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## 1999 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor  
U.S. Department of State, February 25, 2000

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### MOZAMBIQUE

Mozambique's constitutional Government, headed by President Joaquim Chissano, held its second general multiparty elections in December (the first multiparty elections were held in 1994). President Chissano was reelected and his party, the Front for the Liberation of Mozambique (FRELIMO), won 133 seats in the 250-seat Assembly of the Republic, with the remaining 117 seats going to the opposition coalition of the Mozambique National Resistance--Electoral Union (RENAMO-UE). The elections were peaceful and orderly; however, they were marred by allegations of vote-counting irregularities. Chissano and the leadership of FRELIMO, which has ruled the country since independence in 1975, dominate policymaking and implementation. The Assembly is a multiparty parliament that provides increasingly useful debate on national policy issues and generates some proposals independently. During legislative sessions, the Assembly's FRELIMO majority influenced the executive branch on some policy issues. Opposition parties in the Assembly, working together with FRELIMO, were able to develop and enact some legislation on a bipartisan basis. The Constitution provides for an independent judiciary; however, the executive branch dominates the judiciary, which lacks adequate resources, and is chronically understaffed, susceptible to corruption, and largely ineffectual.

The forces responsible for internal security under the Ministry of Interior include: the Criminal Investigation Police (PIC), the Mozambican National Police (PRM), and the Rapid Reaction Police. The State Information and Security Service reports directly to the President. The military continued to suffer from a lack of money and long term strategy. Many former military personnel of all ranks work in other government security forces. Members of the security forces committed numerous serious human rights abuses.

Mozambique is a very poor country. Approximately 80 percent of the population are employed in agriculture, mostly on a subsistence level, and approximately 75 percent of the population live in poverty. The primary exports are shrimp, sugar, cotton, and cashew nuts. The transition to a market economy continued during the year. In 1998 the gross

domestic product (GDP) was about \$3.4 billion, up over 10 percent in each of the last 3 years. Inflation was less than 5 percent in 1998. The economy and government budget remained heavily dependent on foreign aid. The economy had a \$204 million trade deficit in 1998, down from \$377 million deficit in 1995. Annual per capita income was approximately \$180. High unemployment and underemployment in the formal and informal sectors continued. Corruption continued to be a problem in the public and private sectors.

The Government's human rights record, although poor in numerous areas, continued to show improvements in several others. Police continued to commit numerous abuses, including extrajudicial killings, excessive use of force, torture, and other abuses. Police officers tortured and beat persons in custody, and abused prostitutes and street children. Prison conditions remain extremely harsh and life-threatening; many prisoners died due to the harsh conditions. Police continued to use arbitrary arrest and detention, and lengthy pretrial detention was common. Fair and expeditious trials were not possible due to an inefficient, understaffed, and underfunded judiciary, which is dominated by the executive and subject to corruption. The Government generally respected freedom of the press; however, there were some limitations. Media outlets owned by the Government and State enterprises largely reflected the views of factions within the ruling party; however, the number and diversity of independent media increased, and their criticism of the Government, its leaders, and their families largely is tolerated. Human rights violations received extensive coverage in both government and independent media during the year. Both the Government and the law imposed some limits on freedom of association. The Government, at times, infringed on freedom of movement. The country's movement toward decentralization and expanding democracy progressed; the voter registration process was successful with 85 percent of the estimated eligible population registering to vote in the general elections. Domestic violence against women as well as widespread discrimination against women in employment and property rights, remained problems. The abuse and criminal exploitation of street children increased in urban areas, and child prostitution remained a problem. Discrimination against the disabled, child labor, and forced child labor remained problems. The media reported a few cases of trafficking in women and children. Occasional mob violence resulted in several deaths.

## **RESPECT FOR HUMAN RIGHTS**

### Section 1 Respect for Integrity of the Person, Including Freedom From:

#### a. Political and Other Extrajudicial Killing

There were no reports of political killings; however, there were a few reports of extrajudicial killing. In March relatives of a detainee accused police of killing him in Beira central prison. Authorities attributed the man's death to an unspecified illness; an eyewitness testified in March that he saw police beating the victim on the way to the prison. The case was referred by the Mozambican Human Rights League (LDH) to the Attorney General's office, but still was pending at year's end.

