



Africa Philanthropy Network

Voice and Action for African Philanthropy



micaia



**Synthesis of the Existing
Assessments of the Legal
Environment for Civil Society
Organizations including
Philanthropic Support
Organizations in Mozambique**

APN 2021.



ACKNOWLEDGEMENTS

We would like to acknowledge the contributions of the Dutch, Ministry of Foreign Affairs for providing funding under the GfC program, the consultant and heads of the National Anchor Institution (NAI) in Mozambique under the GfC program for planning, organizing and coordinating the implementation of this assignment in their country, the national stakeholders for participating in the validation of the report and their input to improve the Draft Assessment Report as well as any other person who participated in one way or the other in making the production of this report a reality.

We thank all the GfC consortium members for their advice and input to making this assignment completed in time with good quality.

Published in 2021



ABOUT US

Africa Philanthropy Network (APN) is the continent-wide network of African owned and African-led organization which promote the culture of individual and community philanthropy and acts as a space for indigenous institutions in Africa to interrogate and intervene in the power dynamics that shape how resources mobilization, distribution and spending impact the possibilities of transformation change. APN envision a strong and effective philanthropic community, striving to build equitable and just societies in Africa. Its Mission seeks to reclaim the power and elevate practices of African philanthropy. In achieving this mission, APN is working in collaboration with its members and other philanthropy support organizations to promote voice and action of African philanthropy through building of solidarity and coordinated response in African philanthropy landscape; rethinking and build the case for the potential for African (individual and community) philanthropy to drive social and systems change.

ABOUT THE REPORT

APN in collaboration with the Fundação Micaia in 2021 engaged the services of Jaime Chivite, an independent consultant, to conduct a study on Synthesis of the Existing Assessments of the Legal Environment for Civil Society Organizations including Philanthropic Support Organizations in Mozambique to thrive.

The report forms part of the body of work of the Giving for Change (GfC) program. This synthesis provides a baseline data for influencing in-country national state and societal actors to support the development of community philanthropy by creating favorable conditions to promote the power of domestic philanthropic giving as a form and driver of social and systems change.

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ONE: LIST OF ACRONYMS AND ABBREVIATIONS

APN - African Philanthropy Network

CBOs - Community Based Organizations

CSOs - Civil Society Organizations

CFLI - Canada Fund for Local Initiatives

GfC - Giving for Change

GFCF - Global Fund For Community Foundations

GDP – Gross Domestic Product

IDPs - Internally Displaced People

NGO - Non Governmental Organizations

PSOs - Philanthropy Support Organizations

UNDP - United Nations Development Programme

TOR's - Terms of References

VAT - Value Added Tax

TWO: BACKGROUND AND INTRODUCTION

2.1 SCOPE OF THE STUDY

This is the draft report for the consultancy on the Assessments of the Legal Environment for Civil Society Actors including Philanthropic Support Organizations in Mozambique. This draft report is one of the key deliverables to be shared with the project management.

The African Philanthropy Network (APN) and Fundação Micaia have partnered to contract a consultant to synthesize the existing Assessments of the Legal Environment for Civil Society Actors including Philanthropic Support Organizations in Mozambique. The consultancy is a tool to help understand the general failure to tap into domestic resources, which is an indispensable factor for the resilience of civil society and sustainable development in Africa. Freedom of association, as recognized in the international and regional treaties, provides a legal basis for the protection of Civil Society Organizations (CSOs). As the APN and Fundação Micaia write, there are countless ways in which legal frameworks at the national level fail to protect this right and/or do not provide an enabling environment for CSOs. With its longstanding experience, the APN ascribes this partly due to lack of favorable infrastructure and of an enabling environment for civil society organizations (CSOs) including philanthropy. People are willing to donate for good causes, but CSOs and philanthropic institutions in many countries face serious barriers that prevent them from accessing these resources. Many African governments place legal requirements that discourage CSOs from raising their own funds, such as time-consuming registration procedures and burdensome reporting requirements. This increases the importance of investing in a clear legal framework for local resources mobilization and raising awareness on relevant legislation among local organizations. If civil society organizations have a better understanding of the legal framework, they can more effectively hold governments to account for their social responsibilities. And, they can engage the authorities by demonstrating how investing in public goods can also bring benefits to the government. “This is a case where more knowledge really is more power”.

The Giving for Change (GfC) program sets out a bold vision for transforming how “development is done” by focusing specifically on the recognition and importance of domestic resources in increasing local ownership, unlocking agency and strengthening communities’ ability to claim entitlements from different actors, especially government. Specifically, the research would provide baseline data for second domains of the program that focuses on influencing in-country national state and societal actors (government, emerging philanthropists, individual donors) to support the development of community philanthropy by creating favorable conditions to promote the power of domestic philanthropic giving as a form and driver of social and systems change.

The main objective of this consultancy is to synthesize the existing assessments of the legal environment for civil society organizations (CSOs) including philanthropy support organizations (PSOs); and analyse options for how to engage in Mozambique. The Consultancy will assess five (5) key issues among other things: (i) Registration, (ii) Taxation, (iii) Fundraising, (iv) Oversight, and (v) Policy engagement. Mozambique faces different challenges when it comes to the 5 key issues that the consultancy wants to look at.

2.2 COMMUNITY PHILANTHROPY

This brief section presents some of the definitions of community philanthropy that inform this study. While the study is directed at providing an overview of the legal framework for domestic resources mobilization, it is important to clarify the normative point of departure of the authors in analyzing the potential for domestic resources mobilization. This is even more important when discussing state/government oversight and CSOs engagement in policy, two fields that are highly normative when it comes to interpreting their adequacy for domestic resources mobilization.

According to The Global Fund For Community Foundations (GFCF),^[1] Community philanthropy is an essential part of broader efforts to move away from top-heavy and top-down systems of international development and philanthropy, towards a flatter and more equitable paradigm of people-based development. Some examples of Community philanthropy are: community foundations, women's funds, environmental funds, LGBTQI funds, national public foundations etc. and new ways of working (such as participatory grantmaking, giving circles and community asset mobilization)^[2]. In this sense, it is crucial to clarify here that in our recommendations, we also judge the adequacy of domestic resources mobilization in terms of their suitability to potentiate people's based development.

While not all community philanthropy initiatives are related to development assistance as such, they all share in common the fact that they are bottom-up initiatives with significant participation of local communities in the decision-making process pertaining to the collection and allocation of resources. According to the GFCF, Community philanthropy organizations have been formed by local context and culture, and by people often frustrated by the failures of traditional development aid^[3], anxious about the sense of disenchantment in their communities, and inspired by the belief that without local resources, local leadership and local buy-in, inclusive development projects will continue to fail.. The GFCF states that the logic of community philanthropy is simple (GFCF)^[4]:

- It is based on the idea that all communities have assets (money, skills, knowledge, networks, etc.). When these are pooled together, they build community power and voice.
- When people contribute their own resources they start to feel like co-investors with a stake in their own development; they care more about the outcomes and act in ways that advance and protect their collective interests.
- When local resources are brought to the table, a different, flatter kind of power dynamic is created when dealing with external donors, which challenges traditional donor-beneficiary imbalances.
- Local resources help create new, more horizontal forms of accountability (to the community, not just external donors), which are based on trust and transparency.

[1] (GFCF) available in: <https://globalfundcommunityfoundations.org/> accessed in 16th July 2021 (01:12 PM)

[2](GFCF) available in: <https://globalfundcommunityfoundations.org/what-we-stand-for/community-philanthropy/> accessed in 16th July 2021 (01:17 PM)

[3] (GFCF) available in <https://globalfundcommunityfoundations.org/what-we-stand-for/community-philanthropy/> accessed in 16th July 2021 (01:34 PM)

[4] (GFCF) available in <https://globalfundcommunityfoundations.org/what-we-stand-for/community-philanthropy/> accessed in 16th July 2021 (01:54 PM)

Community philanthropy also defies the dominant logic in project design and implementation, which emphasize log frames and previously designed activities and results. According to European Foundation Centre (2019)[5] building local philanthropy is a slow, painstaking process: “But, on the other hand, it is important even in its relation with international donors, in the way that external donors can play a critical role in providing matching and core funding; And they also have much to gain by working with local partners who can target grants and other support deep into communities that are normally beyond the reach of external donors. Community philanthropy also offers some important insights into how to build a more democratic, respectful and resilient (both politically and financially) foundation for the exercise of active citizenship”.

GFCF considers that with an emphasis on local assets, local decision-making and a long-term view, community philanthropy is a strategy to achieve durable development. That means strong, resilient systems and organizations that are rooted in their constituencies.[6]

Community philanthropy is thus an avenue into building a different development landscape, populated by civic actors with radically different logics from those prevailing in the current context.

2.3 PROCESS AND METHODOLOGY

The study included a desk review of legal documents pertaining CSOs legal status and operational environment, as well as a reading of different studies on the civic space in Mozambique and its challenges for resource mobilization and financial sustainability in Mozambique. Semi-structured interviews with key stakeholders in the Ministry of Justice, Ministry of Economy and Finance and in the Civil Society and Community Based Organizations (CBOs) sectors provide an understanding of how law and regulations are actually lived in the everyday reality of aid and social mobilization. This was important not only to understand how the law in Mozambique is implemented, but whether it is implemented at all. Most of the studies on CSO constraints, and indeed, on the adequacy of laws and their implementation, do mention that Mozambique has a good legal environment, but lacks the political will to implement it. The way key stakeholders understand the implementation of the law was actually more important to derive knowledge of the challenges to domestic resources mobilization than merely legal dispositions of the law itself. To capture issues, the interviews covered some selected government sectors where collaboration between Government and CSOs is an operational norm (such as health, agriculture and social assistance), and public-private, and public-philanthropic synergies are more common in the provision of public goods and the protection of rights.

2.4 CHALLENGES IN THE DATA COLLECTION EXERCISE

The evaluation has certain limitations, as it did not focus decisively on political dynamics that also inform the legal environment. This limitation can be addressed in future studies through a focus on instances of non-decision-making in CSOs dealings with the state. The fact that laws can be passed and subsequently

[5] European Foundation Centre (2019) <https://www.efc.be/blog-post/community-philanthropy-its-a-thing-and-you-need-to-know-about-it/> accessed in 16th July 2021 (02:35 PM)

[6] (GFCF) <https://globalfundcommunityfoundations.org/> accessed in 16th July 2021 (02:45 PM)

ignored by the government means that an eventual success in mobilizing for the design of more responsive laws for domestic philanthropy, albeit a good step in the right direction, will still fall short of achieving the desired result of CSOs increased domestic resources mobilization.

THREE: DETAILED FINDINGS AND ANALYSIS

This section details the main findings coming from the study. The findings are discussed here under different dimensions crucial to CSOs and philanthropy organization's ability to mobilize domestic resources, namely: (i) Registration, (ii) Taxation, (iii) Fundraising, (iv) Oversight, and (v) Policy engagement.

3.1 REGISTRATION OF CSOS AND PHILANTHROPY SUPPORT ORGANIZATIONS (FOUNDATIONS) IN MOZAMBIQUE

1. Registration of Associations

In Mozambique, the state has formally a positive stance towards the legalization of institutions. CSOs' registration is dealt with under Law 8/91, from 18 July, which dates from the onset of its democratic transition. This law deals both with how CSOs are formed, their internal governance structures, and their relationship to the external environment, and provides guidelines on how associations should deal with the State. It is important to add that the Commercial Code and the Civil Code also have provisions on how associations should rule their internal affairs (e.g. articles 167 to 184 of the Civil Code).

