliament, which consists of 250 parliamentarians, was re-constituted to accommodate the two political parties. Its main tasks are to define new priorities to accommodate the different needs of the country and its people emerging from a long civil war, to create and establish legislation suitable for the new political dispensation, and to monitor the work of the government.

The new Mozambican parliamentary electoral system is based on proportional representation in which voters in their respective constituencies vote for their preferred party, and seats in the legislature are a direct translation of the people's vote throughout the country. According to Kondwani Chirambo: 'Representatives are allocated seats by their respective parties based on a pre-determined list. In the event of a vacancy, parties do not revert to a by-election, rather, they activate their list and simply replace the slot with a new member from the party' (Chirambo, 2004: 16). This means that in parliament the interests of a special or vulnerable group do not rest with individual MPs but within the broader interests and priorities of a party and thus are determined by the weight that each party bears within the

parliament. In the Mozambican case, the Frelimo parliamentary bench is always at an advantage because it has held the majority of the seats since 1994.

Parliament consists of the plenary, the permanent commission and working committees. To ensure its effectiveness and participation in all spheres of Mozambican political, economical and social life, parliament established eight working committees:

- Planning and Budget;
- Social Affairs, Gender and Environment;
- Agriculture, Rural Development, Public Administrations and Local Authority;
- Economic Activities and Services;
- Defence and Public Order;
- International Relations;
- Judicial, Human Rights and Ethics;
- Petitions.

Each consists of 15 elected members of the assembly. These working committees are fundamental to the organisation of parliament for in their specific areas they create, elaborate and submit draft laws, allow for more detailed and in-depth analyses of the various issues before they are taken to the plenary, enable specialised contact with constituencies on various issues, and they can also call upon members of cabinet and other state representatives for clarification (Boletim da República, 2001). The committees' investigatory powers are of great importance because, in theory, 'bills begin in the committee, are discussed and examined there and can be killed in committee without the inconvenience of a formal vote on the floor...' (Ball, 1993:156). Parliament is in plenary session from March to April, after which MPs and the committees go back to their constituencies to perform their oversight

function from May to July. After returning from the constituencies the committees prepare and present their reports to the plenary in September.

To date, parliament's stand and engagement on the HIV/AIDS pandemic can at best be described as lacking and insufficient. It has so far failed to take a leadership role in the fight against HIV/AIDS; firstly, no debate has ever taken place in the plenary sessions on the impact of the pandemic on the country or the threat it poses to Mozambique's security, development and future. Secondly, it has failed to create sufficient legislation to protect the Mozambican people, and thirdly, it has failed to monitor and demand accountability from various institutions that are at the centre of the fight against the pandemic.

Generic and basic HIV/AIDS-awareness workshops coordinated by the CNCS have been made available to all MPs. Members of the Social Affairs, Gender and Environment Committee (CASGA) have been more exposed to more detailed training because their work is specialised and they are more likely to encounter issues relating to the pandemic. The workshop for the plenary seems to have been rather limited; had it exposed MPs to the broader issues regarding HIV/AIDS and its impact the workshop would have enabled them to understand policy dynamics and they could have used their political position to further the fight against AIDS. However thus far their exposure has not yet translated into increasing advocacy, involvement and the permanent engagement of the whole assembly with HIV/AIDS issues.

The only law that has been promulgated by parliament is a law on discrimination in the workplace, passed in February 2002, which was initiated by civil society. This will be elaborated on later.

Perhaps because parliament has so many issues to deal with, ranging from the consolidation of the new political multi-party system to the consolidation of the electoral system, the Mozambican parliament does not seem to have seriously engaged itself and its people in the various issues relating to HIV/AIDS. It is still lagging behind in promulgating and initiating legislation and law reform in the fight against HIV/AIDS as well as in pressurising the government to take a stronger stand.

## **2. FINDINGS**

Ball has stated that parliaments or assemblies 'share, in varying respects, the function of providing some form of link between government and governed. They are one means of channeling demands from below and providing information and explanation from above' (Ball, 1993:153).

In this section, the above definition will be used as a framework for the investigation and as an instrument to measure what the Mozambican parliament has been doing about the pandemic.