In October a new organization, Human Rights and Democracy (DHD), published a critical assessment of human rights conditions (see Section 4); among the complaints were alleged police killings.

Extremely harsh prison conditions and torture resulted in the deaths of some persons in custody (see Section 1.c.).

In 1998 a journalist in Cabo Delgado province reported that an accused thief, Cabral Manica, died while in police custody because of torture. The police officer allegedly responsible for Manica's death was convicted in June and sentenced to 3 months in prison.

There was no investigation into the 1998 death in police custody of Intipa Faque in the northern province of Nampula; nor was any action taken against the officers responsible.

The Government reportedly investigated the police killing of a demonstrator during a labor strike at a security services company in 1998; however, no report was released publicly, nor was any action taken against the officers responsible (see Section 6.a.).

An investigation was ongoing at year's end into the 1997 police killing of Eduardo Machava, allegedly for refusing a shakedown attempt.

Police denied wrongdoing in the 1997 killings of Abel Zefanias dos Anjos and Crescencio Sergio Muchange, and reportedly have not yet referred either case to the criminal investigation branch.

Occasional mob and vigilante killings continued in both urban and rural areas due to general public frustration with rising crime. In August a man in Maputo was caught stealing from a residence and was beaten by a crowd until the police intervened. Another man was beaten to death by a mob in a Maputo suburb after breaking into a residence.

Some of the hundreds of thousands of landmines still in the ground after decades of civil war caused 12 deaths during the year.

#### b. Disappearance

There were no reports of politically motivated disappearances; however, police were responsible for unexplained disappearances of prisoners.

The fate of thousands of citizens who disappeared during the civil war still remains unresolved.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution expressly prohibits torture and cruel or inhuman treatment; however, the police continued to commit serious abuses and torture, beatings, death threats, physical and mental abuse, extortion, and unexplained disappearances of some prisoners remained problems. From January to September, the LDH reported 78 complaints of torture, including several instances involving the mistreatment of women, beating, illegal detention, and death threats.

Corruption in the police forces extends throughout the ranks, and the PRM used violence and detention to intimidate persons from reporting abuses.

Journalists continued to report that police extorted money from street vendors, many of

whom are widowed and divorced women, sometimes beating the women, and often stealing their merchandise. There also were reports of police abuse of prostitutes and street children (see Section 5).

The national budget allocated more funding for the hiring and training of police, as well as for higher salaries. New standards for the police force were imposed, requiring a minimum educational level of the tenth grade. A new police academy is scheduled to be opened in early 2000 to provide some university level training to police officers. Human rights training is becoming mandatory for all security officers, with human rights groups like the LDH teaching some of the courses. The LDH's president noted in October that there had been overall improvement in police performance.

There was some sporadic political violence related to the December elections, attributable to both RENAMO-UE and FRELIMO supporters (see Section 3).

Prison conditions in most of the country are extremely harsh and continued to pose a threat to inmates' health and lives. A LDH report released in January on the Beira central prison found that conditions remain significantly below minimum international standards. Latrine facilities are primitive; in some prisons, inmates must keep human waste in their cells until they persuade or bribe attendants to remove it. Food is substandard and scarce. Most prisoners receive only one meal per day on a regular basis. There are many deaths in prison, the vast majority due to illness and disease. In March after being transferred to Maputo Central Hospital, three minor prisoners died due to illness and an alleged lack of food while imprisoned. While the health problems of most inmates remain unattended, the Ministry of Health made specific efforts to address some of the more serious diseases in the prison system, including cholera, tuberculosis, and HIV/AIDS-related illnesses.

The Beira chapter of the LDH visited Beira central prison in December 1998, and January, and found that torture, death threats by agents of the State, extortion, physical and mental abuse, and unexplained disappearances of some prisoners still are problems. There are reported cases in which inmates complained of extortion, and of denial of visitation rights and medical care. During its visit the LDH noted a marked drop in the number of complaints from inmates from a high of 700 during a previous visit in 1998, to 300. In September a woman's prison, which included a prison school, was opened in Ndlavela.