While the law is quite permissible for the set-up of associations, the enjoyment of the freedom of association that it enshrines is hampered by a host of factors connected to how registration is supposed to be done within the framework of state institutions in Mozambique. When it comes to registration of associations, citizens face a variety of challenges, most of them having to do with cumbersome bureaucratic requirements and at times lack of concrete information (or outright disinformation) from civil servants. The only mediatic example of a CSO being denied (or better, delayed) registration is Lambda, an organization that aims to deal specifically with LGBTQ+ issues. Challenges to registration are discussed below.

In Mozambique, freedom of association is a matter of literacy, not merely an act of citizenship, as the state lacks ready-made templates for citizens to use and formalize their ambition to join an association. The process, by design, is quite simple and straightforward, and the steps in the process of registration are more to ensure the integrity of the future association than to block its existence. To register an association, the law requires at least ten (10) people to come together and produce detailed legalistic minutes of the constitutive meeting, which demands expert knowledge virtually absent outside the major urban centres. The demand for 10 people has to do with the fact that the three governing bodies of an association must have 3 persons in each, making 9 in total, the 10th being a substitute in case of a potential vacancy.

According to the USAID, Mozambique's overall literacy rate is 47 percent, and female literacy (28 percent) lags far behind that of males (60 percent)[7], with the numbers heavily skewed towards urban centres. UNESCO writes that illiteracy is more prevalent in rural areas, where 57% of non-literate people live compared to 23% in urban settings[8]. In this context of low literacy rates, many of the other demands from the association law become difficult and can only be enjoyed by a few literate citizens, or by communities and citizens that benefit from the assistance of other philanthropic citizens or CSOs that mobilize for community engagement.

[7] <https://www.usaid.gov/mozambique/education>

[8] <https://en.unesco.org/news/learning-literacy-family-mozambique>

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The aspiring members of the association also have to guarantee that the proposed name of the association is free for use and not subject to copyright, through a preliminary process of reservation of the name in the registry of legal entities. After the name reservation is done and confirmed by a government issued certificate, the minutes already prepared have to be duly signed by the ten (10) members, followed by the recognition of the signatures and the authentication of the copies of the Identity Cards of the members by civil registration services (Cartório Notarial), as well as the proof of criminal background checks for each prospective member at the Conservatória do Registo Criminal. This process would have been quite simple if it were not that the most basic document of all, an Identity Card, is still a luxury for many Mozambicans, and to get one issued in rural areas is still an administrative challenge given the low distribution of civic registration offices equipped with the advanced biometric equipment that produce ID Cards in Mozambique.

Once the above-mentioned documents have been gathered, the application is submitted to the Minister of Justice, and Constitutional and Religious Affairs, at a specific department that oversees the registration of associations, when it has to do with associations with a national reach. Associations who want to work only in one province submit their papers to the provincial executive secretariat. At this stage the founders of the association have put together the following documents: (i) Reservation of the name, (ii) minutes requiring for formal registration, (iii) statutes (not signed), (iv) application, (v) copies of authenticated members' IDs, and (vi) Criminal records (screening background check). As prescribed by the law, the process of legal recognition should take up to 45 days, but in reality it ends up taking up two to more months. Usually, there are only minor issues to be clarified before the application for registration is submitted to the Minister's office for approval, which is usually a mere formality once all documents have been cleared by the lower departments.

The idea of levels of intervention (local or national) as legal requirements, and not as mere strategies of operation to achieve specific goals for CSOs is extremely problematic, as it replicates at the sub-national level the colonial status quo of borders as sacrosanct. The civic belongs to the province, just as the nation belongs to the state. This strategy of control is in Mozambique aimed at the promotion of order under the premise that bottom-up and unabridged freedom of association could lead to secessionist and regionalist tendencies. This leads to the fact that contiguous communities are unable to mobilize and engage at the local level without designing either a nationwide association or creating different provincial associations at each side of the border and then cooperate with each other. This is not a small matter. Mozambique has more than 3000 kms in length. And along this length, all of its 10 provinces but Maputo share border with two others. There is a myriad of citizens at the local level unable to mobilize effectively as their issues cannot be framed at the level they want to engage – the local level.

Despite this legal simplicity, some steps attest to excess bureaucracy. Once the Minister approves the registration, the association has to perform another constitutive act, as by law, an association can only exist once its existence has been approved by the ministry of justice. Therefore, there is a need for the new association to submit new minutes where body members are elected, also indicating who are the people that sign the bank account/s, and a contract by members to set-up a contract for the association, all that duly notarized. Only after this process, will they be able to register the association as a legal entity. For the legal registration the following documents are required: (i) Reservation of the name, (ii) legal recognition, (iii) contract of the association, (iv) statutes of the association, (v) minutes testifying the election of board

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members, (vi) copies of authenticated members' IDs and (vii) a tax of 850,00Mt also with the cost of the form to be filled.

Two things can be highlighted in this process:

- All institutions involved in the process of legalization belong to the Ministry of Justice, Constitutional and Religious Affairs, so it is not clear why the documents submitted in one of them do not work in the other, such as the minutes used for the registration of associations.
- After completing all the above requirements, having the documents submitted to the responsible legal entities (Civil Registration Service and Ministry of Justice Constitutional and Religious Affairs), the process could be approved within 48 hours, but given some setbacks in the system, the process can take more than a week (sick leave, misunderstandings, last minute additions, etc.). For people living in provincial capitals, those might be minor issues. For those having to travel from districts afar, the process can be discouraging for those aiming to create associations.

The whole process to register an association may take up to 6 months. District-level based associations have to move up and down to the provincial capital (the headquarters of the province) to submit their registration. It is a back-and-forth process that for them requires traveling, most of the time long distances^[9] making it cumbersome if not downright impossible for citizens without financial means to register an association.

2. Registration of Foundations

In Mozambique foundations are ruled by the Law 16/2018 of 28 December, which states that foundations are a non-profit legal entity governed by private law. The resources owned by foundations should be committed to the pursuit of social, cultural and recreational purposes. As prescribed by article 5 of this law, differently to Associations and Cooperatives, Foundations can be established based on an act of living people or by a will, by one or more people. This law also allows public entities to be part of a foundation or establish a foundation, but it requires prior authorization from the Ministry of Justice Constitutional and Religious Affairs. Article 6 of this law prescribes that if this procedure is not observed, the establishment of the foundation may be annulled.

Like Associations, Foundations are required to follow almost the same registration process, excepting the first requirement, namely: (i) A consent and recognition should be gotten from the line ministry or entity that oversees the focused sectors/thematic areas, (ii) registration with legal entities and (iii) publication in BR^[10]. Within these procedures are included the same requirements applies for the Associations, such as (i) Reservation of the name, (ii) minutes requiring for formal registration, (iii) statutes (not signed), (iv) application, (v) copies of authenticated members' IDs, and (vi) Criminal records (screening background check).

[9] Mozambique has 11 provinces and 154 districts, the delegation/representation of the Ministry of Justice Constitutional and Religious Affairs can only be found in the capital of the province.

[10] Magazine for legal acts, it disseminates new enacted laws and legal publications, including registration of Associations, Foundations and Cooperatives

THREE: DETAILED FINDINGS AND ANALYSIS

3. Registration of Cooperatives

Cooperatives are autonomous legal entities ruled by the Law 23/2009 of 29 September. There are different types of cooperatives, and they may have different types of capital, but all are required to have a democratic control. The law in this case dictates that the members of a cooperative should contribute financially, in kind and services, so that the cooperative can conduct service provision or economic activities aiming at common benefits, through jointly coordinated actions. The law also stipulates that in this type of collective investment, members of the cooperative have potential risks that must be shared collectively. While cooperatives do not fit neatly into the non-profit category of CSOs, they are included here as they are not merely for-profit, but also have normative ambitions connected to social change and the betterment of the conditions of their members or a specific societal/professional group. There is, imbued in the cooperative ideal, the principle of empowerment and social change, which makes them a quasi-market or quasi-CSO kind of organization. Additionally, the state also regulates how profit should be used, a demand that is not present in purely private, market entities.

The formal registration of a Cooperative has simpler requirements than the previous ones (Associations and Foundations). It is up to the members of the Cooperative to decide which grade of the cooperative. The law stipulates what each grade does or what differentiates one grade from the other (Article 3 of Law 23/2009 of 29 September). Cooperatives of the first grade should have at least two (2) members, while Cooperatives of second grade should have at least five (5) members. Note that there is no indication as of the maximum number of members.

After choosing the grade of the Cooperative to be established, the members (i) are required to work on their statutes, and then (ii) they draft the minutes of constitutive meeting containing the names of the founding members, their shareholding position, and the contribution of each member in the composition of the collective capital. Once both documents are signed, the signatures must be recognized by the Civil Registration Service (Conservatória dos Registos Notariado), attaching the copies of the authenticated IDs, for later submission to the legal entities for registration. There is a fee to be paid right at the registration of the submission, and this fee is defined according to the social capital of the cooperative. The law has a pre-fixed price list. If the Cooperative already has assets at the time of registration, a public submission list of these assets (subscritura pública) must be made, if not, the above listed documents are enough.

3.2 TAXATION

Taxation is a grey area for civil society organizations, as there are both provisions for tax exemptions and political mechanisms to limit the enjoyment of these exemptions. Decree 37/2000 from 17 October states that CSOs and Foundations deemed to be of public utility can benefit from tax exemptions, and defines in its article 1, on public utility associations, that:

1. public utility associations are collective persons that pursue ends of national or communitarian interest, and that cooperate with the public administration in service provision at the central or local levels.
2. cooperation with the public administration, state or municipal, has to be established in clear terms through written agreements or visible contractual relations of cooperation under the penalty of the cooperation not being considered existent.

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For a CSO to be declared of public utility, the following cumulative conditions have to be met (article 2):

- a) No mention in its statutory dispositions restrictive criteria of admission of members based on nationality, ethnic group, religion, race, sex, place of birth, level of instruction, and social position;
- b) contain in its social goal the contribution to the country's or community social development, or develop its activity primarily in areas such as education, health, teaching, health, sports, and culture.
- c) Proof of existence of necessary financial means for its functioning, as established in law 08/91 from the 18 of July.

In Line b), point 3, article 4 of the Decree, the government stipulates that CSOs should show a "proof of existence of relationships between the association and public administration". Hence, the legal enjoyment of tax exemptions is dependent on a political decision by the government department overseeing the area the CSO wants to operate. For that, point 4 of article 4 of the Decree stipulates that the proof consists in a signed contract between the representative of the association and the public administration specifying the cooperation activities existent between the two.

Despite the room for political interference in the ability of CSOs to get tax exemptions, the law is quite flexible when it comes to eligibility to become a public utility, demanding merely that, as one of their duties as a public utility, CSOs have to collaborate with public administration institutions within their statutory framework Line c), article 2.

