

All beautiful cities are built on exploitation, and Maputo, the capital of the newly independent People's Republic of Mozambique is no exception. But it was a great joy to be there earlier this year, and to see the people of the crowded 'suburbs' displaying their power over the elegant boulevards which they had constructed and from which they had been excluded. The city was in a state of transition. The skilled personnel had largely left for Portugal, and every institution had undergone upheaval. But the changes were taking place in an orderly and disciplined fashion - Frelimo was in control, and, as many people told me with pride, Frelimo had this distinctive style. Fourteen years of hard struggle against imperialism externally and opportunism and racism in its own ranks had produced a characteristic and effective method of work, based on full discussion of policy, collective leadership and individual responsibility, mass participation and the concentration of all resources on achievable tasks. The power bases of the old traditional-feudal society and the more recent colonialist-capitalist state had been destroyed and the foundations of a popular democracy created. But, as Frelimo always stressed, the creation of a new socialist state with new institutions would take time, and the transformation of structures had to proceed on the basis of priorities.

My visit centred mainly on the Law Faculty of the Eduardo Mondlane University and the law courts in Maputo, both regarded as important but not priority-rating institutions. The legal profession and the judiciary had been almost entirely Portuguese; only five out of a hundred Portuguese judges remained in the country, and most practising lawyers had also departed, unwilling to accept the nationalisation of their profession (along with that of the medical profession and buildings). One of those



who did not leave had been a leading member of the Bar secretly in touch with Frelimo, and now he was Minister of Justice, while one of the five remaining judges was now Dean of the Law Faculty. The problems they faced were immense, and included integrating the experience of the 'advanced' liberated zones in the north with the problems of the 'backward' towns of the south as well as renovating structures, changing the laws and training people to administer the courts. The people required answers not only to large questions such as who controlled society, but also to everyday practical issues such as neighbourhood crime, family breakdown, and the best terms that could be got in bargaining with foreign firms.

The one priority in this list was the combating of crime and the re-educating of criminals, which were regarded as essential preconditions for the social calm required for organised popular participation in the tasks of the Revolution. The Frelimo approach was well illustrated by the perspective on crime. Criminals and bandits were characterised as enemies of the People, reactionary and counter-revolutionary. They stole the People's property, murdered or ill-treated workers, abused women and attacked the most elementary principles of respect for the working people. They were nearly always drawn from the ranks of the exploited classes who had absorbed a corrupt and exploitative mentality from their exploiters, and who tried 'to solve their personal difficulties, which are caused by a society divided into classes, not through a struggle to destroy this type of society, but through the exploitation, oppression and humiliation of the People themselves. .... It is amongst the People, integrated into their class of origin, that these criminals will be transformed and taught to act in accordance with the interests of their class.'

[Frelimo discussion paper.] Experience in the liberated zones had shown that the fight against crime depended essentially on the organised people



who caught, judged and found concrete ways to free the criminals from the negative ways of the exploiting classes, thus virtually eliminating crime altogether. In the rest of the country great successes had been achieved, but there were problems flowing from the continued operation of colonial laws and structures. For example, so-called 'petty thieves' were automatically released on bail, whereas in reality what was a slight crime for the privileged was serious for those who already lived in difficult circumstances. Thus colonial law, apparently impartial, took on a marked class character in considering crimes against the people unimportant and crimes against the privileged classes very serious. Restructuring the judicial system was accordingly a priority, and popular courts had to be created in which the organised people collectively studied the causes of crime and the ways to eliminate them. Furthermore, colonial laws had to be replaced by revolutionary laws. But this could only be done when new laws were finalised: abolition pure and simple would create a situation of anarchy permitting arbitrary acts with very serious consequences for the people. Finally, it was necessary to eliminate the wrong conception that the re-education of criminals was a complicated and distant thing which had nothing to do with the people; only the people, organised and aware of their responsibilities, could re-educate and 'responsibilise' the criminals and bandits, so that special re-education centres removed from the people could be reserved only for the small numbers of murderers, dangerous mentally sick etc.

The same urgency for reform, however, was not felt in relation to the civil law. In a frank interview, the Minister of Justice emphasised to me that the Civil Code would remain basically unchanged for years (perhaps someone had told him that in my lectures I was running a little fast!). He pointed out that Cuba had changed only its Family Code, and then only in the previous year; that the German D.R. had only changed its Civil Code a couple of years previously, and that Poland still used



pre-Revolutionary civil law. He also stressed, incidentally, that the Government was concerned to establish legality - the previous year there had been serious problems, this year things were much better, and next year things would be better still. It was refreshing to hear a Minister discuss such issues in a calm, realistic and optimistic way.

The difficulties he referred to of the previous year probably related to the arbitrary actions of sections of the urban police forces, who immediately after independence had turned against the whites with the brutality and highhandedness they had formerly reserved for blacks.