In October the Ministry of Justice held a 4-day symposium on prison reform, seeking ways to improve conditions and the rehabilitation of inmates. In connection with the symposium, Justice Minister Jose Abudo admitted that the penal system was "imperfect and lacking, beset with serious structural problems that demanded profound reforms."

In November 1998, a newspaper reported the discovery of a clandestine prison in Buzi District, Sofala Province, where police allegedly detained prisoners in underground cisterns. Local authorities denied the existence of this illegal prison.

Two National Directorates of Prisons (DNP's), one under the Ministry of Justice (MOJ) and the other under the Ministry of Interior (MOI), operate prisons in all the provincial capitals. The DNP's also hold prisoners at an agricultural penitentiary in Mabalane and industrial penitentiaries in Nampula and Maputo. According to nongovernmental organization (NGO) sources, MOI inmates generally are unconvicted suspects who may

have been interviewed by a judge but not sentenced, some of whom have been held for years (see Section 1.d.). MOJ inmates generally have been tried and sentenced in a conventional legal process. In most prisons, inmates under MOJ jurisdiction are imprisoned with those under MOI jurisdiction. Military and civilian prisoners are held in the same prisons.

Detention facilities remained severely overcrowded, generally housing four to six times the number of prisoners that they were built to accommodate. During the year, Beira central prison held 653 prisoners in a prison built to hold 200; Manica held 1,000 in a prison built to hold 300; Tete held 405 in a prison built to hold 90. Inhambane provincial prison held 150 in a prison built to hold 75; Nampula held 400 in a prison built for 70; and Pemba held 413 in a prison built for 90. Maputo central prison, built to hold 800 inmates, held 2,300, of whom 1,570 were awaiting trial. However, the Maputo Machava maximum security prison, with a capacity of 600, held considerably less than that.

Minors are incarcerated with adult inmates. During a visit to the Beira central prison in August, the Minister of Coordination of Social Action found 25 minors detained there. However, the LDH reported noticeably fewer minors held in detention nationwide. At times Maputo city prison houses children as young as 3 years of age, brought there by mothers sentenced for long periods for crimes.

International as well as domestic human rights groups may have access to prisoners at the discretion of the MOJ and MOI; however, officials sometimes cite unsanitary conditions or security risks as reasons to delay or cancel visits.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution provides that the duration of preventive imprisonment be set by law; however, the police continued to arbitrarily arrest and detain citizens in practice. Under the law, the maximum preventive imprisonment is 48 hours, during which time a detainee has the right to have his case reviewed by judicial authorities, after which he can be detained up to another 60 days while the case is investigated by the PIC. In cases where a person is accused of a very serious crime carrying a sentence of more than 8 years, he may be detained up to 84 days without being charged formally. If a court approves, such detainees may be held for two more periods of 84 days each without charge while the police complete the investigation process. The law provides that if the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases, the authorities either are unaware of these regulations or ignore them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends.

In February police detained a Pakistani imam for questioning in connection with the criminal investigation of the murder and decapitation of a young black man (see Section 2.c.). An investigating magistrate released the imam on bail after 8 days in detention, but ordered him to remain in the country for further questioning. In August the Imam was rearrested and remained in detention at year's end pending a trial.

In 1998 a radio journalist, Fernando Quinova, was detained without charge after reporting on Radio Mozambique that a prisoner died while in the custody of the police (see Section 2.a.). Quinova escaped from prison, but was rearrested on March 2, and charged with

slandering the police and illegally leaking documents: neither charge exists under the Penal Code. On March 8, Quinova was freed after the media publicized his plight. In May the Cabo Delgado provincial court convicted a police commander of illegally detaining Quinova. The commander was fined approximately \$44 (546,000 meticaïs) and ordered to pay Quinova approximately \$240 (3 million meticaïs) in compensation.

Many persons complained that security officials often detained them for spurious reasons and demanded identification documents; many officers also demanded bribes to permit persons to continue toward their destinations. The media reported that citizens in Nampula province complained to authorities that police detained persons for not carrying identification documents, and demanded money when they could not produce documents. Many victims lived in areas where there was no notary public available to validate their documents. Many victims chose not to seek police assistance because of their usual demand for bribes or a lack of confidence that the police would help.