The obligations are also quite accessible. Lines a), b), c), and d) of article 9, on obligations of associations of public utility, state that CSOs have to:

- a) send annually to the Ministry of Planning and Finances and to the Administrative Tribunal their report and accounting from the previous year;
- b) Provide information demanded by the Ministry of Justice, by the entity supervising its area of activity, or to who they might delegate;
- c) Collaborate with the state and local autarchies in service provision in terms defined in their statutes;
- d) Make available their installations for the realization of related activities when asked by the government or by association of the same nature, in the condition that they leave the premises in the same condition as before its use by the soliciting entity.

The following discussion pertains to CSOs that are not public utility institutions. In Mozambique, CSOs are taxed when they pay for goods and services in the market as they are not exempt from the Value Added Tax (VAT) and personal income tax when it comes to private persons. Companies who provide services to CSOs pay by themselves out of the revenue of the contract, but in many instances CSOs opt to deduct the revenue tax directly from the value of the contract and make the payment directly to the state. They can recover those funds in some instances once they report back to their donors. It is the donors that interact with the government of Mozambique to recover the funds their domestic partners paid in terms of the different taxes.

There is however no direct domestic mechanism between the government and CSOs for the refund of taxes paid by national non-profit organizations during their operations. Regarding Associations, the Law 8/91 of 18 of July does not provide clear guidelines related to funding or how the funding of Associations

should occur, but in its Article 13 it mentions exemptions which should be granted to those actions or activities declared to be of public utility.

The government has a bilateral agreement with specific donors such as the USAID and the European Union. This area is prone to abuses by private persons who use CSOs ability to avoid taxes as a way to piggyback goods for private consumption. However, the most mediatic cases are those of established political parties using the waiver in import tax to import goods to private persons.

As for Foundations, the Law 16/2018 of 28 of December in its Article 21 lists all exemptions allowed for Foundations for purposes related to public utility, such as VAT, Stamp Duty, SISA (a specific tax in place in Mozambique) and others, in case they need to be enacted.

Foundations that are not declared of being of public utility do not have a legal obligation of financial accountability towards the government and in this sense, they are not entitled to benefits. The declaration of public utility is the act that confers foundations the right to benefit from exemptions. The same goes for associations and cooperatives, but being voluntary, many opt to avoid it. There are perceptions that this is to guarantee independence from the government, as in many instances, when it comes to private companies, government financial and operational oversight has led to the collapse of many independent business or businesses from many who are perceived not to be politically aligned with the government.

3.3 FUNDING/ RESOURCE MOBILIZATION

In Mozambique, there is no Philanthropy law, and the closest the legislator has come to private donations to social causes is through the Law on Patronage (Law 4/94, 13 September). This law is the main document outlining how private actors can donate in Mozambique. According to the preamble of the law, the goal was to open up the civic space for the entry of private actors to boost the support of the state. The law states in its article 1 that:

- 1)The present law establishes the basic principles that allow to extend the actions of juridical persons, individuals or collectively, public or private, that develop activities, or, financially and materially support them in the fields of arts, literature, science, culture and social action;
- 2)the financial and material support will be acquired in the form of donation.

The application of the law was later extended to in 1998 through a Council of Ministers decree to include the areas of sport and the environment.

The law has two destinations:

- associations constituted according to the law 8/91, and the remaining associations and entities public or private that, without goals of confessional or party proselytism develop, without profit ends, actions in the context of the present law (line a, article 2);
- juridical persons, private, singular or collective, that carry out or support, without profit ends for its members or owners, actions in the context of the present law (line b, article 2).

The nitty gritty of the law and its implementation mechanisms have rendered it virtually useless. A major drawback of the law is that it was approved before a major overhaul of the tax system. This change in the tax code rendered almost useless the supposed benefits that the law brought to potential donors. New taxes were introduced, such as the Value Added Tax (VAT), the Revenue Tax on private and collective persons, and so on. Issufo and Calu (2008: 2) consider that the depth of the reforms was detrimental, and rendered almost useless, both the law on patronage and its regulation, as the plethora of incentives that could be inserted in the framework of the law are scattered around different tax codes. Besides this legal drawback, the institutional design of the process discourages donors as in order to benefit from the exemption, it is necessary to get the approval of all entities that supervise the area at the provincial and central level, as well as the Ministry of Finance.

Another aspect raised by Soraya Issufo and Eduardo Calu (2008:2) is that the law is restrictive both in terms of its scope (leaves aside many other areas of activity) and also on its beneficiaries (leaves aside the state and municipalities). For the authors, state philanthropy would allow the state to receive much needed resources to invest in its development programs.

Limited scope, narrowing of potential beneficiaries, changes in the tax code, and complicated regulations have limited the success of the law. Although all the causes covered by the law have a vibrant civil society operating and fighting for change, this does not translate in increased space for domestic patronage. The battle for a philanthropy law is thus urgent, albeit an uphill one.

Even if one tries to make an extended understanding of the law, and concentrates in its operations, one sees that the law does not cover much that happens in the fields it intended to cover. In the domain of health for instance (number 6, article 4, Chapter II, Law 4/94, 13 September), the text considers eligible to tax deductions the following: The financing of scholarships for areas approved by the Ministry of Health, donation of equipment to school or hospital labs, and contributions to support efforts to an epidemic. The same goes for other eligible domains. A newspaper article in 2013 reported that 19 years after the law was passed, it had still not achieved its desired results, and major actors in the field of culture for instance did not interact or benefit from it. The situation reported was at the level of Maputo city, and in the report, there was skepticism that if not applied in Maputo, the law was being applied elsewhere in the country^[11]. On the other hand, and in what is crucial for critical social change, democracy and democratic participation is still not an area where citizen philanthropy is encouraged in Mozambique.

Despite the limitations of the patronage law in boosting domestic giving, and the absence of a proper charity regulation (philanthropy law), there seems to be no specific laws determining what kind of organizations can or cannot finance CSOs in Mozambique. The Association law (Law 8/91) did not have any provision in relation to financing or forms of financing. However, Article 13 mentions some exemptions but those are to be given to institutions deemed to be of public utility, as through this designation they have the obligation to submit their yearly financial reports to the Ministry in charge of finances and to the administrative tribunal. By the reading of this article, one can infer that for associations that are not public entities there are no legal reporting

[11] Jornal Notícias, Reportagem - lei do mecenato: desconhecimento mina patrocínio às artes, September 11, 2013

obligations towards the state.

As long as the CSO is registered in the country, funds are merely supposed to be followed by a proper justification (a valid contract between the two organizations, for instance). Local CSOs are not allowed to finance CSOs outside Mozambique, given the country's status as a low-income country, which makes it difficult for the country to act as a hub for regional non-profit financing. For instance, personal accounts relate that international NGOs with regional offices in Maputo were not allowed to transfer funds from Maputo to their regional affiliates. Transactions had to be made as commercial transactions and not as philanthropy. In a hypothetical scenario, to help refugees in Malawi, an organization has to buy goods and services directly to refugees and not send the money to a local partner who better can deal with the logistics of humanitarian support in the field. It is hence easier to transfer funds from European partners to countries in the region.

When it comes to Cooperatives, the Law 23/2009 of 29 of September states the following in its Articles 3 - 5: (i) "When Cooperatives carry out operations with third parties, the revenues from these are registered separately from those stemming from operations carried out with Cooperatives, (ii) the net annual surpluses generated by operations with third parties are calculated by proportionally reflecting the totality of all charges, provided that the prices charged are identical for members and for third parties and (iii) the net surpluses generated by the operations referred to in the previous number revert to the reserve for Cooperative education and training, or, upon statutory provision, to another indivisible fund aimed to the provision of services to members and their families, community or employees".

Article 3 (which combines with Article 11 of the same law) explains that in the case of first grade Cooperatives, third parties provide direct service to the members of the Cooperative and in the case of second grade Cooperatives, these may also join federations and confederations, in which their objectives are not members but the services of their branches. Article 5, number 3, recommends that, in addition to what the Cooperative can produce, there must be a separate book (and not only in the same book that describes what the Cooperative produces) where the amounts received and spent on operations with third parties are registered. Numbers 4 and 5 describe how the division of the amount received from third parties among the members of the Cooperative should be done, always in accordance with what is recommended by the statutes of the Cooperative itself.

Article 93 of the law on cooperatives also mentions that Cooperatives may receive subsidies prescribing that subsidies granted by the government or public entities for the acquisition of tangible fixed assets are not subject to distribution among the members of the Cooperative, and are to be recorded in a balance sheet account, to be included in the net worth. Article 94 refers to the creation of specific legislation regarding the exemptions for Cooperatives.

Despite the absence of a legal framework for fundraising for charitable purposes, there are two approaches used by CSO for their fundraising or resource mobilization, (i) Internal Fundraising Approach and (ii) External Fundraising Approach. Most of the national CSOs have an internal fundraising approach prescribed in their statutes formally approved by the government during their registration process. This applies for the associations, foundations and cooperatives. They have in place annual fees to be paid by individual and

and collective members depending on what the statutes prescribe and nature of the CSO. The same statutes also prescribe penalties and sanctions for those members that fail to pay their membership fees. The penalties and sanctions range from losing the right to vote and/or not participating in some key CSO events or sessions, up to losing the CSO membership status.

Experience shows that the annual fees charged to CSO members are undermined by the following two factors:

- First, the commitment of individual and collective members to comply with the obligation of paying the fees regularly and timely, is very low. There are many defaulters, and the application of the prescribed penalties and sanctions have been ignored, to the extent of making the penalties and sanctions ineffective and deliberately neglected.
- Second, the formally approved annual fees in place in most CSOs are very low, to the point that, even if they were charged in the optimal scenario (all members paying), they cover below ten percent of the basic needs for the functioning of the CSO. This means that, in the optimal scenario of collecting annual fees of most CSOs, it does not ensure basic financial sustainability criteria for the CSO to function and operate.

The Internal Fundraising Approach is in practice just a figurative strategy in most of the CSOs operating in Mozambique. The bigger and more visible ones fundraise externally from different public and private sources.

There is also an economic dimension being advanced as a constraint for local resources mobilization by CSOs (Mosca 2010), and which provides an interesting discussion into the potential degree of success of community philanthropy initiatives. António Mosca argues that Mozambique has an economic level that defies the ability of CSOs to find local financing. With a GDP per capita of US 448 (at the time Mosca wrote, and citing data from the UNDP, Mozambique's GDP was US 364). This is because Mosca seems to adopt a quantitative approach to domestic resources mobilization, looking at per capita income or GDP as a function of resources availability for domestic financing. He uses a study from the statistical bureau to justify the potential of foreign resources mobilization. The study showed that in the middle of 2006, CSOs mobilized US 300 to US 320 in revenues and expenses, divided into 70% from external sources, 25% from the domestic market, and 3% from the state. Mosca shows that, domestic resources mobilization accrues to a very small percentage of the resources mobilized by CSOs. Alternatives for the expansion of the financial base of CSOs are understood by Mosca as a number of changes that would ultimately make them more attractive for external donors.

In this quantitative scenario the potential for CSOs to raise resources lies in building increased trust with external donors through increased efficiency in the execution of its activities. For that, a number of things need to be accomplished by CSOs, like greater integrity, transparency and probity, competence, effectiveness, and capacity to implement useful programs for society. With this achieved, they would be more attractive to foreign donors and increase these donors' direct financial allotment to CSOs, either through the reallocation of funds currently being sent to the state or through new resources being allocated for CSOs (2010: 79-80). In Mosca's approach, there is a zero sum game between civil society and the state when it comes to resource mobilization, and as a result, strategies for domestic resources mobilization could be seen as also having the potential to divert resources away from the state to civil society in a competitive fashion.