### **2.1 Parliamentary Oversight of Past and Existing AIDS Programmes**

CASGA, under which all HIV/AIDS matters fall, focuses on very broad and different fields. Included in its portfolio are education, culture, youth and sports, and gender. It ensures the protection of family and children and the promotion of women's issues; the protection and promotion of the environment and cultural patrimony; the promotion and protection of employment and employees; social security; the re-allocation and protection of demobilised soldiers; protection of people with disabilities; and religious activities. When it comes to HIV/AIDS, the

mandate from the plenary extends to implementing an HIV/AIDS programme within parliament; ensuring constant interaction with government and civil society on the issues and challenges to decide when it is necessary to bring HIV/AIDS into public debate at the national assembly.

The committee has appointed someone to concentrate solely on issues relating to HIV/AIDS amongst parliamentarians and the personnel who render services to the assembly. The main reason for creating this post was to centralise all the information relating to HIV/AIDS inside and outside parliament, to systemise it for parliamentarians and to co-ordinate training for parliamentarians so they are in touch with the appropriate discourse and the situation relating to HIV/AIDS.

To implement its mandate from the plenary, the committee and the CNCS organised a briefing session for all MPs as an introductory session on the HIV/AIDS issue. They also developed a booklet which was distributed to all MPs to ensure that they understood the complexities of the pandemic and could transfer this information to their constituencies. The committee also ensured that a number of members of other parliamentary committees received training as HIV/AIDS activists. The idea was to guarantee that all other committees incorporated relevant dimensions of the pandemic into their deliberations. The training was extended to other departments within the assembly, with the first two individuals on each party list for each province being selected for training. All the members of CASGA, representatives of all the departments that render services at parliament as well as all the members of the permanent commission are also involved. This process will be renewed every five years when a new parliament is elected to ensure that the issue of HIV/AIDS is always taken into consideration.

The most significant success thus far has been the drafting, discussion and promulgation of the 5/2002 law which prohibits pre-employment testing for HIV

infection and guarantees the right to confidentiality about HIV status in the workplace.

## **2.2 Parliament and Other Institutions**

### **2.2.1 The National AIDS Council**

The CNCS was established in 2000 by Decree 10/2000 of the Council of Ministers (cabinet). It has a close relationship with parliament and is a multisectorial institution chaired by the Prime Minister. Its role is to manage and drive all activities related to the national strategy to fight AIDS (CNCS, 2000:1). The CNCS's institutional framework comprises, at national level, a board and executive secretariat, including the ministries of health, planning and finance, foreign affairs, education, social welfare, and youth and sport, as well as representatives of civil society. At the time of writing Angelina Enoque, an MP and Renamo party member, was on the board of the CNCS, not in terms of parliament's mandate but because she was elected onto it as an active member of civil society.

The CNCS, a high-level group which provides leadership and political support for the national strategy, plays a central role in the policy-making process, supervising, evaluating and giving direction in the administration and implementation of multisectoral programmes. It leads through advocacy and the mobilisation of human and material resources in the fight against the pandemic.

CASGA is the body that interacts directly with the CNCS, for example presenting proposals for activities and requisitioning funds to be allocated to certain activities within parliament. The committee has so far concentrated on work within the assembly, and in the case of the drafting of the law has interacted directly with civil society. Perhaps due to its large portfolio, and lack of specific concentration on HIV/AIDS, it has failed so far to deliver more tangible results.

All of CASGA's activities and funding comes from the CNCS. Most of its interactions have been spearheaded by particular MPs who have a direct and close interaction with the executive director of the CNCS. The interactions, which have been sporadic depending on need, have been mainly to discuss strategy and make relevant plans and decisions, but mostly they have been defined by the committee's financial dependence on the CNCS. Thereafter, both the executive director of the CNCS and particular MPs from the committee have delegated the implementation of the decisions to their juniors.

The relationship between the two institutions has been positive, but it is recognised that a greater oversight function over government and other institutions is needed to force government improvements and develop partnerships in advocacy and mobilisation activities throughout the country. A start has been made in this with a proposal from the executive director of the CNCS to develop guidelines for interaction between the two institutions.

### 2.2.2 Non-governmental organisations and public hearings

No formal interaction has taken place between parliament or its committees and any NGO to gather or exchange information or experiences in the area of HIV/AIDS. The Frelimo party bench had a meeting with women's NGOs to assess the situation but no parliamentary activities, programmes or policies resulted from this. It is not known whether Renamo has also had these kinds of meetings with other NGOs.

Not only has parliament failed to interact with NGOs involved in the fight against the pandemic, it has also failed to hold public hearings which would enable it to grasp the urgency of the situation and the enormity of the problem and understand the innovative ways society is developing to attempt to deal with the pandemic.