Frelimo had come down heavily against these actions, dismissing the chief culprits, and giving firm directives to the rest, but already <sup>some</sup> ~~many~~ whites who otherwise might have stayed to help re-construct Mozambique had decided to leave, Joining the many who objected to independence, popular rule and nationalization,

X The sudden exodus of 70,000 out of 100,000 Portuguese, who had previously monopolised virtually all skilled positions in the economy and administration, created enormous practical difficulties, and a further 20,000 were expected to depart after their contracts expired in 1977. However, the 10,000 Portuguese, plus the 20,000 white Mozambicans who were expected to remain, clearly had vital roles to play in ~~the~~ building up the new society.

In thinking about the future of southern Africa I had always accepted the need to give security and protection to the white minorities. What my visit to Maputo taught me is that there is a much more positive, effective and rewarding possibility, namely, to give whites an active part in revolutionising the society. It so happened that the three most senior persons ~~with~~ whom I had dealings were all white - the dean of the Law Faculty, the Rector of the University, and the Minister of Justice. All were totally committed to the reconstruction of Mozambique, and I never once heard any allusion to the fact that they were <sup>of /</sup> Portuguese <sup>extractions,</sup> ~~born.~~ What X mattered was where they stood in relation to the struggle of the Mozambique



people, not the colour of their skin or the place of their birth. Problems of redistributing wealth and power were to be resolved in an organised political way, not by arbitrary acts or reverse racial oppression. It is difficult to convey how liberating it was to be in this totally non-racist atmosphere. In fact, the sense of confidence and elan that flowed from the victory of the Frelimo political line produced other remarkable results: old people going to school and University, and young people doing jobs that only old people had done before; men and women relating to each other as workers, citizens and friends, rather than as objects of sexuality and exploitation (it was both <sup>calming</sup> ~~claiming~~ and liberating to be able to sit down next to a woman without feeling a need to indicate that this was not a prelude to a pass).

The day I spent in court was most instructive. At one level nothing had changed: the Criminal Code was still the Portuguese one, the documents still dominated the procedure, and at the trial <sup>at</sup> <sup>which</sup> I watched, a white judge wearing a gown was giving a stern judicial lecture to black defendants. But, under his gown the judge wore a yellow, open-necked shirt and cord trousers; it turned out that he was admonishing the defendants for having sold underweight food packages in a poor neighbourhood, and he explained that he was able to use the Code in a flexible manner. I learned that the judge had formerly worked in the Land Registry, that the chief administrator had previously been a court messenger, and that the prosecutors were all law students. Although procedure remained unchanged, the atmosphere of trials was more informal. The judge was very correct with me, refusing to discuss the sentence he was considering for the shopkeepers, and he stressed the importance of the presumption of innocence and of due procedure. The prosecutor who escorted me - a third year law student, she had been terrified when first shown her case-load - said that in the absence of defence lawyers, defendants were bound to suffer in some cases, since even



the most diligent prosecutor could never elicit everything that could be said for the defendants.

The same sort of improvisation was to be found at the University. All the lecturers save the Dean worked a full day as legal advisers; all but seven out of 150 students also had full-time jobs; the Library was <sup>tiny</sup> minute, textbooks were either unsatisfactory or unavailable, and the lecturers had to run off their own notes. Although all the teachers appeared to be knowledgeable and conscientious, none had been academics before, and most were planning to leave. Some were regarded by the students as ultrapasado - passed by by the revolution. In addition to attending classes at night and studying over week-ends, students were expected to spend as many Sunday mornings as possible doing agricultural or building work on the campus, and to devote the whole of the month of July to living and working amongst the peasants in the north. In fact the 'July' activities were regarded as more important than the examinations - I was told that despite the desperate need for graduates, 200 students who had failed to participate in 'July' had had their courses terminated. Many of the law students had found the going too tough. Those whose motto had been 'learn to earn, learn more to earn more' had dropped out when the law of the nationalisations had been passed. Some revolutionaries had been unable to swallow having to learn the tedious rules of the old Portuguese Codes, while some reactionaries had been unable to accept the new teachings on law and state. But many had stayed on.

I quickly learnt that the students in Maputo work hard, in an atmosphere of conviviality and sharing. What they study matters, since they will be the generation with a special responsibility for the maintenance of revolutionary legality and the reconstruction of the justice system. The close connection between their ideas and their lives gives urgency and excitement to lecturing, which ceases to be just fun, or an intellectual exercise, or an ego trip. A false formulation or a



lack of concreteness can have immediate harmful consequences in the society, whereas a new solution can be directly incorporated into social practice. For those of us who have spent our legal lives as critics of our respective societies, or even as revolutionaries, it is quite something to ~~find ourselves~~<sup>be</sup> basically in sympathy with the public power. It imposes a different kind of responsibility on us, not to be psychopantic defenders of the new regime, but to be active and creative contributors to its advance. At the same time it enables us as lawyers and as activists to feed the experiences of our own struggles into theirs, and theirs into ours. All in all, I had an enthralling time in Mozambique, and look forward to my return.