One important point in domestic resource mobilization is accountability towards local actors and communities.

So far, CSOs accountability have been directed towards external donors and, in programmatic terms, they have been accountable to the communities they are supposed to serve more in terms of corporate social responsibility policies than in terms of political accountability.

The External Fundraising Approach is the common strategy by CSOs to seek funds beyond borders. This is done either through global funds for specific thematic areas or through funds specifically earmarked for the country or regions. As it is global development practice, external donors either have a country office or representation based in Mozambique, but there are those who are not based in Mozambique.

Financing modalities seem to impact on CSOs sustainability. Few donors fund programs and projects over the long term (over 6 years), most have midterm (4 - 6 years) and short-term (1 -3 years) financing packages. This has implications for the financial stability of the CSOs as well as for their strategic planning cycle, (i) raising the level of risk of some discontinuity of financing and (ii) lack of solidity in the volume of financing provided by the CSOs, and therefore of their program operations in the different sectors.

Here arises the main challenge of the CSOs, their institutional capacity to fundraise. How are CSOs internally structured to engage in the competitive fundraising process?

- Some CSOs include in their strategic planning cycle a specific strategic objective for fundraising, while others elaborate a specific fundraising strategy. Bigger CSOs have a specific unit that, in institutional terms, continuously deal with fundraising.
- Others, smaller ones, due to their limited institutional structure, integrate the responsibility for fundraising within the programs and operations units, which also has the responsibility for implementing ongoing programs and projects.

The External Fundraising Approach has donor requirements embedded in every funding opportunity they launch. They also define the priority sectors, thematic and sub-thematic areas prioritized in their funding. Some also define the prioritized geographic areas in Mozambique. In this sense, as much as the legal framework determines the form of CSOs, the thematic and regional lay of donor agencies also end-up determining the programmatic and strategic landscape of CSOs in Mozambique.

With the exception of UNDP, the other 4 donors were very specific and clear that their funding was specific for local CSO, although USAID used the terminology of "Local Mozambican Organizations" (Local Entities) underlining that government controlled and government owned organizations in which the recipient government owns a majority interest or in which the majority of a governing body are government employees, are included in the above definition of local organization. Even though UNDP was not quite clear about who should benefit from its funding, initially most of these funds were fully allocated to the government, but afterwards UNDP opened-up for CSOs to apply. At the onset for UNDP, this happened through joint applications between the government and CSO, and later on moved to accepting also CSO own applications. Few CSOs in Mozambique however have technical expertise required to operate in these sectors or thematic areas.

As part of the accomplishment of this consultant work, a random sample of funding opportunities for CSO launched by some donors was taken, with the choice including (i) UNDP, (ii) Canada Fund for Local Initiatives (CFLI), (iii) US Ambassador Special Self-Help (SSH), (iv) Global Partnership for Social Accountability (GPSA)

and (v) USAID Mission in Mozambique.

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Again with the exception of USAID, the other sampled donors were more specific in referring to the fact that those are small grants/awards and funded for a short-term period (less than 2 years). Each one of them defined its own eligibility criteria, but with registration in the recipient country being a common thread. In the case of the CFLI, international, intergovernmental, multilateral and regional institutions, organizations and agencies working on local development activities could also apply. USAID was more explicit and excluded foreign CSOs by stating that local organizations are entities that should (i) be organized under the laws of the recipient country, (ii) have its principal place of business in the recipient country, (iii) be majority owned by individuals who are citizens or lawful permanent residents of the recipient country, (iv) be managed by a governing body, the majority of whom are citizens or lawful permanent residents of a recipient country, (v) should not be controlled by a foreign entity or by an individual or individuals who are not citizens or permanent residents of the recipient country. In general, the concept of local CSO used by these donors includes national NGO, CBOs and FBO, and they all stress that they should be registered as per the law of the recipient country.

There is an effort of the sampled donors to make the eligibility criteria easier and simpler in order to enable more inclusion of the different CSO' segments eligible for their funds. But most of the national NGO, CBO and FBO, in terms of institutional capacity, including fundraising capacity, are not able to meet these eligibility criteria, like the requirement of writing the proposal in English, the requirement of ensure a certain contribution to the proposed project like CFLI and USAID, or high levels of technical expertise as demanded by UNDP priority sectors and which most of the national CSOs do not have.

Within the selected sampling it is possible to see that most of the donors are funding service delivery interventions; only the GPSA is funding advocacy related interventions (social accountability).

3.4 STATE/GOVERNMENT OVERSIGHTS ON CSOS AND PSOS

Public financial oversight of nonprofits is practically absent in Mozambique. As non-profit, they do not generate taxable income to be redistributed to owners of shareholders, and in this context, there is in theory no company money to be withhold from the government. All funds received are supposed to be spent as per

contractual obligations with donors, and usually CSOs have their accounts annually audited either directly by their donors or for the donors through national auditing companies. This absence of public financial oversight is however a two-edged sword. On the one hand, it means that public officials do not use their power of financial regulation to stifle the ability of CSOs to implement their activities. On the other hand, financial malpractices within CSOs are not effectively punished, leading to CSOs being particularly vulnerable to predatory behavior on the part of unscrupulous staff. Coupled with donors zero-tolerance for corruption, individual corrupt behavior within CSOs, coupled with lack of domestic political oversight becomes in many instances a kiss of death for many CSOs.

There is room for public oversight, but it is limited to institutions of public utility (see section on fundraising, and Decree 37/2000 from 17 October that defines institutions of public utility).

3.5 ENGAGEMENT IN POLICY AND ADVOCACY OF CSOS AND PSOS

The data shows that political rights and civil liberties are far to be fully enjoyed in Mozambique, and this is a crucial factor in understanding the type and extent of social change strategies CSOs are able to conduct in Mozambique. According to Freedom House, and in terms of freedom in the world scores, which is the extent to which political rights and civil liberties are enjoyed, out of 40 points Mozambique scored 14 in political rights, scored 31 out of 60 in freedom scores and out of 100 Mozambique's aggregated score is 45 which is partially free[12]. This gives a view of how and to what extent the political environment in Mozambique enables citizen engagement either in demanding their political rights before the duty bearers, or by influencing duty bearers to ensure and protect political rights.

For instance, the International Budget Partnership (2019)[13] writes that, when it comes to public budget transparency, Mozambique scored (i) 42 in budget transparency, (ii) 11 in public participation in the budget process and (iii) 50 in budget oversight. The score runs from 0 – 100, and countries that score above 60 are considered to be providing sufficient budget information to enable the public to engage in budget discussion in an informed manner. This data gives an image of how the space for CSOs engagement in advocacy processes, tracking public budget allocation and spending in Mozambique is framed and also the possibility for CSOs to influence that process meaningfully and proactively. With such a low score in public participation in the budget process (11 out of 100), it is difficult to picture Mozambique with an open and friendly political environment for civic engagement.

Considering that some CSOs conduct advocacy as part of their core business, it is important to take into consideration the political environment they are operating and conducting their advocacy. Advocacy means here three things: CSO engagement to (a) influence policy[14] formulation or change, (ii) influence policy

[12]Freedom House, Freedom in the World, 2019

[13] <https://www.internationalbudget.org/sites/default/files/country-surveys-pdfs/2019/open-budget-survey-mozambique-2019-en.pdf>

[14] Policy here means policy, law, programme, plan of action, decisions and public speech from duty bearers.

implementation and (iii) influence positive behavior/attitude change. According to the data from the International Budget Partnership, there are significant limitations in Mozambique for CSOs to conduct meaningful advocacy due to the existing political barriers.

Two main points seem to stand out in regard to the policy environment. The first one is related to the nature of state-society relations, and the second one to how policy is conducted in Mozambique. Policy differences are related to how relations between CSOs and the state vary depending on the issue areas CSOs operate and their main strategy of intervention, e.g. advocacy, lobby or service provision. This difference can be divided in Mozambique in terms of the roles CSOs play in society: humanitarian, service provision, and policy change. Humanitarian CSOs seem to report more issues with the government as for humanitarian work to be carried out effectively, and the corresponding legal regime to enter into force in a specific situation, the government needs to declare an emergency. As in the case of the conflict in central Mozambique, declaring national emergencies in contexts where the government denies the existence of a political crisis can be difficult. Organizations operating in this field face as a result more hurdles in terms of tax exemptions and in-kind donations.

The government seems to have a somewhat more stable relationship with service providers, as these organizations deal with perceived developmental gaps in society: access to education, health, nutrition, infrastructure, etc. These organizations seem to report positive relationships with central and local level authorities to a greater extent than others, as their work, in the context of Mozambique, is many times directly appropriated by the government as the result of its development programs.

Policy change organizations are the ones that face a more difficult environment as they challenge the government at the level of efficacy and legitimacy of some of its policies. Policy engagement between those organizations and the government becomes extremely difficult, especially as the government has as an unwritten but forceful rule, where civil servants are only allowed to carry out public consultations with organizations and individuals connected to the Frelimo party (such as the women's, youth, and veteran's leagues – or other CBOs created at local level to implement government programs).

When it comes to politics, the challenge moves away from policy making into how the state views the field of civil society. The following discussion deals with the civic space in Mozambique, in order to get a view on how people think about CSOs and CBOs, the challenges those organizations face, and the ideas on how these civic actors can grow or become more sustainable. This discussion is relevant for the purpose of understanding the potential for community philanthropy in Mozambique as it provides an understanding of how the discursive environment about the civic space is shaped and hence, concomitantly, also provides a glimpse into how people perceive themselves in this environment and the limits they place in imagining and conceiving different and at times radically different realities. Advocacy strategies to change the law have to be anchored on steps that address the challenges posed by this political and policy environment that frames the public space.

As in any other political context, the relationship between the state and society defines the environment where CSOs operate in Mozambique. Since its independence in 1975 from Portuguese colonial rule, and actually following the format of independence, the state has had an extremely conflictual relationship with the idea of

of civility. The absence of a proper civic space in the country, when it comes to an enabling environment for CSOs to prosper, dates from colonial times. Portugal was a dictatorship that ended in 1974 with the “Carnation Revolution”, a fact that constrained both the ability to have legislation amicable for the free association of people in its colonies, and also affected the very nature of the civic associations that were formed: either production associations or literary ones dealing with sociocultural issues. Independence in Mozambique, even though spearheaded by a temporary socialist regime in Portugal, became for all practical purposes the handing of power from a fascist to a communist dictatorship with extremely negative consequences for the development of a civic space in the following three decades.

Boaventura Monjane, in his article *Movimentos Sociais, Sociedade Civil e Espaço Público e Moçambique: Uma análise crítica*, makes a good summary of how this relationship between state and society unfolds in the civil society realm (Mondlane, Boaventura: 2016). For Boaventura Monjane, the fragility of Mozambican CSOs stem from two sides. The first side is related to the domestic political and economic conditions, and the second one is the rural/urban duality in the country. However, the analyst argues that albeit weak, Mozambican civil society is growing and winning a new urban informal space of political debate as a result of the growth in the use of social media and the rise in the number of educated young people with access to social media. The growth in social media participation might actually increase the ability of CSOs to challenge dominant patterns of state-society relations.