Public hearings are required for the process of drafting and revising legislation, and public hearings with specialised groups were held throughout the country during the drafting of the law on discrimination in the workplace. However, it would be expected that an institution like parliament would make much more use of the mechanism of public hearings as another strategy to engage in consultations with the public.

### 2.2.3. The Ministry of Health (MoH)

Dr Esau Meneses, of CASGA, has confirmed that 'there is no particular relationship with the MoH that is different from the way parliament relates to the other ministries. CNCS is the main body with which parliament relates...regarding HIV/AIDS.' The ministry and the minister have been available whenever parliament has requested information or any kind of assistance. Once in 2001 the plenary requested the presence of the minister to explain the extent, dynamics, effects and implications of the pandemic in the country, which indicates a viable relationship with parliament does exist. However this particular session, which was widely advertised, was part of the annual Questions to the Government session which follows the government's presentation of its Economic and Social Plan.

Mr Carlos Manuel, the permanent secretary to the assembly, has declared that 'parliament needs to give clear guidance about its needs and objectives in order for the ministry to act accordingly'. There are specific guidelines on how parliament is supposed to perform its oversight function, but at times there seems to be reluctance or even avoidance on the part of parliament to perform this role. This may be due to the inability of individual parliamentarians to exert their rights or reluctance from parliament to 'interfere' with the business of other institutions.

## **2.3 Parliament's Record in Exercising its Budgetary Oversight Role**

So far, there is no evidence of budget consultation or interaction between parliament and any of its committees. The national AIDS plan is basically the responsibility of the CNCS, which means that this is the body that presents its budget proposal to the planning and finance ministry and later accounts to it on expenditure and its further needs.

### **2.3.1 The budget process**

The legislature does play an important role in the budget process and its approval. However, this role could be enhanced and increased. The good understanding within the legislature of issues related to the process could make a significant impact, not only by critically analysing the way the budget is produced but also on its composition, priorities and allocations.

The budgeting process in Mozambique is guided by specific legislation. The budget takes the form of a package of bills that are considered and passed by parliament before being signed into law by the president. The law describes how revenue raised by the government, internally and externally, will be distributed within the government at national (ministerial), provincial (departmental) and district levels, and how much each province and district will receive from the government in the forthcoming year.

Although the budgeting process is intended to be bottom-up, the Council of Ministers and parliament have the final say and the Treasury sets the parameters. The process starts at district level, with submissions from local state structures such as the local authority (*localidade*) and administrative authority (*posto administrativo*), then the provinces, up to the Directorate of Planning and Budgeting, which operates

under the Ministry of Planning and Finance. However, it should be noted that not all districts take part in this budgeting exercise; in fact, very few are able to produce a realistic budget. Once the budget proposal has been approved by the Council of Ministers, it is submitted to the parliamentary Planning and Budgeting Committee before it is taken to a plenary session of parliament to be voted on.

The budgeting process starts around the beginning of the fiscal year in February: for example, the 2004 budget process would have been initiated in February 2003. At that time, all the provinces and government departments are informed about the guidelines to be followed in the preparation of their budget proposals. From about February to May, detailed departmental planning and budgeting takes place within provincial and district governments.

By the end of June, national departments and provincial governments have to submit their budget proposals to the Ministry of Planning and Finance in line with the identified priorities. The work then consists of compiling the departmental budgets and determining the allocations to programmes and line items. The provincial departments also draw up proposals on how their money will be spent and decide between programmes and line items.

From July to August, the Ministry of Planning and Finance reviews the budget submissions and makes adjustments where necessary, before sending the proposals to the government (ie the Council of Ministers). In September and October the government discusses the proposals and makes key decisions on overall spending growth, debt service costs, inflation projections and the division of revenue between national, provincial and local government. The government also reviews the draft and presents to parliament the final allocations to provincial and local governments. Normally, the final draft is debated and approved by parliament in December.

### **Chronology for budget drafting**

<b>February</b>	The Ministry of Planning and Finance issues guidelines to national departments and provincial governments to guide the preparation of the budget submissions.
<b>April–May</b>	Departments and provinces prepare submissions.
<b>June</b>	Departments submit their budget proposals to the Ministry of Planning and Finance.
<b>July–August</b>	The Ministry of Planning and Finance reviews and adjusts budget submissions.
<b>September</b>	Proposals are sent to government.
<b>September</b>	Government makes final adjustments and sends the budget to parliament.
<b>Oct-November</b>	Parliament analyses the budget
<b>December</b>	Parliament debates and approves the final budget proposal.

