

Mozambique: a system that is too subjective?

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According to the constitution of the Republic of Mozambique (article 170, point 2), the parliament (the Assembly of the Republic) is composed of 250 seats. They are distributed as follows: 248 are allocated to the 11 internal electoral districts within Mozambique; and two are allocated to the two external electoral districts ('Africa' and the 'rest of the world'). The rationale behind the creation of electoral districts outside the national boundaries is to preserve the voting rights of migrants. The provisions of the 1990 constitution, revised in 2004, allow Mozambican citizens living abroad to vote, in their countries of residence, not only for their representatives to the Assembly of the Republic but also in presidential elections. However, the exercise of their voting rights hinges on the existence of some basic conditions.

Both the Voter Registration Law and the General Elections Law emphasize that Mozambican citizens living abroad have the right to register as electors and vote only if and when the National Electoral Commission (NEC) considers it possible. (Since 2002, the NEC has been made up of 20 members: 18 are appointed by political parties represented in the parliament, in proportion to the number of seats they won at the last election in 1999. Ten are appointed by the ruling party, the Mozambican Liberation Front (Frente de Libertação de Moçambique, Frelimo) and eight by the Mozambican National Resistance Resistência Nacional Moçambicana, Renamo)–Electoral Union coalition. One member is nominated by the government and the president, the 20th member, is designated by the civil society organizations. An electoral reform is currently under way and the composition of the NEC may change in the future.)

Article 9 of Law no. 18/2002 of 10 October 2002, on the institutionalization of systematic electoral registration for elections and referendums in Mozambique, states that: (a) electoral registration will be conducted both within the national territory and abroad; and (b) the geographical boundaries and locations for electoral registration are (i) in the national territory: the districts and Maputo city; and (ii) abroad: at diplomatic or consular missions. The electoral registration referred to in point (ii) will be carried out only if the NEC considers that the necessary 'material conditions and control, review and inspection mechanisms' are in place in all regions.

Article 10 of the General Elections Law, Law no. 7/2004 of 17 June 2004, states that ‘Mozambican citizens registered abroad are eligible for the elections foreseen in the present law’. This is complemented by the provisions of article 11 (on Mozambican citizens living abroad) of the same law, as follows.

1. Registered citizens living abroad cast their vote at the respective diplomatic or consular mission of the Republic of Mozambique.
2. Electoral acts abroad shall take place only after the NEC has verified and confirmed that the necessary conditions with regard to the material conditions and control, review and inspection mechanisms are in place in the region(s) constituting the electoral districts of Mozambican communities abroad.
3. If the electoral acts referred to in the above point cannot take place, the NEC shall redistribute the parliamentary seats allocated to the external electoral districts to the internal electoral constituencies, according to the criteria determined in the present General Elections Law.

These provisions were also to be found in the previous electoral laws—the General Elections Law, no. 4/93 of 28 December 1993, the Voter Registration Law no. 5/97 of 28 May 1997, the General Elections Law no. 3/99 of 2 February 1999, and the Voter Registration Law no. 9/99 of 14 April 1999. One of the peculiarities of Mozambican electoral practice since the introduction of the multiparty system is that a new electoral legislation package (containing the law on electoral registration, the law on the electoral management bodies (EMBs), and a law on the type of election—municipal or general elections) has been passed each time the country has held elections—in 1993 for the 1994 general election, in 1997 for the 1998 municipal elections, in 1999 for the 1999 general election, in 2002 for the 2003 municipal elections, and in 2004 for the 2004 general election. The new electoral law usually amends and/or complements the provisions of some articles of the previous law. Once again, an ad hoc parliamentary electoral reform commission was established in March 2005, upon completion of the 2004 electoral process, to review and amend the current electoral legislation package in anticipation of the future electoral processes: the new electoral legislation package was expected to be passed at the first parliamentary session of 2006.

Thus, for electors to be registered and elections to be held abroad, the NEC must confirm that the material conditions and the control, follow-up and monitoring mechanisms are in place in the external electoral districts. However, the decision as to whether such conditions are in place could be very subjective and could become a real bone of contention among the electoral stakeholders. In fact, even though the external voting issue in Mozambique has been raised regularly since the preparations for the first democratic multiparty elections (held in October 1994), following a long period of a one-party system since independence, and even though it is provided for in the electoral law, external voting did not take place until the general elections held in December 2004.

The first attempt to carry out registration in the external electoral districts took place in 1997 in seven countries—in Malawi, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe for the Africa electoral district; and in Portugal for the ‘rest of the world’

electoral district. The preparations failed, and the attempt was a setback: only 1,694 Mozambican citizens in total turned out to register out of an estimated population of approximately 200,000 expatriate citizens. Considering that the conditions were therefore not met, the NEC did not repeat the operation in 1999 in preparation for the country's second general election.