In a 2003 article, the late Mozambican academic José Negrão described three different states through which CSOs have passed and which has affected their nature: the colonial period, the post-independence communist period, the humanitarian/emergence phase and the neoliberal democratic period from 1990. According to Boaventura Monjane (2016), The following types of CSOs can be found in different historical periods (see also Benjamim Pequeno 2006 for a similar discussion):

1. Pressure Groups in colonial period: social, cultural and economic emancipation and anti-slavery movements;
2. Communist period (1975-1990) with two kinds of organizations: (1) Mass Democratic Organizations (for teachers, women, and youth) connected to the communist party and working as vehicles for socialist education with state funding; and (2) religious, humanitarian organizations, and professional: The Mozambican Christian Council, Caritas Mozambique, and The National Peasant Association - UNAC.
3. Humanitarian and development CSOs (1990- onwards), centred in addressing the challenges of the war, post-war reconstruction and development - and having as a common perception the idea of filling the development gaps stemming from the weakness of the state.
4. Social movements, activism and regimented associativism: In this latest phase, the country saw a boom in CSOs/NGOs, some actively involved in social change, and others merely implemented conventional development programs as service providers. The civic space was also populated by arrigimented CSOs, connected to the governing party with a mandate to control and piggyback processes of social change.

In the end, the civic landscape is composed of diverse organizations, some of a cultural, religious and regional character, others with a social and recreational purpose, some promoting particularistic interests, others engaged in service provision, advocacy and social movements (Pequeno Benjamim 2006:03).

The political context in Mozambique also leads CSOs to opt for less dynamic forms of social involvement with citizens. In his article "Contornos da actuação da sociedade civil no contexto moçambicano", Orlando Júlio

André Nipassa (2020) writes that in Mozambique a kind of patrimonial relationship between politicians and CSO representatives leads to a voluntary submission of certain CSOs in order to be able to perform in the country. A maniqueist posture by the political establishment, coupled with serious financial shortages in the majority of CSOs, the competitive environment for domestic public and international funds by CSOs, and structural fragilities in terms of human technical resources leads many to succumb to the pressures of the party and falling prey to the party-political patrimonialism - making them unable to adopt a critical and independent posture in defense of the interests of the masses they claim to represent.

According to Nipassa, the 1990 constitution “Opened space for a legal framework for the protection of freedoms of association, political participation, private property rights, and other democratic guarantees that were far different from those from the previous monopoly regime” (Nipassa: Orlando Júlio André 2020: no page). This legal opening of the political space allowed the government to have access to much needed funding from the international community, which also came with funds to support the emergence of a vibrant civil society to promote and defend the rights of citizens in the national arena.

Despite having since 1990 a constitution that enshrines freedom of association and press, the government in Mozambique has actively sought to close the ability for citizens to enjoy those rights. The drive for political supremacy by Frelimo continues through other forms of social control, more discreet in open urban spaces, but totalitarian in rural settings. CSOs who do not toe the official line are unable to operate. This political climate is a follow-up, albeit in informal ways, of the ideological line adopted by Frelimo after Mozambique’s independence. According to João Mosca, after independence, Frelimo proclaimed itself the “guiding force of the state and of the society”. That option made Frelimo into a hegemonic political institution in relation to civil society and the institutional spheres that sustain society: the market, the state, and the family (Mosca 2010:4). Those changes instituted by Frelimo caught by surprise the majority of civic organizations, its leaders and activists (Mosca 2010:5).

Nipassa adds that certain voices within public opinion affirm that the political power is seeking to control, co-opt, and manipulate civil society (Nipassa: Orlando Júlio André 2020: no page). Associations that resist co-option or are critical and emancipatory are actively sabotaged by the government, and are automatically considered to be from the “opposition” (a labelling technique common in states governed by former revolutionary guerrilla movements), putting them under surveillance and engaging in acts of intimidation to limit its interventions and public appearances. Nipassa considers that there is “little space for ‘independents’ in Mozambique. The political rationality of the governing elite (and not only), still dominates the idea that civil society organizations either are with the government or are with the opposition” (Nipassa 2020: no page).

CSOs in Mozambique also make strategic choices that impact on their ability or willingness to engage in grassroots transformative interventions, looking at the challenge behind these strategic choices in three dimensions: substantive, temporal and social (Nipassa 2020). In the substantive dimension, the author mentions the tendency of local CSOs to focus on strengthening their institutional capacity as organizations, conceiving civic participation as an end in itself and not as a means to demand change in relevant public policies. The time dimension occurs in a short and long-term perspective. Nipassa claims that the political rationality of certain CSOs in the public arena in Mozambique is based on a rapacious approach to the market payment of goods and services and avoids commitments with long term social projects. The social dimension is related to criteria for the recruitment of social activists, that can be quantitative (focusing in numbers for

political impact in protests) or in quality (focusing in target recruiting and exclusivist for specialized activists).

All in all, by reading Orlando Nipassa, it seems obvious that current strategies of CSOs for social engagement seem still far from the goal of real grassroots techniques of social mobilization. The three aforementioned dimensions, writes Nipasa, “consubstantiate a model according to which the sense of opportunity for collective action seems to be at the same time a rational but also unstable solution for the dilemma of “submission” versus “comfort” that many Mozambican CSOs face” (Nipasa 2020).

Submission and comfort are not only strategies that respond to a political environment hostile towards freedoms of association. According to Benjamim Pequenino, CSOs in Mozambique can be divided between those who are genuinely representative and others that are induced by the government or international agendas. He argues that the majority of CSOs are representative and advocate for the collective interest of its members and of society in general (Pequenino, Benjamim 2006:04). They are spontaneously created by a group of citizens concerned with solving specific needs felt by a group of citizens, a community or a region. They are usually small and labour-intensive, with resource shortages. On the other hand, many of the more established CSOs are induced by the government or donor agendas, creatures of the political power or of organizations and global frameworks (Pequenino, Benjamim 2006:04). They are well-resourced and well-staffed organizations, with fancy offices and access to TV prime time, seldom leaving the comfort of town to the countryside where the majority of the people live. According to Pequenino, those organizations tend to be highly unsustainable, and they are always dependent on donors and once aid money is spent, if you do not give them more money, they disappear from the market without a trace (Pequenino, Benjamim 2006:05).

Mauro Vombe, in a 2016 article with the apt title “Strengthening Organizational Structures and Systems: Mozambican CSOs are faced with the challenge: good governance in practice” writes that Mozambique struggles with a poor performing civil society. In terms of accountability, CSOs act more as private companies whose main responsibility lies with their investors (donors) than with members and communities they serve. For many CSOs, the legal trappings of the law, demanding governance structures composed of an executive board, fiscal and general assembly, are perceived to be more of a legal and financial requirement than a necessity. According to Vombe, writing about the findings of a capacity building program for CSOs involved in HIV/AIDS activities, there is no clear separation of roles and responsibilities for employees and the Board and Supervisory Board (Vombe, Mauro 2016: 01). And that organizations were impossible to be held accountable to anyone other than their donors. In fact, Mozambican CSOs believed that donors should be responsible for project activities, not for the Board of Directors and Fiscal Councils of their own organizations. However, the focus seems to be more on good financial governance than on issues of accountability towards broader local constituencies when designing and implementing programs.

Despite the focus on financial governance, some of the requirements of in capacity strengthening for CSOs lead many organizations at least closer to the constituencies, meaning that one can find some potential ground for synergies between traditional good programmatic governance and community philanthropy practices. For instance, in the Capable Partners Program, one result was that CAP CSOs are more responsible than before and accept that the responsibility rests with them (Vombe, Mauro 2016: 05). According to Vombe, governing members are now reviewing proposals before they are submitted to donors, visiting field activities, approving annual reports and work plans, conducting internal audits, reviewing and

approving organizational policies and procedures, and much more. For most Mozambican CSOs, these changes were revolutionary.

FOUR: CONCLUSION

The study has reflected on the Assessments of the Legal Environment for Civil Society Actors including Philanthropic Support Organizations in Mozambique. In overall, there is potential for the promotion of domestic philanthropy in Mozambique, although there is no law in the issue. The only legal tool for domestic giving is connected to the patronage law, but this law is considered to be flawed with a host of rules that either are obsolete, or are too cumbersome to attract potential donors. Besides those legal hurdles, there are other of challenges connected to political dynamics at the level of the state/government (strained state-society relations) and to the framework of development assistance (project cycle and financial governance norms). Internal dynamics within CSOs in Mozambique also constrain the ability to find actors across the civic board to liaise with and engage in efforts to expand the scope of the country's very limited patronage law and lobby and advocate for the design and implementation of a philanthropy law.

When it comes to state/government level constraints, the lack of a proper framework for the exercise of the rule of law in Mozambique delegitimizes efforts at promoting legal solutions. The courts do not hold the state to account or demand bureaucrats to fulfill their mandate when it comes to quantity and quality of service provision. In this sense, the country does not have a "culture of law" or of following procedures, let alone a culture of democratic decision-making. Below follows a brief summary of the findings using the questions from the WINGS Tool as a guiding principle:

- To gather the information needed to understand issues with the legal environment, how they affect civil society (including philanthropy organizations), the key players, and different factors to consider when deciding whether to engage.

In many cases in Mozambique, laws are mostly well designed. The problem lies either in the details of implementation or in no implementation at all. This has huge impacts in the ability of CSOs to function properly, as the government, at least in terms of form, at times has all the legal trappings of a state ruled by law, but who in practice rarely lets itself be bound formally by the dictates of the law. If one takes the issue of corruption in CSOs, the fact that the government doesn't act severely against corrupt practices means that organizations become prey to the wishes and whims of their executive boards, with efforts by members for internal financial accountability making little if no impact in the behavior of those sitting at the top of CSOs. In this sense, it is more a problem of a very narrow approach to the idea of "public utility entities" than necessarily an absence of a proper law. While this is not done against CSOs, but is a general feature of the political system, it nonetheless blocks the possibility of citizens trusting CSOs with their money as examples of malpractice by CSOs top cadres without punishment abound. In this issue, there might be space to create internal mechanisms of oversight. Mozambique has a CSOs code of ethic that has not been put in practice yet. Reviving this code would be a good starting point for the debate.

- To map the issues that civil society is facing based on the priority in addressing them, as well as how long it will take to resolve the issues and the complexity of the required solution. This will help in seeing where there might be relatively easily attainable successes and where there is a need to prepare for a long-term engagement that will require more resources.

Programmatic and financial accountability seems to be one of the major hurdles faced by CSOs in their quest to become valid actors in society. The issue is particularly sensitive as approaches to date are mostly geared

towards pointing the finger at the government, instead of looking at how the legal system increases society's trust in formal actors (public, private and non-profit entities). Without popular legitimacy, CSOs fail in their modus operandi to become a space of action where values of civility are nurtured and reproduced. In Mozambique, it has become an ensemble of actors, but not a collective conscience. It is our understanding that in the country, the systemic nature of corruption has a high level impact on CSOs ability to perform effectively.

- To identify where there are allies who could support the civil society engagement and potential openings to reach decision makers. This will also guide the Consultant to assess the strength of the opportunities for engagement based on these factors.