Source: Interview with staff of the national Directorate of Planning and Budgeting, Ministry of Planning and Finance, 2003.

The process of budget preparation is essentially based on the government's Action Plan for the Reduction of Absolute Poverty (PARPA) and on the policies of key sectors, namely education, health and infrastructure. The PARPA's general objective is to develop actions aimed at medium-term poverty reduction and its long-term eradication, and to ensure effective and coordinated monitoring of those actions.

### **2.3.2 Powers of parliament over the budget process**

Budget amendments are regulated by law and consist of changes to the budgeting endowments, within certain limits authorised by the State Budgeting Law. In Mozambique, parliament holds the power to approve the budget amendments

proposed by the government when they have been clearly explained in detail, as long as they do not go beyond those limits. The parliamentary Planning and Budgeting Committee has the power to hold hearings on the taxation and appropriation bills, but cannot recommend specific changes.

### **2.3.3 Individual MPs' influence over the budget**

Individual MPs have no power at all to influence the budget. In fact, according to Dr Virginia Videira, head of the Planning and Budgeting Committee, there is not much space to manoeuvre because 75% of the Mozambican budget is determined by the international donor community. The rest is from the GDP but this is used mainly to pay salaries for the public sector. Thus, unless there are gross anomalies, parliament cannot challenge much of the budget and its allocations.

According to Dr Videira, parliamentarians have the ability to influence the budget at the provincial level because there they can prioritise the needs of certain communities. Once the draft gets to the national and central level no significant changes can be made.

### **2.3.4 Role-players in the budget process**

#### **i. The National AIDS Council**

The CNCS makes a budget proposal to the government on the basis of the PEN, which is then submitted by the government for the approval of parliament. The CNCS has the authority to decide where funds should be allocated in the light of the needs of the country; because parliament does not get an updated report of what the situation is on the ground it is not capable of challenging most of the decisions that are put to it at the budget presentation.

## **ii. Committee on Social Affairs, Gender and Environment**

The government has recently started to provide free ARVs to a number of people around the country. According to Sumbana and Lauriciano (2004): 'In terms of the budget, ARVs are seen as the business of the MoH, but there is no specific reference to them in the budget'. The legislature does not play a substantial role when it came to understanding the issues and the implications of such a move. Taking into account that it is a programme that dramatically affects the running of the health sector as well as the lives of those in the programme, it would be expected that a debate should take place at the national assembly.

## **iii. Planning and Finance Committee**

During the budget cycle, in the preparation of the budget and its presentation to the assembly, parliament's Planning and Finance Committee has access to the plans and is allowed to analyse, comment and criticise them before the actual presentation. After the budget's approval, the committee has the opportunity once a year to measure its results against its main objectives. The assembly does the same through the Performance Review of the budget. The Planning and Finance committee, through the auditing and monitoring of the budget and its report on its evaluation of spending in the Treasury, tracks the flow of funds to the different ministries, department levels and districts. The report and the verification that the committee performs at the constituency level enable the committee to perform its functions. Perhaps more attention should be paid to the checks at the constituency level because there have been cases of incompatibilities between what was in the report and what was found on the ground.

## **2.4 The Role of Parliament, Parliamentary Committees and MPs in Mobilising HIV/AIDS Action**

The link or interaction between the legislature and the other institutions or organisations on HIV/AIDS has been spearheaded by particular MPs who seem to have a particular interest in or are more sensitive to the issues and the impact of the pandemic. Mr Manuel has defined them as the enthusiasts within the legislature. This small group of people has the capacity to propose and initiate activities and drive CASGA and the assembly to take a more active role. Most of them have been appointed by their party bench to take a more active role within the legislature and outside it. Inhibition and lack of awareness of the socio-cultural issues throughout the country are the main factors that hamper their mobilisation efforts.

The issue of party loyalty has been mentioned by members of both parties as a factor that hampers parliamentarians when it comes to HIV/AIDS. Both Frelimo and Renamo have established agendas and hierarchies within their parties which inhibit individuals from taking the centre stage as the protector of those living with HIV/AIDS or raising the flag higher than other priorities of the party. This confirms Chirambo's statement that when it comes to HIV/AIDS 'the interests of a special group and/or of vulnerable groups in parliament do not rest with the individual MPs but within and amongst the broader interests and priorities of a party and the weight that each party bears within the parliament' (Chirambo, 2004:16).