Most citizens also are unaware of their rights, particularly those provided by the Constitution, the law, and the Penal Process Code. As a result, detainees can spend many weeks, months, and even years in pretrial status. The bail system remains poorly defined, and prisoners, their families, and NGO's continue to complain that police and prison officials demand bribes to release prisoners.

Under the Penal Code, only those suspects caught in the act of committing a crime can be held in detention. Justice Ministry officials say that some police lack adequate training and do not know how to charge a person properly with a stated crime. An unfortunate detainee thus may be subjected to indefinite detention. The National Directorate of Prisons reported that there are an estimated 7,500 persons in the prison system, 4,758 of whom were detainees who had not been charged. In response to this problem, a legal enforcement commission convened in May and ordered cases of detainees to be reviewed so that those who had served their time or were being held illegally (without charge) could be released. In Beira alone, 230 prisoners were released from the central prison during May and June. The DHD report on human rights conditions released in October gave particular emphasis to the problem of arbitrary arrest and detention (see Section 4).

Drug cases are subject to a special regime. A 1996 law specifies that the legal period of preventive detention in drug trafficking cases is 10 days. The same law authorizes a long period of investigation--up to 9 months--in cases involving drug smuggling, drug production and transfer, and criminal association.

The Constitution expressly prohibits exile, and the Government does not use exile as a form of punishment.

#### e. Denial of Fair Public Trial

The Constitution formally established an independent judiciary and specifically states that the decisions of the courts take precedence over all other authorities and individuals and must be obeyed; however the executive, and by extension the FRELIMO party, continued to dominate the judiciary, which is understaffed and manned by inadequately trained appointees. The DHD report on human rights conditions released in October gave particular emphasis to problems in the judiciary (see Section 4).

The President appoints the President and Vice President of the most important tribunal, the Supreme Court. Supreme Court nominations initially are prepared by the Supreme Higher Magistrate's Council (CSMJ), the body responsible for overseeing professional behavior among magistrates. The CSMJ, generally all FRELIMO party members, submits a list of qualified persons to the President of the Republic. The president then submits his choices to the National Assembly for approval. No assembly approval is needed for other judicial appointments.

There are two complementary formal justice systems: The civil/criminal system, and the military system. Civilians are not under the jurisdiction of, or tried in, military courts. A 1991 law empowered the Supreme Court to administer the civil/criminal system; it also hears appeals, including military cases, although the Ministry of Defense administers the military courts. Below the Supreme Court there are provincial and district courts. There also are courts that exercise limited, specialized jurisdiction, such as the administrative court, customs court, fiscal court, maritime court, and labor court. The Constitution called for the creation of a Constitutional Council, but the Government has not yet passed implementing legislation. In the absence of this body, the Supreme Court is tasked with ruling on issues of constitutionality, as it did when assessing the eligibility of presidential candidates for the general elections. In November the Supreme Court overruled the National Election Commission and allowed the United Front of Mozambique (FUMO) party to participate in the RENAMO-UE coalition (see Section 3). Persons 16 years old and younger fall under the jurisdiction of a court system for minors. Through this legal channel, the Government can send minors to correctional, educational, or other institutions. As with the provincial and district courts, the specialized and minor court systems are ineffective due to a lack of qualified professionals.

In August Supreme Court Chief Justice Mario Mangaze complained that only 25 percent of citizens had access to the official judicial system. Outside the formal court system, a number of local customary courts adjudicate matters such as estate and divorce cases. These courts are staffed by respected local arbiters who have no formal training but who exercise a substantial judicial and executive role, particularly in the area of arbitration.

Persons accused of crimes against the State are tried in regular civilian courts under standard criminal judicial procedures. The law provides definitions of crimes against the State, such as treason, terrorism, and sabotage. The Supreme Court has original jurisdiction over members of Parliament and other persons who are immune from trial in the lower courts. Early in the year, an administrative judge was arrested and detained for shooting a homeless man and is now on trial in the Supreme Court.

A judge may order a closed trial because of national security interests or to protect the privacy of the plaintiff in cases concerning rape.