Potential allies to reach decision makers in Mozambique might come from unexpected corners. CSOs have proven unable to implement for instance their own code of ethics. Hence, one has to think outside the box, look at other instances where CSOs have been able to make alliances with other societal actors to influence legislation. While in Africa in general advocacy is the preferred course of action for policy change, it might be high time that CSOs focus on Lobby activities, especially in countries like Mozambique where politicians, and religious and corporate leaders might not feel at ease to openly endorse causes championed by CSOs against the government. Paradoxically, counting the money to avoid corruption in countries like Mozambique might be blocking the chances for success in various issues, as CSOs have to openly inform on what they have to do to change the behaviour of an actor bent on sabotaging their efforts. Sometimes, the demand for financial transparency gives a head-start to those whose intent is to sabotage the possibility to create an open and vibrant civic space.

4.1 OUTCOMES, IMPACT AND SUSTAINABILITY

A number of shortcomings in the legal framework for association and philanthropy:

- **Reluctance to engage in substantive changes in the association law:**

Law 4/94 from September 13, reviewed and expanded to Law 28/98, still fails to take into account the dynamics and functioning of CSOs, with many barriers that limit their constitution, with a centralised registration capacity at provincial capitals. Lack of electronic registration means that all documents need to be sent to Maputo. Even if some processes have been decentralized to the provincial and district levels, getting to the offices always means a logistical and financial feat few citizens can afford to engage in. In 2017, a coalition of CSOs submitted a proposal for the review of the Law, so far to no avail.

- **Opportunities for the set-up of philanthropic networks within Civil Society:**

There is a conscience of the need to influence the environment for the operation of CSOs through changes in the way funds are mobilized and sustainability is achieved. There is a growing perception of the need to reduce dependence on financing from traditional sources like external donors. This increased conscience constitutes a potential for common engagement to promote changes.

- **Identification of challenges for the implementation of a new agenda for financing:**

The change in the status quo brings a host of challenges. At the international level, this change will be a challenge for the agencies that finance NGOs, as it will demand a change in power relations among northern and southern NGOs

FIVE: RECOMMENDATIONS

It is recommended that a triangular approach to domestic resources mobilization is adopted, in order to cover and interlink three sets of domains: CSOs internal governance challenges, the nature of state-society relations, and the concept of community philanthropy. With this, there is an acknowledgement that it is important to think about legal challenges to domestic resources also in terms of the ways it will hinder or promote community philanthropy, and the way civic actors are structured in terms of their corporate governance practices and interactions amongst them. The concept of community philanthropy helped find guiding principles to discuss the normative adequacy of the legal environment to the challenge of domestic giving in many developing countries. After considerations of the legal environment, the discussion could then move on to the political and policy environment for civic action in Mozambique. The political and policy environment was found to determine to a great extent the kind of advocacy strategies to be adopted, and also the time-frame for each of them.

Some issues to be addressed:

- **Registration Create templates for registration:** Some learning can come from the Capable Partners Program financed by USAID, who led to the design of a template called The Regulation for Members and Social Bodies in CSOs. This document put together the relevant legislation and corporate governance praxis and built a template to help CSOs govern themselves. A similar strategy could be used by progressive CSOs to speed-up the registration process for community-based organizations.
- **Code of ethics:** CSOs in Mozambique have designed and approved an ethical code that could be used as a yardstick to promote networking and governance among CSOS involved in community philanthropy. 10 adopt and disseminate for others to join. We take it as a gradual process.
- **The philanthropy law:** Revamp of the philanthropy to include other actors (government and municipalities) and widen the scope: make it philanthropy for democratic development, not merely cultural, educational, artistic, or environmental.
- **Public utility status:** promote the adherence of CSOs to the framework of public utility entities in order increase the legitimacy of CSOs and other civic entities as actors in the drive for public transparency.

SIX: ANNEXES/ APPENDICES

6.1 ANNEX: LIST OF REFERENCES CONSULTED

Laws and Regulations:

- Law n. 8/91, de 18 de Julho - Association Law, regulates the right to free association
- Decree nº 21/1991 - Delegates to the Ministry of Justice the competences to legalize non-profit organizations.
- Law nº 09/91 - Regulates the exercise of freedom of assembly and of protest
- Law 4/94, September 13 - philanthropy law, which provides incentives for the financial support for sports, culture, science, arts and social issues.
- Law 28/98, June 9 - enlarges the scope of law 4/94 to the fields of sports and environment.
- Decree nº 55/1998 - Defines the legal framework of the mechanism for NGOs to intervene in a given area
- Decree nº 37/2000 - Establishes the prerequisites for the declaration of the public utility of associations
- Law nº 07/2001 - Changes articles 3,4,8,16 e 17 on the law nº 9.91
- Decree nº 03/2006 - Establishes the legal regime for the set up, remodelling and dissolution of collective persons and changes articles 168, 185, 1143, 1232 and 1329 of the civil code
- Law 16/2018 - Establishes the legal regime for foundations

Studies on Civil society or the governance of the civic space in Mozambique:

- Avaliação Nacional sobre o Ambiente Propício para Actuação das Organizações da Sociedade Civil: O Caso de Moçambique, Joint Moçambique: Albino Francisco, Relatório - Janeiro de 2017
- III CONFERÊNCIA NACIONAL DA SOCIEDADE CIVIL EM MOÇAMBIQUE - 2015; Aatoria: Joint Moçambique
- Apoio à Participação da Sociedade Civil no Diálogo sobre Políticas: Relatório Nacional de Moçambique
- SOCIEDADE CIVIL EM MOÇAMBIQUE EXPECTATIVAS E DESAFIOS, Aatoria: IESE - António Francisco 2010
- Sociedade Civil em Moçambique: voz do povo ou negócios através de projectos?, Aatoria: Benjamim Pequeno - Novembro de 2006
- Strengthening Organizational Structures and Systems: Mozambican CSOs are faced with the challenge: good governance in practice, Autor: Mauro Vombe - 2016
- Relatório de Direitos Económicos e Sociais em Moçambique, Autor: Rede Solidar - Setembro de 2020
- Estudo de Mapeamento das Organizações da Sociedade Civil (OSC) em Moçambique, Aatoria: Bente Topsøe-Jensen et al - 2015
- Contornos da actuação da Sociedade Civil no contexto moçambicano Aatoria: Orlando Nipassa - Maio de 2020
- ÍNDICE DE SUSTENTABILIDADE DAS ORGANIZAÇÕES DA SOCIEDADE CIVIL (CSOSI), Aatoria: MASC - 2019
- Movimentos Sociais: Sociedade Civil e Espaço Público em Moçambique: Uma análise crítica, Aatoria: Boaventura Monjane (Doutorado em Pós-colonialismo e Cidadania Global)
- Legalidade das Instituições da Sociedade Civil em Moçambique, Aatoria: Carlos Fumo - 1997
- Dinâmicas da SC e sua influência sobre o processo legislativo, Aatoria: Sekelekani/Plataforma Agir - 2015
- Jovem e Associativismo, Aatoria: Adriano Mateus Biza (Mestrado em Antropologia e Sociologia Críticas do Desenvolvimento) - 2009

- Iniciativa de Governança Florestal Responsiva (RFGI): Apoiando meios de subsistência florestais resilientes por meio da representação local - Examinando os Resultados da Democracia Ambiental Subsidiária: O caso da Iniciativa da Silvicultura do Carbono no Centro de Moçambique, Autoria: Alois Mandondo
- ESTUDO SOBRE GESTÃO DE RECEITAS PROVENIENTES DA EXPLORAÇÃO FLORESTAL E MINEIRA, CANALIZADAS NOS TERMOS DA LEI PARA ALGUMAS COMUNIDADES EM NIASSA, NAMPULA E ZAMBÉZIA, Autoria: Cesc - 2021
- Dialogue Promotion of Sustainable Forest Management in Mozambique. Literature Review on Illegal logging in Mozambique A Contribution to the Project: Forest Governance in Mozambique: the urgency of the moment, Autoria: Maria Matediane - 2018
- Natural resource governance in Mozambique's Cahora- Bassa-Mágoè landscape: Key issues and recommendations for enhancing effective, inclusive and equitable governance. Autoria: Barbara Nakangu, Stela Malola and Maria Matediane - 2021

6.2 ANNEX: FILLED WINGS/ICNL TOOLS

Below we have a small and very general discussion of the way the WINGS/ICNL tool can be seen after this writing this report. This is more a conversation than a concrete set of answers or suggestions. The annexed tools have been filled to the purpose of the consultancy report. We have addressed this topic taking as a point of departure the questions raised in the issue form 1 of the toolkit. In this sense, it is possible to present an overview of how the different questions are affected by the current legal and policy field of philanthropy, before going to the second stage of data collection for the consultancy.

●Is the root of the issue in the text of the law or in the way the law is implemented?

Most CSO studies in Mozambique seem to conclude that the crux of the matter lies in the implementation of the law. This suggests that, besides having the appropriate legal instruments, the country needs stronger legal mechanisms to hold the government to account in the implementation of the law.

●Describe the impact, including the severity of the impact, of this issue.

The fact that laws are not implemented properly, and that the judicial system does not hold the state accountable to its legal obligations, makes the rule of law a legal fiction in Mozambique. The law is seldom used as an advocacy instrument by citizens and CSOs, being more a moral rallying point to mobilize support and sensitize the government, than a binding instrument to promote societal change.

●How does this issue affect philanthropy organizations? Does this overlap with the interests of other CSOs?

●Who might be interested or invested in addressing this issue?

There is a space for convergence as CSOs could team-up with citizens and philanthropic organizations to amend the law to include financing for social mobilization within the realm of the law. The shortcomings of the current law and its implementation deficit can be dealt with within the same process. As the law on philanthropy covers different domains, it is possible for CSOs to reach out to religious organizations and movements to gather societal support. Artists and sports people also need philanthropy to advance their art. There is a wide scope of potential convergence in changing the law. Taking into account the political

environment in Mozambique, it is crucial that the issue is addressed as a tool to advance freedom of expression in its various forms (promote the ability of citizens interested in health, the arts, academia, and science) to advance others ways of being and doing in society in their own domains, than as a tool to increase the ability of critical CSOs to advance their agenda of societal change - perceived many times by politicians as opposed to the government.

•Is this issue linked to other types of repression in the overall environment?

Increased domestic philanthropy would open-up a new policy field in Mozambique. So far, funding for the non-profit sector is practically tied to the two big actors, the government and donors. In Mozambique, the government is a major financier to mass-democratic organizations connected to the Frelimo party, and also finances sympathetic productive associations through district development funds. Donors, likewise, fund CSOs that are amenable to their agenda of societal change. Outside this ideological and political gridlock, there is no space for radical ideas. In this sense, a philanthropy law that liberates local resources is a challenge to the status quo and would indeed bring new life into efforts to democratize development in Mozambique. It would help confront the current climate of closed governance between the government and Frelimo-friendly organizations.

•Have there been previous efforts to address this? If so, what happened? Has anything changed?

The war and the most recent tropical cyclones that hit Mozambique have raised public awareness for the need for a more streamlined process of domestic resource mobilization. Citizens and citizen groups have tried to mobilize resources only to find barriers to their operations through different bureaucratic hurdles.