## **2.5 Parliament's Oversight Function in the Context of Donor Funds for HIV/AIDS**

Parliament has at no stage actually engaged itself with the issue of donor funds. This has been left entirely to the CNCS and the government represented by the Ministry of Finance.

## **2.6 Legislation and Policies to Protect PLWAs**

As mentioned above, the only law that has been promulgated by the legislature is the law on discrimination in the workplace, known as the 5/2002 law, which was passed in February 2002 to protect the rights of employees living with HIV/AIDS. It prohibits pre-employment testing for HIV infection and guarantees the right to confidentiality about an individual's HIV status in the workplace. It also demands support from employers for their employees. In the event of occupational exposure to HIV, it 'guarantees that medical assistance as well as adequate medication' must be provided and paid for by the employer. The law makes it compulsory for employers to provide HIV/AIDS education, information and advisory services to their employees. Dismissal on the grounds of HIV/AIDS is 'regarded as dismissal without just cause' (Government of Mozambique, 2001).

Civil society organisations and the private sector hailed the promulgation of this law as an important initial step. However, according to Mr Diogo Milagre, deputy executive director of CNCS, some have argued that it is 'unfair for the employee to take on all the responsibility for behaviour that is engaged in outside of the workplace realm'. Furthermore, others have demanded that a set of implementation tools be developed to operationalise the law. So far, it sets the standards of what is desirable and what is condemned, but the country's legal system lacks the appropriate instruments to punish those who discriminate and dismiss workers perceived to be HIV-positive.

This law emerged out of the efforts of five civil society organisations that were concerned about discrimination against workers in the workplace and the protection of workers who become infected. These organizations are the Mozambican Network of AIDS Services Organization (Monaso), Kindlimuka ('wake up' in Shangaan) which is an association of people living with HIV/AIDS, the Mozambican Association for Promotion of Citizenship (Amoproc), the Mozambican Workers' Organization (OTM) and the Anti-AIDS and STDs Group of Activists (GASDE-UE). The proposed draft legislation was drawn up after lengthy public hearings and debates held in all provinces, followed by further deliberations by the associations and people who had participated from the start to ensure that the views and interests of all participants were included. It was submitted to parliament after a march of about 800 people representing various NGOs and civil society.

Some MPs have argued that the law emerged out of the awareness sessions and training they had undergone in parliaments, while civil society has defended the perception that it was the originator of this bill. What is clear however is that despite the urgency of the situation, it took more than a year for the process to run its course. It started as a proposal for a bill at the level of CASGA, went through all the procedures of investigation and proposals to the president from the legislature, including deliberations between the committee and the MoH and the Legal and Ethics Committee. This demonstrates the slow pace at which parliament is operating.

A series of other laws on the criminalisation of premeditated or deliberate infection or the protection of children who have been abused, as well as the protection of children who have been orphaned by HIV/AIDS, still have to be passed. However, there seems to be an inability on the part of parliament to propose the drafting of such laws; perhaps this is the result of a structural and individual 'avoidance' or

dread of dealing with the issue of HIV/AIDS. As Dr Meneses, said: 'there is no authoritative body or committee yet in parliament that understands the depths of the issue'.

The decision to distribute free anti-retrovirals and the influx of generic drugs into the country were not discussed in the legislature and undergo any special legislative provisions because this falls within the 'Medication Law' passed years ago. The decision to provide anti-retrovirals to the public was also not debated in parliament or in civil society; it was based on a general agreement that the medication had to be available. Even the fact that generic drugs were to be manufactured in the country in partnership with the Brazilian government was not debated within parliament or civil society; the decision was simply announced by the government.

There has been a consistent lack of follow-up and monitoring by the legislature.<sup>2</sup> Employers know that the legislation against discrimination has been enacted but it is still up to them to decide how seriously to take it in terms of providing information to their employees and not discriminating against those who are HIV-positive.

### **3. CONCLUSIONS AND RECOMMENDATIONS**

If we take Ball's definition of parliament as a link between the governing and the governed whose function it is to represent the aspirations of the people and regulate government, we can only conclude that the Mozambican legislature has a long way to go if it is to address the HIV/AIDS tragedy unfolding in the country. The fact that no debate has yet taken place at a plenary session illustrates the lack of progress in building a common understanding and developing leadership, and it becomes easier to understand why a strategy, policy and programme have not been designed and implemented.

