

Republic of Mozambique

Legal Mechanisms for the Empowerment of Informal Business

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Abstract

In accordance with the author's Terms of Reference (TOR), the objective of the present assignment is to assess the socio-economic and legal bases on which stakeholders in Mozambique's informal economy operate, as well as the perspectives for their legal empowerment so that informal contracts may include protection within the scope of the applicable legislation and they may be safely and equitably included in the general context of the economy.

This assignment also fits in with the actions of the "Commission on the Legal empowerment of the Poor", a global independent initiative launched in 2005 by a group of countries, in the context of the Millennium Development Goals.

The main objective and scope of this assignment was to:

- Inventory the general status of the informal sector;
- Define the problems or constraints in the legal empowerment of the informal sector stakeholders;
- Propose measures and actions to define policies for the legal empowerment of the informal sector stakeholders.

Adopted approach and methodology

The assignment was carried out in four stages:

1. Planning and organising the work;
2. Collecting information;
3. Organising and analysing the information;
4. Preparing and presenting the final document (interspersed with seminars to gauge public opinion).

A participatory approach was adopted with all the work being carried out in close cooperation between the author, the entities and the contacted institutions.

Information was gathered through interviews and consultation of existing written work on the matter.

The assignment was structured in accordance with that set out in the Terms of Reference (TOR).

Introduction

Without wishing to impose the assumption of the concept “informal sector or informal economy”, for the present assignment Raffaele Grazia’s approach was adopted, which defines the informal sector as being “the sector of economy whose existence, for reasons that may be voluntary (choice approach) or involuntary (illegal), is not registered in the statistics of the national accounts, gross domestic product (GDP) or the official numbers on the national wealth”,.

Our aim is to use simple language to share the concept that the informal actors frequently referred to during the discussions on this assignment. They referred to the informal market as being a market that emerges from the spontaneous organisation of people with no intervention whatsoever by the State in terms of legal requirements to occupy spaces, business licensing, payment of taxes and even the provision of basic infrastructures (toilets, water and electricity).

The reality of Mozambique’s economy directly or indirectly links the informal sector to the Country’s main development objectives, both in terms of macroeconomic indicators (production and employment generation) and the main outlines of the governance policy (fight against poverty, millennium development goals, etc.).

The issue of the informal sector in the Mozambican economy has two equally important sides. On the one hand, there is a large population that fights for survival on a daily basis with no conditions to guarantee their human dignity, or their production and economic capital, and on the other hand, there is economic growth which is not included in the national product and income records that official accounts attempt to reflect, thus causing discrepancies between what is recorded in the country’s economic information and what, in reality, the economy as a whole generates.

This and other situations that remain to be identified determine the need for a sector approach aiming at defining an intermediate position that allows for the legal empowerment of its

stakeholders and their respective businesses and which may, on the other hand, reflect their contribution in determining the performance of the national economy.

Reasons for and dimension of the informal sector in Mozambique

In this assignment, the approach of the reason why the informal sector exists is based on two underlying assumptions:

1. Poverty levels do not allow for full realisation of people's socioeconomic needs;
2. Legal levies are very restrictive for small businesses.

The reasons for the existence of an informal sector in Mozambique are the same as in any other country:

1. The need for a productive occupation that can ensure a minimum income for self-sustenance and household sustenance for most of the population (more than 70%) in developing countries.
2. Weak capacity of the formal labour market to absorb all working age and economically active people.
3. Judicial and financial requirements that are very often beyond the real capacity of people starting up business (business licensing, availability of the minimum capital required for registration, tax levels which sometimes are in conflict with the need to reinvest the business's meagre profits);
4. Lack of a capital basis to start any form of investment;
5. Lack of management know-how to ensure the business's economic and financial sustainability.

As to the dimension of the informal sector, it must be said that the dynamic characteristic of this sector makes it difficult to determine its exact size, since some businesses are

started up every day, while others are closed either due to bankruptcy or to start a more formal activity.

However, the work carried out with stakeholders in the informal economic activity shows that the sector is made up of mostly women, with some exceptions being found in areas relating to the sale of cell phones and spare parts, shoes, electrical items, etc.

This ratio is explained by the fact that the formal market absorbs more men than women, with more men involved in industry and women being left to perform household. However, these women do not have the minimum conditions necessary to meet their own basic needs or those of their dependants, and are forced to resort to an activity in the informal sector in order to try and fulfil their obligations as mothers.