6.3 ANNEX: SELECTED LIST OF DONOR PROGRAMS

A selected reading of the financing requirements of major donor organizations show that registration is a must in order to get access to foreign funding. From instance, the Global Partnership for Social Accountability^[15] demands grant recipients to be “a legal entity in Mozambique and provide proof of such legal status”. The US Ambassador Special Self-Help^[16] stresses that funding goes for, among other things, to Established, registered grassroots community-based organizations (CBOs) and Faith Based Organizations (FBOs) headquartered in Mozambique. To a certain extent, the legal environment for civil society and other non/profit becomes a defining factor in the nature of the actors that are going to be involved in community philanthropy. Most important, doing community philanthropy can be seen as an act of promoting political rights, as many individuals in local communities are outside the formal processes of citizenship: community is many times a term to describe someone who is not a citizen.

[15] Proposal needed: CSO's in Mozambique- Funds for NGOs

[16] Notice of Funding Opportunity – U.S. Ambassador's Special Self-Help Fund (SSH) | U.S. Embassy in Mozambique (usembassy.gov)

Bellow follows a brief overview of selected donors procedures:

UNDP:

Started funding small grants in Mozambique in 2005, up to date (July 2021) has funded 273 projects in a total grant amount of \$5,408,792, meaning an average of \$19,812 per funded project, which were funded in the following sectors or thematic areas: (i) Biodiversity, (ii) Capacity Development, (iii) Chemicals and Waste, (iv) Climate Change Adaptation, (v) Climate Change, (vi) International Waters, (vii) Land Degradation and (viii) Multifocal area.

Canada Fund for Local Initiatives (CFLI):

Stressed that its funds were for the following recipients who could submit their applications (a) local non-governmental, community and not-for-profit organizations, (b) local academic institutions working on local projects, (c) international, intergovernmental, multilateral and regional institutions, organizations and agencies working on local development activities, (d) municipal, regional or national government institutions or agencies of the recipient country working on local projects, and (e) Canadian non-governmental and not-for-profit organizations that are working on local development activities. CFLI defined the following priority sector (i) inclusive governance, including diversity, democracy, human rights and the rule of law, (ii) growth that works for everyone, including women's economic rights, decent jobs and entrepreneurship, investing in the poorest and most vulnerable, and safeguarding economic gains and (iii) environment and climate action focusing on adaptation and mitigation, as well as on water management.

CFLI defined the following eligibility criteria: (a) Its funding should be directed to local CSO and other institutions working at the local level, (b) administrative and overhead costs related to the project should not exceed 15% of total CFLI contribution, (c) applicants should also ensure a certain contribution to the proposed project (% of it was not defined) (d) applicants should apply for up to a maximum of C\$50,000 in funding per project, in exceptional cases, projects of up to C\$100,000 may be considered, (e) proposed projects should be implemented up to 2 fiscal years programming and (f) proposals should be submitted electronically to an indicated email of CFLI based in Maputo.

US Ambassador Special Self-Help (SSH):

It has been implemented since 1988 and allows the Embassy to respond quickly to local requests for small community-based development projects, in 2020, across Africa received \$2 million, through the Africa Regional Economic Support Fund. The SSH has the following priority focus areas, (i) foster community self-reliance, (ii) community participation and contribution – volunteer time and labor, donated land, equipment and materials – and the U.S. contribution must be on a one-time basis only, (iii) improve basic economic or social conditions at the local community or village level, (iv) be viable and sustainable in terms of finance, personnel support, necessary expertise and services (v) respect environmental norms for small projects and (vi) the proposed activity will not adversely affect protected or other sensitive environmental areas nor jeopardize threatened and endangered species and their habitat

SSH defines the following eligibility criteria: (a) Recipients should be registered not-for-profit organizations, including civil society/non-governmental, organizations headquartered in Mozambique, (b) established, registered grassroots community-based organizations (CBOs) and Faith Based Organizations (FBOs)

in Mozambique, (c) for-profit, commercial entities and individuals are not eligible to apply, (d) applicants are only allowed to submit one proposal per organization. If more than one proposal is submitted from an organization, all proposals from that institution will be considered ineligible for funding, (e) applicants are required to present in the proposal the cost sharing in the form of significant “community contributions” through cash, labor, or materials as well as an investment in time and labor to promote a sustainable project outcome, and (f) the cost-share should be included in the budget and the recipient must maintain written records to support all allowable costs that are claimed as its contribution to cost-share, as well as costs to be paid by the federal government (such records are subject to audit). The SSH prescribes the following requirements: (i) the award should not exceed 12 months (duration of the project one year), (ii) the funding Amount should not exceed \$70,000, (iii) the number of Awards to be approved in 2021 is 7, (iv) the proposal should clearly address the goals and objectives of this funding opportunity, (v) all documents should be written in English, (vi) all budgets should be in US dollars, (vii) all pages should be numbered, (viii) all documents should be formatted to 8 ½ x 11 paper and (ix) all Microsoft Word documents should be single-spaced, 12 point Times New Roman font, with a minimum of 1-inch margins.

Global Partnership for Social Accountability (GPSA):

These funds were allocated between 2013 – 2016, funding proposals from CSO to improve development results by supporting capacity building. Main aim of this proposal is to provide strategic and sustained support to CSOs' social accountability initiatives aimed at strengthening transparency and accountability. The following are the priority sectors (i) monitor and report on the subnational transfers linked to the exploration and exploitation of the extractive industries, (ii) monitor and report on the allocation of decentralized resources for — and/or the quality of — service provision in the health or education sectors and (iii) strengthen institutional capacity of CSOs working on Social Accountability The following were the main geographic focus defined by GPSA: Nampula, Tete, and Cabo Delgado provinces and grant amounts range was from US\$500,000 to US\$1 million in support of social accountability.

GPSA defined the following eligibility criteria:

- **Legal status:** the recipient needs to be a legal entity in Mozambique and provide proof of such legal status
- **Representation:** key criteria are communities, accountability to members or beneficiaries, diversity and gender sensitivity
- **Governance:** sound internal management policies and practices, comprising organizational dimensions, such as clear management roles and responsibilities, clear methods of planning and organizing activities, human capital, financial and technical resources, and partnerships
- **Transparency:** including disclosure of sources of funding, financial accountability and governance transparency
- **Fiduciary capacity:** ability to meet applicable World Bank policies for grants
- **Institutional capacity:** appropriate scale of operations, facilities, and equipment
- **Competence:** proposed executing team possesses relevant skills and experience across all areas for which activities have been proposed
- **Proven track record:** organization can provide evidence of its experience (at least 3-5 years) in the area of the call for proposals, and a vision matching the goals of the GPSA

USAID Funding for CSO:

In 2019 the United States Agency for International Development (USAID) requested applications for a Cooperative Agreement from qualified entities to implement the Orphans and Vulnerable Children (OVC) projects whose purpose was to reduce in Sofala and Manica, HIV incidence and mortality among children and adolescents in Mozambique through a comprehensive package of services in Manica and Sofala provinces. In this funding USAID was providing about \$14,200,260 in total over a 5 (five) year period.

USAID defined geographic focus for year one of implementation the following districts have been prioritized, namely (i) in Manica Province the following 5 districts: Barue, Chimoio, Gondola, Manica, Machaze, Sussundenga and Mossurize and (ii) in Sofala Province the following 4 districts Beira, Buzi, Dondo, Nhamatanda. While for the remaining years of the award, priority districts would be defined on an annual basis, considering PEPFAR priorities and USAID guidance.

USAID defined the following eligibility stressed that this funding was restricted to Local Mozambican Organizations (Local Entities) as defined. "To be considered a "local" organization, USAID defines an entity that should (i) be organized under the laws of the recipient country, (ii) have its principal place of business in the recipient country, (iii) be majority owned by individuals who are citizens or lawful permanent residents of the recipient country, (iv) be managed by a governing body, the majority of whom are citizens or lawful permanent residents of a recipient country, (v) should not be controlled by^[17] a foreign entity^[18] or by an individual or individuals who are not citizens or permanent residents of the recipient country, (vi) government controlled and government owned organizations in which the recipient government owns a majority interest or in which the majority of a governing body are government employees, are included in the above definition of local organization, (vii) these eligibility requirements were applying to only the principal Applicant and (viii) USAID was welcoming applications from organizations that have not previously received financial assistance from USAID.

[17] For USAID the term "controlled by" means a majority ownership or beneficiary interest as defined above, or the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the organization's managers or a majority of the organization's governing body by any means, e.g., ownership, contract, or operation of law.

[18] Also for USAID the term "Foreign entity" means an organization that fails to meet any part of the "local organization" definition.

UNDP ¹	Canada Fund for Local Initiatives ²	US Ambassador Special Self-Help ³
<p>In 2005 UNDP started funding small grants in Mozambique, up to date (July 2021) has funded 273 projects in a total grant amount of \$5,408,792, meaning an average of \$19,812 per funded project, which were funded in the following sectors or thematic areas:</p> <ul style="list-style-type: none"> • Biodiversity • Capacity Development • Chemicals and Waste • Climate Change Adaptation • Climate Change • International Waters • Land Degradation • Multifocal area 	<p>Projects for CFLI are approved by the Canadian embassy or high commission. The CFLI defined the following thematic priorities:</p> <ul style="list-style-type: none"> • Inclusive governance, including diversity, democracy, human rights and the rule of law. • Growth that works for everyone, including women's economic rights, decent jobs and entrepreneurship, investing in the poorest and most vulnerable, and safeguarding economic gains. • Environment and climate action focusing on adaptation and mitigation, as well as on water management. <p>The following recipients are eligible for CFLI:</p> <ul style="list-style-type: none"> • local non-governmental, community and not-for-profit organizations; • local academic institutions working on local projects; • international, intergovernmental, multilateral and regional institutions, organizations and agencies working on local development activities; • municipal, regional or national government institutions or agencies of the recipient country working on local projects, and • Canadian non-governmental and not-for-profit organizations that are working on local development activities. 	<p>The US Ambassador's Special Self-Help (SSH) program started in 1988 and allows the Embassy to respond quickly to local requests for small community-based development projects. The SSH program across Africa received \$2 million in 2020 through the Africa Regional Economic Support Fund.</p> <p>SSH has the following objectives:</p> <ul style="list-style-type: none"> • Foster community self-reliance; • Have community participation and contribution – volunteer time and labor, donated land, equipment and materials – and the U.S. contribution must be on a one-time basis only; • Improve basic economic or social conditions at the local community or village level; • Be viable and sustainable in terms of finance, personnel support, necessary expertise and services; • Respect environmental norms for small projects; the proposed activity will not adversely affect protected or other sensitive environmental areas nor jeopardize threatened and endangered species and their habitat; and • Not exceed twelve months in duration. <p>Application:</p> <ul style="list-style-type: none"> • Duration of the project: 12 months • Funding Amount: \$70,000 • Number of Awards to be approved in 2021: 7 • Applicants could find application forms and other materials needed to apply on https://mz.usembassy.gov/embassy/maputo/u-s-ambassadors-special-self-help-ssh-program/.