In 2004, in the course of preparations for the third general election, scheduled for 1 and 2 December, the external voting issue was raised again. A heated debate took place within the NEC as to whether the EMB should carry out electoral registration for Mozambican citizens living abroad. Frelimo, the ruling party, was very supportive of the idea, while almost all the opposition political parties, led by Renamo, were fiercely against it on the grounds that (a) the preconditions (material conditions, control and inspection mechanisms) had not been met and (b) the legal time frame had already elapsed (arguing that electoral registration should have been conducted simultaneously in Mozambique and abroad from 28 June to 15 July 2004). In the absence of a consensus, a vote was organized during the NEC plenary session of 21 July 2004. With eight votes against the idea and ten in favour, the decision to carry out electoral registration abroad was officially taken.

With a separate budget of 400,000 US dollars (USD) totally financed by the government of Mozambique, the electoral registration operation took place from 6 to 25 September 2004, as shown in table 1, in nine countries—seven in Africa and two in Europe.

Table 1. Mozambican citizens residing abroad and numbers of registered external electors, 2004

Country of residence	Estimated population of Mozambican citizens	No. of registered external electors	No. of parliamentary seats allocated
Kenya	2,571	699	
Malawi	1,724	676	
Tanzania	8,618	3,807	
South Africa	156,939	32,186	
Swaziland	30,000	2,921	
Zambia	1,000	764	
Zimbabwe	14,575	4,812	
Germany	2,811	190	
Portugal	7,860	911	
Total	226,098	46,966	2

The sole criterion for the selection of the countries where external registration would take place was demographic—the existence in each country of a minimum of 1,000 legally registered Mozambican citizens. The figures (taken from the population estimates)

were provided to the NEC by the diplomatic missions in those countries through the Ministry of Foreign Affairs and Cooperation.

On 11 October 2004, notwithstanding another negative vote from its Renamo-appointed members, the NEC voted in favour of holding the general election in the two external electoral districts, thanks to the votes in favour of all its Frelimo-appointed members. In addition to Renamo, many other opposition political parties disagreed with the idea of holding the external voting operation on the grounds that the small number of registered electors (0.5 per cent of the total registered electorate of 9,142,151) did not justify the high costs involved and that the mechanisms for proper supervision and monitoring were not in place. However, it seems that the opposition political parties' resistance was most probably linked to the fact that the external electoral districts are considered to be strongholds of the ruling party, in addition to the fact that they did not consider the diplomatic and consular missions where the elections were to take place as politically neutral premises.

In South Africa external registration and voting were extended to the areas where migrant Mozambican citizens are concentrated, namely the mining areas. In the eight other countries those operations were limited to the premises of Mozambican diplomatic and consular missions.

No official budget for the voting operations abroad was disclosed, although part of it was included in the total budget for the 2004 elections: all the polling materials, for instance, for both internal and external voting, were produced at the same time by the same South African company.

The same voting requirements and procedures that applied in the national territory were applied for the external voting. The right to vote was exercised in person at the polling station where the elector was registered. No postal or remote voting was allowed. The NEC and the Technical Secretariat for Electoral Administration (STAE), its implementing body, sent supervision teams to the selected countries. Training programmes for the registration and polling station staff, as well as voter education campaigns, were designed by the EMBs at central and national level and run under their close supervision. The external voting took place over two successive days (1-2 December 2004), simultaneously with the voting in Mozambique.

For voters to cast their votes their names had to be included on the electoral register and the polling station staff had to verify their identity. When the polling station closed, the presiding officer proceeded immediately with the partial counting and the results were displayed at the polling station. The presiding officer immediately informed the diplomatic or consular representation of all elements of the partial count contained in the results tally sheet. The NEC supervisory teams present at each diplomatic or consular mission in turn informed the NEC headquarters in Mozambique. (In the case of in-country voting, the presiding officer of each polling station immediately informs the district or city electoral commission of all elements of the partial count contained in the results tally sheet, and the city or district electoral commission, in turn, must inform the provincial electoral commission, which must directly inform the NEC.) The NEC collated and published the results obtained by each candidate or political party in each electoral district, as well as the distribution of parliamentary seats won by each party. The official external voting results were also subject to validation by the Constitutional

Council before being publicly announced together with the in-country results.

Tables 2 and 3 show the results of external voting in the 2004 presidential and legislative elections, as validated and announced by the Constitutional Council on 21 January 2005.

Table 2: Numbers of external votes in the Mozambican presidential election, 2004

Description	Africa	Rest of the world
No. of polling stations	62	3
No. of registered electors	45,865	1,101
No. of votes cast	27,237	732
No. of valid votes	26,748	699
No. of void votes	171	24
No. of null votes	318	9

Table 3: Numbers of external votes in the Mozambican legislative election, 2004

Description	Africa	Rest of the world
No. of polling stations	62	3
No. of registered electors	45,865	1,101
No. of votes cast	26,128	732
No. of valid votes	25,638	704
No. of void votes	253	23
No. of null votes	237	5

The insignificant number of registered electors abroad may have been one of the arguments used by the stakeholders who opposed external voting in 2004, but their higher turnout (57 per cent in Africa and 64 per cent in the rest of the world, as compared to 36 per cent in-country) demonstrated migrants' willingness to participate in the political debate by electing their representatives, thus reinforcing the conviction of the stakeholders who had defended the idea that Mozambican citizens living outside their country should not be denied the right to vote in national elections.