Another factor explaining this ratio is the fact that women worry more about their families' everyday living conditions.

The tables below show the weight of the informal sector in the economy, in terms of geographic region, type of activity, distribution per gender and value in absolute terms (per region and type of area).

Table 1- Population of 7 and over per workforce and per gender
Absolute Values (in thousands)

Table 1.1 a) By Geographic Region

Geographic Region	Workforce			Non Workforce		
	Gender		Total	Gender		Total
	Men	Women		Men	Women	
North	1,580.10	1,688.80	3,268.90	683.1	591	1273.8
Centre	2,017.10	2,310.60	4,327.70	831.4	771	1602.3
South	1,115.00	1,480.10	2,595.10	604.3	729	1333.5

Source: The Informal Sector in Mozambique: Results from the First National Survey (2005), INE

The table above clearly shows the economically active workforce, on the left, with women making up the largest number of informal sector operators in all regions of the country.

From the field interviews, held mainly with sector operators, the explanation given for the situation reflected in the table is that:

1. The formal labour market, which itself has insufficient capacity for response, has absorbed more men than women, thereby placing women at a double disadvantage;
2. Women's role in managing everyday family life has led them to become the most active members in the struggle for survival, and their way of overcoming the lack of a formal productive occupation, is to carry out informal economic activities.

Table 1.1 b) By Type of Area

Type of area	Workforce			Non Workforce		
	Gender		Total	Gender		Total
	Men	Women		Men	Women	
Urban	1,599.60	1,690.00	3,289.60	832.2	951.10	1,783.30
Rural	3,112.60	3,789.50	6,902.10	1,286.60	1,134.80	2,421.40
Total	4,712.20	5,479.50	10,191.70	2,118.80	2,085.90	4,204.70

Source: The Informal Sector in Mozambique: Results from the First National Survey (2005), INE

In terms of areas, the largest concentration of informal stakeholders is found in rural areas. This can be explained by the fact that formally created economic units for the supply of work are practically non-existent, giving rise to the development of large informal activities. A particular aspect to be noted is the treatment given to small agricultural activities, which are not referred to as informal activities but as household activities, and are included in the country's economic records.

Table 2- Population in the 7 year old and older age group, per workforce and non-workforce per gender

Percentage values

Table 2.1 – Per geographic region

Geographic Region	Workforce			Non Workforce		
	Gender		Total	Gender		Total
	Men	Women		Men	Women	
North	48.3	51.7	100	53.6	46.4	100
Centre	46.6	53.4	100	51.9	48.1	100
South	43	57	100	45.3	54.7	100
Total	46.2	53,8	100	50.3	.49.7	100

Sources: The Informal Sector in Mozambique: Results from the First National Survey (2005), INE

Table 2.2 - Per Type of Area

Type of Area	Workforce			Non Workforce		
	Gender		Total	Gender		Total
	Men	Women		Men	Women	
Urban	48.6	51.4	100	46.5	53.5	100
Rural	45.1	54.4	100	53.1	46.9	100
Total	46.2	53.8	100	50.3	49.7	100

Source: The Informal Sector in Mozambique: Results from the First National Survey (2005), INE

The situation is identical in these two tables, seen simply in percentage terms.

Table 3 – Population in the 7 year old and older age group, per type of activity

Absolute values (in thousands)

Table 3.1- Per Geographic Region

Geographic Region	Type of activity			Total Workforce	Non Workforce
	Informal	Formal	Unemployed		
North	2,572	137.4	559.5	3,268.90	1,273.80
Centre	3,495.70	295.8	536.3	4,327.80	1,602.30
South	1,591.50	369.5	634.1	2,595.10	1,333.60
Total	7,659.2	802.7	1729.9	10,191.80	4,209.70

Source: The Informal Sector in Mozambique: Results from the First National Survey (2005), INE

Analysing this table, we can see that the largest concentration of informal activities is in the central area, followed by the northern area. This requires employment generating investment decision-makers to put more effort into channelling of resources to productive investments.

Table 3.2 – Per type of area

Type of Area	Type of Activity			Total Workforce	Non Workforce
	Informal	Formal	Unemployed		
Urban	1,657.90	607.8	1,024.00	3,289.70	1,788.30
Rural	6,001.20	194.9	706	6,902.10	2,421.40
Total	7,659.10	802.7	1,730.00	10,191.80	4,209.70

Source: The Informal Sector in Mozambique: Results from the First National Survey (2005), INE

The role played by the informal sector within the scope of the supply of work, in both urban and rural areas, is clearly shown in the table above.