¹ <https://sgo.undp.org/component/countrypages/?view=countrypage&country=80&Itemid=>

² [The Canada Fund for Local Initiatives - Mozambique \(international.gc.ca\)](https://international.gc.ca/cfli/)

³ [Notice of Funding Opportunity – U.S. Ambassador's Special Self-Help Fund \(SSH\) | U.S. Embassy in Mozambique \(usembassy.gov\)](https://usembassy.gov/notice-of-funding-opportunity-us-ambassadors-special-self-help-fund-ssh/)

	<p>The CFLI stresses the following:</p> <ul style="list-style-type: none"> • That its funding is to be directed toward local civil society organizations (including non-governmental organizations) and other institutions working at the local level. • Administrative and overhead costs related to the project (overhead should not exceed 15% of total CFLI contribution); • Applicants should also ensure a certain contribution to the proposed project (% of it was not defined). • Applicants may apply for up to a maximum of C\$50,000 in funding per project. In exceptional cases, projects of up to C\$100,000 may be considered. • Proposed projects should be implemented up to 2 fiscal years programming • Proposals should be submitted electronically to an indicated email (CFLI-MPUTO@international.gc.ca) 	<ul style="list-style-type: none"> • The SF-424 forms can be found at https://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html under the announcement title and funding opportunity number provided above. <p>Application must have the following format:</p> <ul style="list-style-type: none"> • The proposal clearly addresses the goals and objectives of this funding opportunity. • All documents are in English; • All budgets are in U.S. dollars; • All pages are numbered; • All documents are formatted to 8 ½ x 11 paper; and • All Microsoft Word documents are single-spaced, 12 point Times New Roman font, with a minimum of 1-inch margins. <p>Eligibility Criteria:</p> <ul style="list-style-type: none"> • Registered not-for-profit organizations, including civil society/non-governmental, organizations headquartered in Mozambique. • Established, registered grassroots community-based organizations (CBOs) and Faith Based Organizations (FBOs) headquartered in Mozambique. • For-profit, commercial entities and individuals are not eligible to apply. • Applicants are only allowed to submit one proposal per organization. If more than one proposal is submitted from an organization, all proposals from that institution will be considered ineligible for funding. • Applicants are required to present in the proposal the cost sharing in the form of significant "community contributions" through cash, labor, or materials as well as an investment in time and labor to promote a sustainable project outcome. • The cost-share should be included in the budget and the recipient must maintain written records to support all allowable costs that are claimed as its contribution to cost-share, as well as costs to be paid by the Federal government. Such records are subject to audit.
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Global Partnership for Social Accountability ¹	USAID Funding for CSO (2019) ²
<p>The Global Partnership for Social Accountability (GPSA) supports proposals from civil society organizations (CSOs) to improve development results by supporting capacity building. Main aim of this proposal is to provide strategic and sustained support to CSOs' social accountability initiatives aimed at strengthening transparency and accountability.</p> <p>Target Sectors:</p> <ul style="list-style-type: none"> • Monitor and report on the subnational transfers linked to the exploration and exploitation of the extractive industries • Monitor and report on the allocation of decentralized resources for — and/or the quality of — service provision in the health or education sectors • Strengthen institutional capacity of CSOs working on Social Accountability <p>Geographic Focus:</p> <ul style="list-style-type: none"> • Particularly in the regions of Nampula, Tete, and Cabo Delgado, to ensure the efficient allocation of resource. <p>Funding per Proposal:</p> <ul style="list-style-type: none"> • Grant amounts range from US\$500,000 to US\$1 million in support of social accountability. 	<p>USAID/Mozambique seeking Applications for Orphans and Vulnerable Children (OVC) Activity</p> <p>In 2019 the United States Agency for International Development (USAID) requested applications for a Cooperative Agreement from qualified entities to implement the Orphans and Vulnerable Children (OVC) Activity.</p> <p>Purpose:</p> <p>The overall objective of the USAID/ Mozambique's Orphans and Vulnerable Children and Young Girls (OVC) Activity ("Activity") in Manica and Sofala is to "Reduce HIV incidence and mortality among children and adolescents in Mozambique through a comprehensive package of services in targeted provinces." This Activity contributes to USAID's Country Development Cooperation Strategy for Mozambique Development Objective 4 – Health status of target population improved as well as and Intermediate Results 4.1 – Improved ability of individuals to adopt healthy behaviors; and 4.2 – Increased adoption of positive health and nutrition behaviors.</p> <p>Expected Results</p> <p>This objective will be achieved through the following expected results:</p> <ul style="list-style-type: none"> • R 1: Reduction in HIV, sexual violence and gender-based violence (GBV) amongst children and adolescents • R 2: Improved treatment, retention and viral suppression for HIV+ OVC and caregivers • R 3: Improved children, adolescent, and caregiver resilience to cope with effects of HIV <p>Funding Information</p> <ul style="list-style-type: none"> • USAID intends to award up to two Cooperative Agreements pursuant to this notice of funding opportunity. Subject to funding availability and at the discretion of the Agency, USAID intends to provide approximately \$14,200,260 in total USAID funding over a 5 (five) year period.

¹ [Proposal needed: CSO's in Mozambique- Funds for NGOs](#)

² [USAID/Mozambique seeking Applications for Orphans and Vulnerable Children \(OVC\) Activity \(fundsforngos.org\)](#)

<p>Eligibility Criteria:</p> <ul style="list-style-type: none"> • Legal status: the recipient needs to be a legal entity in Mozambique and provide proof of such legal status • Representation: key criteria are communities, accountability to members or beneficiaries, diversity and gender sensitivity • Governance: sound internal management policies and practices, comprising organizational dimensions, such as clear management roles and responsibilities, clear methods of planning and organizing activities, human capital, financial and technical resources, and partnerships • Transparency: including disclosure of sources of funding, financial accountability and governance transparency • Fiduciary capacity: ability to meet applicable World Bank policies for grants • Institutional capacity: appropriate scale of operations, facilities, and equipment • Competence: proposed executing team possesses relevant skills and experience across all areas for which activities have been proposed • Proven track record: organization can provide evidence of its experience (at least 3-5 years) in the area of the call for proposals, and a vision matching the goals of the GPSA 	<ul style="list-style-type: none"> • The anticipated period of performance is 5 (five) years. The estimated start date will be upon the signature of the award, on or about, or other effective date determined by the Agreement Officer <p>Geographic Scope</p> <p>This activity will be implemented in Manica and Sofala provinces within PEPFAR-defined geographic priorities. Geographic coverage can potentially decrease or expand during the timeframe of this activity based on PEPFAR prioritization over time, as directed by PEPFAR and USAID. Districts of intervention will be defined on a yearly basis during the development of annual work plans, considering priority health facilities identified as "AJUDA" sites. AJUDA ("Analyzing Joint Underperformance and Determining Assistance") is a strategy identified by PEPFAR Mozambique to support and conduct more rigorous and tailored monitoring support to selected sites to promptly respond to the barriers clients face both at facility and community levels. USAID will provide clear guidance on geographic prioritization to the applicant prior to implementation of this activity.</p> <p>Geographic Focus:</p> <p>For year one of implementation the following districts have been prioritized:</p> <ul style="list-style-type: none"> • Manica Province – Barue, Chimoio, Gondola, Manica, Machaze, Sussundenga and Mossurize, • Sofala Province – Beira, Buzi, Dondo, Nhamatanda <p>For the remaining years of the award, priority districts will be defined on an annual basis, considering PEPFAR priorities and USAID guidance, nevertheless applicant(s) should budget for costs considering the same amount of districts per province as year one.</p> <p>Target Populations</p> <p>This activity will prioritize the following target populations:</p> <ul style="list-style-type: none"> • Orphans and vulnerable children aged 0-17 • Children living with HIV • Children whose caregivers are living with HIV • Adolescents aged 9-24
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- Children of female sex workers (FSW)
- Children who have experienced violence

Eligible Applicants

- Eligibility for this RFA is restricted to Local Mozambican Organizations (Local Entities) as defined. "To be considered a "local" organization, USAID defines an entity that must:
- Be organized under the laws of the recipient country;
- Have its principal place of business in the recipient country;
- Be majority owned by individuals who are citizens or lawful permanent residents of the recipient country; and/or
- Be managed by a governing body, the majority of whom are citizens or lawful permanent residents of a recipient country
- Not be controlled by a foreign entity or by an individual or individuals who are not citizens or permanent residents of the recipient country.
- The term "controlled by" means a majority ownership or beneficiary interest as defined above, or the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the organization's managers or a majority of the organization's governing body by any means, e.g., ownership, contract, or operation of law.
- "Foreign entity" means an organization that fails to meet any part of the "local organization" definition.
- Government controlled and government owned organizations in which the recipient government owns a majority interest or in which the majority of a governing body are government employees, are included in the above definition of local organization.
- These eligibility requirements apply to only the principal Applicant.
- USAID welcomes applications from organizations that have not previously received financial assistance from USAID

6.4 ANNEX: A COMPARATIVE VIEW ON COOPERATIVES, ASSOCIATIONS AND FOUNDATIONS

	Cooperatives	Associations	Foundations
Description of the entity	It is a union of people who organize themselves to engage in an economic activity	It is a union of people who organize themselves for non-economic purposes	
Goal of the law	The main objective is the provision of services to members. Profit is a consequence of the realization of an economic activity	It has altruistic and non-profit purposes	It has altruistic and non-profit purposes
Access to resources	<p>Law n.: 21/2009 of 28 September considers that the social fund of cooperatives is constituted:</p> <ul style="list-style-type: none"> • For the share capital; • For the interest obtained from loans and capital application carried out outside the scope of the cooperative act; • For retained surpluses, including those booked in member participation accounts for the cooperative's operational self-financing, when provided for in the statutes or by resolution of the General Meeting; • For the operations carried out with third parties, provided for in this Law; • For any donations, legacies or grants they receive free of charge; • Others by resolution of the General Meeting, including to comply with the legal requirements for reservations. 	<p>Law 8/ 91 is silent in relation to aspects related to resources.</p> <p>Law 4/94 of 13 September, called the Law of The Mecenato, which regulates access to donations as a source of resources, and Decree 37/2000 of 17 October, limit this access only to CSOs/associations that demonstrate to pursue purposes of national, Community interest and that cooperate with the Public Administration in the provision of services are entitled to a declaration of public utility.</p> <p>In relation to state/government funding, Law 8/91 provides in Article 11 that: "associations may apply for a declaration of public utility provided that they pursue purposes of general interest or community, cooperating with the Public Administration in the provision of services at central or local level and present all the evidence necessary to judge their claim".</p>	The law is silent in relation to access to resources
Exemptions	Article 6(3) of Law 21/2009 considers that: "the results of market operations carried out by the cooperative, when identified with its object and carried out in the fulfilment of its obligations to its members with the practice of cooperative acts, are	Article 1 of Law 8/91 of 18 July states that non-profit entities, and under the provisions of Article 10 of the Corporate Income Tax Code (IRPC), approved by Law No. 34/2007 of 31 December, are exempt from this tax.	As stated in Article 21 of the Law of: The charitable foundation enjoys tax and customs exemption in the acquisition of goods and services, namely: Value
	not considered as revenues or subject to invoicing".	In relation to Value Added Tax (VAT) CSOs/associations are not under Article 2(3) of the VAT Code, subject to liabilities to this tax, when they carry out transactions in favour of the populations without a direct reward	<p>Added Tax (VAT); SISA on the acquisition of real estate intended to achieve the statutory objectives;</p> <p>Stamp Duty on the various transactions. The following transactions are also, without prejudice to the others that may be established, exempt from taxation.</p> <p>(a) funding received for the pursuit of its activities within the framework of its social scope;</p> <p>(b) corporation tax (IRPC);</p> <p>(c) income from financial investments, made inside or outside the country, when intended for the pursuit of statutory purposes;</p> <p>(d) income from participation in commercial companies provided that the dividends are intended for the continuation of statutory activities;</p>