

# Mozambique: A Need for Depoliticization

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Mozambique, a former Portuguese colony, achieved independence in 1975. The liberation struggle in Mozambique was led by the Mozambique Liberation Front (Frente de Libertação de Moçambique, Frelimo), which seized power in the post-colonial period and instituted a socialist one-party state with a planned economy. In 1976 an external rebel army known as the Mozambican National Resistance (Resistencia Nacional Moçambicana, Renamo) began a military offensive against the Frelimo government. The ensuing 16-year civil war devastated the country. In 1992, after protracted negotiations, peace was declared and the General Peace Agreement was signed. Central to the peace accord was the agreement to hold multiparty elections by 1993.

Following the declaration of peace, Renamo transformed itself into a political party and several other political parties were also established. In 1994, with stability in the country maintained by a massive United Nations peacekeeping presence and one year behind schedule, Mozambique held its first multiparty presidential and general elections. Between 1994 and 2005, four elections took place – two local government elections, in 1998 and 2003, and two presidential and general elections, in 1999 and 2004.

## The Legislative Framework of Election Administration

The legal framework governing elections in Mozambique is provided by (a) the 2004 constitution (as approved by the Parliament on 16 November 2004) which lays down the basis for the electoral system and the structure for managing elections, and (b) the various electoral laws which cover the general provisions and principles for the conduct and management of elections, which include Law no. 18/2002 on voter registration for elections and referendums, Law no. 19/2002 on local government elections, Law no. 20/2002 on the establishment of the independent National Election Commission (Comissão Nacional de Eleições, CNE), and Law no. 7/2004 on presidential and parliamentary elections.

The constitution provides for a presidential system headed by a directly elected president, and a national Parliament consisting of 250 deputies elected by proportional representation (PR). The constitution further states that the elections are to be managed by the National Election Commission. The constitution also makes provision for a Constitutional Council, consisting of six members appointed by the Parliament and a chair appointed by the president of

the republic. The role of the Constitutional Council during the electoral process is to decide on the eligibility of presidential candidates, make final decisions on electoral disputes and appeals, and validate the results of all national and local government elections.

## **Institutional Structure**

Mozambique has a two-tier election management structure, with the CNE serving as a supervisory body consisting mainly of political party representatives, and a subordinate Technical Secretariat for Administration of Elections (Secretariado Técnico da Administração Eleitoral, STAE) responsible for the implementation of elections and made up of professional election administrators.

The CNE, which has operated on a permanent basis only since 2003, consists of 19 members, including a chairperson and two vice-chairpersons. The chair is elected by the CNE on the basis of a nomination made by agreement among civil society organizations, and appointed by the president of the republic. The other members are appointed by the political parties with seats in the National Assembly in proportion to the number of seats they hold. In addition, the government appoints one member of Parliament who has the right to participate in open sessions and meetings, but may not vote. The term of office of CNE members is five years.

The CNE is assisted by provincial and district electoral commissions which operate as subsidiary bodies. Unlike the CNE, these are temporary commissions that are set up only for the duration of each electoral process. The provincial electoral commissions are set up in each of the ten provinces and in the capital, Maputo. They have nine members who are appointed in the same way as the members of CNE, including one chair and two vice-chairs. The district electoral commissions are identical to the provincial commissions in both number and composition.

The CNE's implementing arm is the permanent technical body, the STAE. It is an administrative body that works under the supervision of the CNE, and is responsible for all activities related to the electoral process. The STAE is established at national, provincial and district levels. However, only the national and provincial STAEs are permanent institutions: the district-level STAEs are established only during election periods.

The STAE is headed by a director general who is selected in a competitive process by the CNE and appointed by the Council of Ministers. During an election period, two deputy directors are appointed by the political parties represented in Parliament – in effect one representing the ruling party, Frelimo, and one representing the opposition, Renamo. This is duplicated at provincial and district levels. The STAE director general and the national deputy directors are non-voting permanent members of the CNE. During election periods, in addition to the two deputy directors, the political parties with seats in the Parliament, in proportion to their parliamentary representation, appoint nine representatives to the various departments of the national STAE, five representatives to each provincial STAE, and three representatives to each district STAE.

## **Powers and Functions**

The two election management bodies have distinct powers and functions in the electoral process. Although Law no. 20/2002 stipulates that the CNE is responsible for the management and supervision of electoral events, referendums and national registration, in practice it acts as a supervisory body, with the STAE functioning as its subordinate implementing arm.

The CNE has three main roles – an ethical role, a legal role and a technical role. Its ethical function is to guarantee free, just and transparent elections and referendums. However, despite this mandate, in practice it is a highly politicized body whose political party appointees represent the interests of their own parties.