In addition to those officially registered and left out of the formal market, the informal sector absorbed a very large number of unemployed persons seeking work.

Overview of the nature of legal exclusion and assessment of the problem

The problem of legal exclusion of informal sector activities relates not only to the manner in which specific legislation is presented, but also to the economic and financial basis on which the informal stakeholders count on for their initial investments.

As concerns legislation, the issue relates mainly to:

1. Tax law in general; and
2. By-laws for markets and fairs, in the case of municipalities.

In this context, the field work revealed that current legislation does not provide for issues related to the informal economy.

Informal municipal-level operators have to pay a daily fee to the municipality (market fee), with no benefit from municipal services normally offered to formal markets (Basic infrastructures such as stands, piped water, electricity, storage facilities for activity interruptions).

For their own defence as economic agents, they resort to common legislation even for matters strictly related to business.

Seen from an economic basis of the informal economy operators, the issue of the exclusion phenomenon presents itself as self-exclusion. These operators do not have resources to allow them to launch, or rather, to start developing a micro company, i.e., they do not have the so called initial levels of capital required to legally start a business.

The fact that informal business appears to be the only source of survival, creates a barrier to the sustainability of any business and, very often, the activity is bound to fail from the start as all the proceeds are used to cover immediate needs.

There are no savings, much less re-investment of profits to make the initial investment grow.

This fact, together with the non-inclusion of economic regulation mechanisms, explains the exclusion of informal sector operators.

Key Barriers to Changes in Legal Empowerment

The factors that interfere with changes in legal empowerment are linked to the causes of the emergence of the informal sector itself:

1. Legal restrictions resulting from policies and standards defined by the State's institutions, aiming at regulating the country's economic system;
2. Weak supply of microfinance services adapted to the needs and capacity of informal operators;
3. Taxes and fees charged on informal agents' business.

A country's development depends essentially on the growth of its economy which, in turn, corresponds to the government's performance through sustainable macroeconomic policies based on stability and increasing trend of the main economic and financial indicators.

Good macroeconomic policies often contrast with capacities at micro level, thereby creating an obstacle to the successful development of initiatives within the scope of small businesses that, being vital to the survival of certain social strata, develop outside the control of the national economic chain.

Informal operators acknowledge that economic regulation is a necessary evil and blame their inability to pay the charges imposed on economic agents on the lack of micro credit services.

The taxes and fees which, on the one hand, are indispensable in supporting the State's capacity to provide public services to the population, are, on the other hand, pointed out as being a barrier to the transition of informal operators to a sustainable business.

Also included in the set of barriers to legal empowerment are the costs involved in obtaining the instruments necessary for the integration of the informal economy into the economic chain. Although not yet quantifiable, it is obvious that the preparation of legislation, standards or regulations, their dissemination and the appropriate monitoring of their application, will inevitably have some impact on the budget.

Strategy to Carry out Changes

The efficacy of any type of change lies in the perception of the benefits to be gained by the parties involved.

In the case of change in the legal empowerment of informal stakeholders, two situations arise:

1. The need for informal operators, in their capacity as economic agents, to be afforded effective legal protection;
2. The need for the country to account for all the income generated, in order to enable better planning and distribution of resources in accordance with the social and economic priorities of the population and the country as a whole.

Once the benefits have been identified, the strategy must be designed using a participatory approach and incorporate all interests, with regard for the objectives of each of the parties which are, *a priori*, different.

When interviewed, certain informal economy operators considered the sites where they carry out their activities (informal sector vendor concentration centres, the denomination given to informal markets in ASSOTSI's articles of association) as being their place of

work. This fact shows a responsible attitude and an attempt to act as partners of the competent authorities on the matter. An example of this tendency is the denouncement of false tickets used for collecting municipal fees at those markets. The blame for this situation is not placed the institution but on persons of bad faith, who the institution must identify in order to take the necessary steps. This explains the reason for the attitude of cooperation developed by the informal operators toward the municipal authorities.

A country's development is based on a strong economy, with a solid financial system and a coherent investment policy.

With that in mind, the government defines economic management mechanisms to ensure that all generated income is reflected on the behaviour of the notes and coins in circulation (NCC), defined as a percentage of the total volume of the money existing in the economy (M2).