In regular courts, all accused persons are in principle presumed innocent and have the right to legal counsel and the right of appeal; however, authorities do not always respect these rights. The great majority of the population is either unaware of these rights or does not possess the means to obtain any form of legal counsel. Although the law specifically provides for public defenders, such assistance is not available in practice, particularly in the rural areas. Some NGO's, such as LDH, the Government's National Institute for Legal Assistance, and the Mozambican Association of Women in Judicial Careers, continued to offer limited legal counsel at little or no cost to both defendants and prisoners.

A lack of licensed attorneys exacerbates the judicial system's weakness. There are an estimated 200 licensed attorneys in the country; the vast majority work in Maputo. There continued to be a shortage of qualified judicial personnel, with only 20 to 30 nationwide. There are appeals courts in all provinces, but few of these courts are staffed by formally trained judges, despite the fact that the Judicial Magistrates Statute requires a law degree. Some districts have no formal courts or judges at all. Several donor initiatives to remedy these shortages were continued or completed, including Danish and World Bank-financed training of district court judges and public prosecutors.

In 1998 while speaking at the opening of the Supreme Court session, Chief Justice Mangaze complained that a number of judges and others responsible to the courts are guilty of unacceptable practices, including corruption and bribe taking, chronic absence, unequal treatment, and deliberate delays and omissions in handling cases. Justice Mangaze also presides over the Higher Magistrate's Council (CSMJ), which expelled 23 judges for corruption since 1995. A Ministry of Justice official estimated that 16 judges have been removed from office since 1998, including three judges whose cases were heard during the year. In 1998 the National Assembly passed a law, which was implemented during the year, that speeds the implementation of CSMJ decisions affecting judges who appeal charges of misconduct, thus removing them from the bench more swiftly.

In November 1998, a young man accused of stealing from his employer was beaten, bound, and left in the sun by his employer, who accused him of stealing. His resulting injuries were so severe that both of his arms had to be amputated. The judge hearing the case was criticized widely by the press and public for only imposing a \$40 (500,000 meticaís) fine against the employer, who later absconded.

The Penal Code contains legal guidelines for the judicial treatment of minors and forbids the imprisonment of minors below the age of 20; however, there are many documented reports that some judges ordered the incarceration of minors in common prisons without trial (see Section 1.c.).

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right of privacy and expressly forbids the use of surveillance techniques, and the Government generally respected these provisions. By law police need a warrant to enter homes and businesses. There were no documented reports of such search activity; however, some political groups suspected that their telephones were tapped by government intelligence agencies, and claimed that security forces kept watch on their activities.

### Section 2 Respect for Civil Liberties:

#### a. Freedom of Speech and Press

The Constitution, the 1991 Press Law, and the 1992 Rome Peace Accords provided for freedom of expression and of the press, and the Government generally respected these provisions; however, limitations on these freedoms are permitted if they relate to the

media's obligations to respect the Constitution, human dignity, and imperatives of foreign policy and national defense. A media watchdog organization expressed concern that the vagueness of "imperatives of foreign policy and national defense" could lead to unwarranted restrictions. While criticism of the President is not prohibited, the 1991 Press Law holds that in cases of defamation against the President, truth is not a sufficient defense against libel. This law has not been tested in court; however, the President experienced considerable verbal and written criticism during the year--especially during the course of the electoral campaign--without invoking this clause.

Police harassment and detention of radio journalist Fernando Quinova continued in the beginning of the year (see Section 1.d.). Quinova was released in March after the media publicized his plight in the northern province of Cabo Delgado. The National Journalists Union and Radio Mozambique provided legal counsel. In May a police commander was convicted of illegally detaining Quinova. Another officer was convicted and sentenced to 3 months imprisonment in June for the death in custody of Cabral Manica, which Quinova reported. In April the Tete district court absolved the newspaper Fax Do Interior, of charges of defamation, which had been levied in 1997. In June a Maputo court dismissed a suit of libel brought by an opposition politician against the state-owned newspaper Domingo.