The interaction with other state institutions and civil society has to be strengthened and better managed. So far, perhaps because the legislature has not been a driving force, the government and the CNCS have not developed a relationship of accountability to the legislature on HIV/AIDS matters. The legislature's monitoring and evaluation procedures need to be examined and evaluated.

The present study recommends that a number of activities and procedures be implemented. These include:

- **Set an agenda.** To be fully informed about the threat that the AIDS pandemic poses to the country, parliament has to put HIV/AIDS on the agenda of its plenary session every year. Only by debating it in plenary and understanding the root causes, the implications and the impact of HIV/AIDS on the development and security of the country, parliament will be able to set its own strategy and establish the mechanisms to monitor whether what is being done by the government and civil society organisations is enough to meet the magnitude of the challenges.

Parliament has to be more proactive in drafting and passing legislation and resolutions that protect different groups within society. HIV/AIDS has been declared a national emergency, and Mozambique is a signatory to a number of international declarations and resolutions calling for policies to transform knowledge into public policy and to increase social and public commitment to mitigate its effect. So far, though, this has not been translated into drafting and adopting policy.

- **Define strategy.** Parliament needs to define a strategy to raise awareness of HIV/AIDS in general, and in particular its impact on more vulnerable groups. It has to be incisive in fighting stigma and discrimination by educating society to be more

caring and compassionate. Internally a strategy must be adopted to ensure awareness among MPs.

The legislature needs to ensure that it has adequate and disaggregated information on the state of the pandemic at regional, provincial and district levels. This will enable it to work properly with different target groups within constituencies such as the elderly, women, youth, people with disabilities, and so on. Merely going to constituencies and passing on information as is currently done is insufficient because different groups have special needs.

- **Prioritise HIV/AIDS.** The portfolio under which HIV/AIDS falls is simply too broad. In light of the fact that HIV/AIDS has been declared a national emergency, there has to be a group or committee that concentrates solely on HIV/AIDS and related matters and it needs to be given the necessary powers to interact with other government institutions, civil society and the international community. Only then can a mainstreamed response to HIV/AIDS in parliament be properly implemented.

- **Training.** MPs need to be capacitated. In the area of HIV/AIDS, it is not just a matter of providing awareness workshops and a booklet, but a continuous programme of providing current information and people skills to enhance the ability of MPs to deal with such sensitive issues as sexuality and HIV/AIDS.

It is also imperative that legislators be capacitated to understand and analyse information given to them, and to design adequate programmes and legislation that reflect the needs of the electorate and the country, taking into account the diversity and the multitude of issues that the HIV/AIDS pandemic presents.

- **Stronger interaction with government.** The legislature has to call on the government regularly to make presentations on the country's current HIV/AIDS situation and to explain the implications and impact of it on the development and security of the country. Also the government must inform the legislature about what role the latter could play as an assembly and also as individual parliamentarians.
- **Public hearings.** In light of the proportional representation electoral system it would be expected that an institution that represents the people's aspirations would use public hearings to engage in consultations with the nation. To ensure direct and optimal relationships with constituencies and to maximise its mandate, parliament must make a point of holding regular hearings with civil society representatives.
- **Effective oversight.** Interaction with other state institutions and civil society has to be strengthened and better managed. The recent proposal from the executive director of CNCS to develop guidelines for articulation, complementarity and interaction between the institutions demonstrates that parliament's oversight role is still limited and should be expanded and strengthened.
- **Accountability.** Parliament needs to be able to determine whether the resources allocated by the government in the budget correspond to the commitment required for a national emergency and reflect the needs of the country.
- **Monitoring and evaluation.** Parliament has to monitor and evaluate the performance of the government and the CNCS annually. The government and the CNCS have not developed a relationship of accountability with the legislature in matters relating to HIV/AIDS. The legislature's monitoring and evaluation procedures should be examined and re-evaluated.

- **Regular interaction with other parliaments in the region.** This interaction should be aimed at increasing the mutual transfer of knowledge and experience between different parliaments so that despite the different phases and contexts that each country faces the gap between the most active and the non-active states does not become too big, and so that other parliaments can pressurise their peers to step up the fight against the pandemic.

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<sup>1</sup> The IPU is the body that brings together representatives of national parliaments from around the world.

<sup>2</sup> In October 2005 after the conclusion of the present report, the Mozambican parliament created an HIV/AIDS office within parliament to deal with the effects, implications and impact of the pandemic both inside as well as outside of parliament.