Normally, all legal rules or provisions encounter resistance from the targeted object. And legal financial and fiscal provisions are no different.

Thus, over and above the socio-economic reasons that explain the existence of the informal sector, its size is strongly influenced by the level of fiscal impositions; the higher the level, the greater the tendency not to declare taxable income.

How to reconcile these situations is a question whose answer may support the strategy for changes in empowerment.

At State institution level, very advanced steps have been taken to this end, through the objectives expressed in the Government's Five-Year Programme (PQG), Plan of Action for the Reduction of Absolute Poverty (PARPA2) and the implementation of the Millennium Development Goals (MDGs). These developments at macro level are implemented through operational plans and projects aimed at fighting absolute poverty, with greater emphasis on the rural areas expressed through:

1. The definition of the district as a development nucleus;
2. The Decentralized Finance Programme;
3. The allocation of resources to the districts for the development of productive occupation and income generating actions for the population; these appear as the government's commitment to the empowerment of the more disadvantaged people.

The issues put forward for an integrated strategy to bring about change in the empowerment of the poor are:

1. How can the existing population groups in urban areas that have no steady jobs and carry out informal economic activities be integrated into actions aimed at empowering the poor and which are currently targeted at rural areas?
2. How can this group be given an economic basis so as to make it eligible for credit from micro-credit institutions?
3. How can the existing legal instruments be adjusted so as to obtain a win/win relationship between informal operators and the State?
4. What are advantages or disadvantages in producing specific legislation for small scale activities resulting from the so called informal markets?

A concerted answer to these questions would no doubt open a window for the empowerment of micro-economic activity operators.

Considerations and recommendations

This assignment has shown that both parties involved in the process of the legal empowerment of informal stakeholders (Government and informal operators) already have the necessary conditions for this, and lack only a point of intercession as to the means and responsibilities of each of them.

The informal operators are organized in associations that aim at strengthening a Voice representing their social class. Through these organisations or associations informal operators can become visible and demand dignified and fair treatment in their capacity as economic agents. Over and above an associative movement which characterizes the performance of informal operators, it must be noted that the volume of work carried out by them in supplying the market with goods that are sometimes are produced by the sector itself, plays a very important role in the sector's contribution to the country's economy.

Government institutions are carrying out actions aimed at reducing poverty amongst the most disadvantaged.

It was possible, during the course of this assignment, to assess the spacing points between the interests of each of the parties.

The following recommendations emerged after putting together the realities mentioned above and taking into consideration the comments from the focus groups' meeting:

1. Cohesion among informal operators in order to confer a legitimacy that is representative of all the sector's operators.
2. Recognition of informal operators' concentration centres as centres for work and income generation that need to be registered in the national accounts through the:
 - Definition of inclusion policies, without necessarily transforming informal operators into formal operators

- Providing for simplified instruments for the registration of informal economy activities.
- 3. Need to distinguish between urban and rural poor with the object of achieving a better definition of the intervention measures, adapted to each specific situation.
- 4. Creation and/ or re-activation of “*Lutuosas*” (companies/ organisations whose objective is to support shareholders/ associates in need).
- 5. Increase micro-credit services, thereby enabling operators in this sector to embark on and ensure the sustainability of their activities.
- 6. Greater responsibility among informal operators for their contribution to the country’s economy through informal economy operator training actions.
- 7. Greater cooperation among informal operators and the institutions linked to the sector.
- 8. Of extreme importance is the definition of micro-enterprises within the context of the socioeconomic reforms underway in the country.
- 9. Need for formal policies to be more inclusive without necessarily transforming informal operators into formal operators.
- 10. In order for informal operators to be included and empowered, the State must go into the field and hear from the operators themselves what is best for them, and make a list of their contributions/ achievements.
- 11. Consider distinguishing between the urban and rural poor, with the objective of achieving a clear definition of the intervention measures most appropriate for each specific situation.

Annexes:

1. Terms of Reference (TOR)
2. Work Plan
3. Questionnaire and results from the interviews carried out
4. List of interviewees

Reference Documentation:

INE, The Informal Sector in Mozambique: Results from the First National Survey (2005).

Theodoro, Mário Lisboa. Os programas de Apoio ao sector Informal no Nordeste. *in planeamento e politicas Publicas*, nº 12, jul\dez. Brasilia:IPEA,1995.p.147-164.

PARPA (2006) Plano de Acção para a Redução da Pobreza Absoluta

PQG (2005) Programa Quinquenal do Governo 2005-2009.