The CNE's legal function focuses on its role in the arbitration of electoral violations, complaints and appeals. In addition it has the power to issue procedural and administrative regulations regarding observers, the media and the distribution of state funding to political parties.

Its technical tasks during election periods include the supervision of voter registration and civic education, the approval of codes of conduct, guaranteeing the security of the vote, the provision of financial aid to political parties, and the tallying of election results at the provincial and national levels.

The STAE is responsible for implementing all tasks concerning the organization of elections and referendums. This includes conducting civic education; implementing voter registration; recruiting and training voter registration, polling and counting staff; and conducting the polling and counting.

## Financing

The administration of elections is funded by the government. This includes the joint activities of the CNE and the STAE, in two separate budgets: one covers the running expenses for sustaining the permanent bureaucracy of the two institutions, and the second covers costs incurred during elections.

Mozambique is heavily reliant on international donor funds to cover election-related expenses, and generally more than 60 per cent of the elections' budget is funded by donor contributions.

## Accountability

The EMBs have two separate accountability procedures, one for the activities and costs related to maintaining the permanent bureaucracy of the two electoral institutions, and the second for activities and costs incurred during elections.

Each year the CNE and the STAE are required to submit an annual plan and budget for their administrative costs to the government (through the Ministry of Finance) for approval. The disbursement of these funds is done on a quarterly basis, and must be preceded by a full and approved accounting of expenditure for the previous quarter, which is submitted to the Ministry of Finance.

The election budget is prepared by the CNE and the STAE and submitted (by the CNE) to the government (through the Ministry of Finance) for approval. At the end of each election the CNE and the STAE are required to submit a report on their activities and an audited statement of their revenue and expenditure to the government through the Ministry of Finance. Because of the high level of donor funding for elections, this report is also sent to the donors.

## **Relations with the Political Parties, the Media and Other Institutions**

Relations with political parties differ greatly. The ruling party, Frelimo, because of its dominance within the election structure, generally has good relations with the EMBs. In contrast the opposition, Renamo, views both the CNE and the STAE with suspicion as being biased towards the ruling party, despite its having representation on the CNE and the STAE and the provision for political parties to monitor all aspects of the electoral process within the STAE. The political parties which do not have representation within the electoral administration structure are inclined to feel that their interests are subordinated to those of the two dominant parties.

The CNE's relationship with the media has been fairly good, especially with the publicly owned radio, Radio Mozambique – the only medium that covers the whole country, and the principal source of information in rural areas.

Both national and international observers are authorized to monitor the electoral process, and the CNE issues the regulations regarding observation and observer accreditations. While the relationship between the CNE and observers is generally good, some believe that the CNE retains a certain reluctance to fully embrace the principle of transparency in all aspects of the electoral process.

## **Electoral Reform Management**

It should be noted that Mozambique has reviewed its electoral laws either wholly or in part prior to each election held since 1994. However, the election administration has little or no input to the process, which is managed entirely by an ad hoc parliamentary committee consisting of representatives of the ruling party and the opposition.

## **Sustainability**

The most significant threat to the sustainability of electoral management in Mozambique is the enormous cost of the electoral administration structure. With electoral commissions constituted at national, provincial and district levels, the number of commissioners in the country is over 1,600 for general elections. The political party appointees within the STAE also add a layer of additional political party supervision, which carries substantial extra expense.

## **Opportunities and Constraints**

The major constraint on the functioning of an independent and impartial electoral administration in Mozambique is the politicization of the electoral administration. The political party representation in the election commissions and the political appointees within the STAE are intended to increase the opposition's trust in the electoral process but, as political representation is based on shares of parliamentary seats, the ruling party, Frelimo, still dominates by virtue of its majority in the Parliament. While party-based EMB membership can have the advantage that each party polices the actions of all the others, the Mozambique experience shows its limitations when one party retains a majority over a substantial period of time.

The political party representation within the electoral commissions at all levels has meant in practice that commissioners are often more inclined to act in the interest of their party than as impartial upholders of the electoral law. The impact of this politicization on the electoral process has been to sacrifice the principle of impartiality in favour of short-term political goals. In addition, as the CNE is only composed of members of political parties that have representation in the national Parliament, the two main parties dominate the decision-making process to the detriment of emerging parties.

The CNE has only been a permanent body since 2003, and inherited a legacy of lack of technical competence and professionalism which was perhaps inevitable given its previous temporary nature. A similar problem still exists with the commissions at provincial and district level. Training for electoral commissioners has been identified as an important factor in future improvement of the effective and efficient administration of elections.