Government and state-owned media largely reflected the views of the ruling party, but many such media sources also carried significant criticism of the Government's handling of the local election administration. Media ownership is diversified--the U.N. Educational, Scientific, and Cultural Organization (UNESCO) Media Project estimated that 34 percent of the country's media were public, 36 percent were private commercial, and 28 percent were private nonprofit (church affiliated); however, the public category includes the country's only daily newspapers, the only Sunday newspaper, and the only weekly newsmagazine. Two progovernment newspapers--Noticias and Domingo--together with a third sports-oriented weekly are owned by a single corporation, Noticias Sarl, in which state-owned enterprises hold majority shares. Both evidenced blatant bias in favor of the ruling party, FRELIMO, during the election period; however Domingo continued pushing for reform of the justice system. In June one fairly modern government-owned printing press in Maputo was privatized.

A large number of periodicals and broadcasting entities have been licensed since 1992 and the independent media criticisms of government leaders and their families largely is tolerated. An independent publisher started a daily newspaper in Maputo during the year, but was forced to limit publications to one per week due to financial constraints. There were four independent weekly newspapers published in Maputo, and five other independent weekly journals published in provincial capitals. According to a survey by the Panos Institute, the nine weekly newspapers had a combined total circulation of 45,910. There are an additional 20 printed periodicals with a combined circulation of 34,000. There also are eight periodicals that transmitted daily editions electronically, with a combined subscription of more than 1,500. The second oldest faxed daily, Imparcial, is owned by RENAMO. Websites were developed during the year for several independent media. Only a small minority of the population receives news directly through either television or the print media.

While the Government no longer owns most radio and television stations, government stations are the only broadcasters capable of countrywide transmission; however, there are

local and independent broadcasts in almost all urban areas. Government media are showing greater transparency in reporting and some independence of editorial content. Radio Mozambique, the public's most important source of information, is government owned, but its news coverage is considered unbiased and fair. Radio Mozambique receives the largest single subsidy from the state budget of any public company. It broadcasts in Portuguese and 18 indigenous languages; its external service broadcasts in English as well as in Portuguese for citizens in neighboring South Africa. Radio Mozambique regularly broadcasts public debates that include a variety of participants with differing opinions.

In addition to Radio Mozambique, there are 16 independent (primarily church-supported) and state-supported radio stations, most using local languages in addition to Portuguese, which have spread to over a dozen cities. One such station, Radio Terra Verde, is linked directly to the principal opposition party. Radio Terra Verde (RTV) is second only to Radio Mozambique's youth-oriented Radio Cidade in popularity, outside of broadcast times for soccer matches. Foreign radio programs, including the British Broadcasting Corporation (BBC), Radio France International (RFI), Radio Diffusao Portugal (RDP)-Africa, and the Voice Of America (VOA) reach all major population centers and report local news via Mozambican-based part-time reporters; the BBC and the RFI carry news in Portuguese but broadcast most of the day in English and French, respectively.

TV Mozambique moved into a new Portuguese-built studio in 1998 and began broadcasting during the year. During the elections, TV Mozambique was biased towards the ruling party. Portuguese Television for Africa (RTP Africa) offers a second source of televised news to all parts of the country reached by TVM. Privately owned television transmission continued to be limited to Maputo; transmissions from Quelimane did not begin during the year due to financial constraints. International television news via cable in Maputo and via satellite is available nationwide.

A media development report released by UNESCO expressed concern about the strong concentration of national and local media in Maputo city and province, mirroring lopsided socio-economic development nationwide. Furthermore, a 1997 census revealed that 60.5 percent of citizens over age 15 are illiterate in any language and 70 percent of the population over 5 years of age do not speak Portuguese, which further limits the reach of the media beyond Maputo.

Article 19, a United Kingdom-based NGO, reported that the independent media are constrained by the high cost of newsprint, distribution, and equipment. It claimed that publications close to the Government have an advantage in securing exemptions from customs duties. In September UNESCO's Media Diversity Project announced that it would assist 24 private sector print and faxed journals from all provinces to lower their paper costs and strengthen their ability to negotiate better commercial arrangements with the now privatized Cegraf printing press in Maputo; however, this arrangement had not been finalized at year's end.

The National Union of Journalists (SNJ) continued to work with the Austrian Institute for North-South Development to improve working relationships between journalists and police officers. The SNJ defended the state-owned *Diario de Mozambique* journalists' right to strike for back pay and benefits in Beira.

Final debate on recommendations that membership in the media watchdog committee, the Higher Council of Social Communic