Annex 2

WORK PLAN
July to September/07

Plan	Activity to be carried out
13 – 16 July	Preparation and presentation of methodology and work plan.
18 July to 17 August	Collection of available information, both documentary and from interviews.
18 – 24 August	Analysis, selection and classification of relevant information.
25 – 31 August	Preparation of 1 st draft of the preliminary report and submission to the commission’s secretariat.
1 – 15 September	Analysis and reconciliation of the document with the commission’s secretariat.
16 –18 September	Meeting with focus groups for comments on the draft of the preliminary report.
19 – 22 September	Preparation and realisation of the National Seminar.
23 – 27 September	Reconciliation of the contributions to the Seminar and presentation of the final draft report to the commission’s secretariat for comments.
28 – 30 September	Incorporation of the commission secretariat’s observations, preparation and submission of final report.

Due to absolute need and observance of the terms of reference, and considering the organisation of the process, the present plan was flexible as to the articulation with the work group members.

Annex 3

Questionnaire for Interviews

Focus	Question	Interviewee	Answer	
Characterization	What is the informal sector for you	All	By operators – sites or markets that emerge spontaneously with no intervention from the government, where informal operators seek their daily income for survival, and are therefore places of work. By governing bodies -	
Size of the informal economy	What is the percentage of the informal activity in the economy	Government Institutions (Finance)	It is impossible to give an exact amount but estimate point to a large segment of the population (more than 70%)	9
Nature of problems with the informal business (legal and illegal)	What type of problems are you faced with in this type of business	Informal Operators	Informal businesses are normally located in urban centres. In terms of legal instruments, these businesses are covered by municipal provisions. Problem – informal operators have obligations (payment of fees) with no other type of assistance from the municipality (water, electricity and toilets)	
Barriers to the legalisation of informal business	What barriers hinder the formalisation of businesses	Informal Operators	- Fees and other conditions required for business registration - amount of taxes formal businesses have to pay - lack of capital for sustainable investment	

Approaches to the problem	What steps were taken to deal with the problem			
Informal operator organisation	Is there any informal operator association to lobby for their cause? Are these associations influential?	Informal operators	ASSTSI- Informal Sector Operator and Worker Association - Hawkers (“ <i>Mucuerristas</i> ”) Association - Mozambique Importers Association (wholesalers)	
Protection of informal operators’ capital and their inclusion in the judicial and legal framework	Is there any legal mechanism to protect informal operators’ capital? And any mechanism which is specifically for women?	All		
Costs and risks	What are the risks and costs associated with the promotion and protection of informal operators?	State Bodies		
Proportion men/ women in the informal sector	How can the large number of women in		A concentration of women depends on the type of business; there	

	the informal sector be explained?		are cases where this situation is reversed	
Environmental impact	Was there any impact on the site due to the practice of informal activities?	All	Informal operators – the impact has to be a two way impact. As regards residents, their needs are met through the services provided by informal operators. (positive impact on the one hand); while in physical terms, a significant amount of solid waste is produced and pollutes the environment. Without any proper assistance from municipal authorities, the end result is filth (negative impact) Governmental Authorities	
Partnerships	What relation is there between large companies and informal sector businesses?	All	At this level, partnerships are established with old informal operators who have become businessmen/women and are carried out through supplies provided on credit, with payment being effected after their goods are sold.	
The role of local governments	What role do local governments have in the promotion and protection of microfinance?	All	As formal micro enterprises, they are covered by common legislation. On informal sector business, there is nothing concrete	

Annex 4

List of Interviewees

The present assignment was prepared based on a method using interviews, which resulted in the following people being interviewed:

Name	Site/Position
Ramos Marrengule	ASSTSI's Chairman (Informal Operator and Worker Association)
Paulo Jonasse	Head of the Core Group – Estrela Vermelha
Mequelina Filipe Muchanga	Secretary of the Women's Committee – E. Vermelha
Paulo Brown	Stand owner – sale of cell phones and accessories
José Janela	Stand owner – all types of materials
Rosalina Langa Bonca	Stand owner selling foodstuffs
Américo Naqiti	Informal Operator -Nampula (agricultural products)
Cândida Gonçalves	Informal Operator - Beira (Ice creams)
Ana Maria	Wholesaler (eggs and meat) –Namaacha
Ângela Cossa	Clothing vendor – R. Garcia