

Mozambique political process bulletin

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Harsh criticism provokes election reform debate

The failures of a cumbersome election machine last December and harsh criticisms from national and international observers have made revision of the election law more urgent and brought about a more open debate than in the past.

Parliament quickly extended the life of the National Election Commission and established an Ad hoc Commission to Revise the Electoral Law. Frelimo and Renamo are to present their proposals to the Ad hoc Commission by 1 August. The Commission hopes a final proposal will emerge in time for a public debate in January and February.

This methodology has frustrated the expectations of civil society, which hoped for a more open debate at the start. Instead, civil society can only make representations to the two parties, and then rejoin the debate after the law has been drafted.

• For more on the election law debate, see page 8.

The new government

Winds of change, but no clear direction yet

For the first time since the post-independence period, a new president is trying to radically reform the Mozambican government, and turning it around is proving to be more difficult than expected. Targets for action in the first 100 days were quietly abandoned, as an entirely new group of ministers and governors tried to learn their jobs and decide who in the bureaucracies would support or oppose change. Many ministries are still being restructured and key national directors have still not been appointed.

Two decades under Joaquim Chissano led to a government accused of "deixa andar" (don't bother), corruption and abuse of power. Officials who have created comfortable fiefdoms are resisting change,

and it is clear that some "dinosaurs" need to be replaced with a younger generation. But many years without change also led to capable and honest people becoming set in their ways and having a narrow vision of what was possible.

The government has taken on many characteristics of the late 1970s government of Samora Machel, as President Armando Guebuza tries to impose dynamism and create a wind of change

***Frelimo wins Mocímboa da Praia
with record turnout but more
misconduct.*** Details on page 5

Many initial actions have been popular, including insisting that civil servants start work on time and that meetings start on time and a general effort to speed up the working of government, as well as cracking down on abuse of cars, mobile phones, and travel.

But populist actions can only go so far, and there are already criticisms that in attempting to show they are in charge, some ministers and especially governors have been making poor and unconsidered on-the-spot decisions. Without realising it, they are alienating, marginalising and even dismissing some of their natural supporters.

It appears that President Guebuza gave his ministers quite a free reign to develop their own styles and directions, within broad orientations from the top. In part, this reflects the fact that Guebuza does not have a strong reputation as a manager, that he tends to leave others to sort out details, and that he expects to create policy on the move.

Thus there is evidence of both centralising and decentralising, of some ministers trying to be seen as strong leaders and others being more cautious, and of some inconsistency in decisions. The winds of change are so far gusts blowing in different directions, and no clear strategy has emerged.

It is also a transitional government. Most ministers and governors do not have experience at such as high level, and some will inevitably fail. Furthermore, not all ministers were chosen by Guebuza. Some ministers were nominated by senior Frelimo party figures, sometimes for personal reasons, and the government still contains ministers loyal to the Chissano wing of the party. There are intrigues in court as officials and advisors fight to gain the ear of the president and battle to retain their power bases. And there has been bitter infighting within the government, so Guebuza is still trying to gain the loyalty of his own government. A government reshuffle next year seems likely.

Meanwhile, within the Frelimo party, the struggle between supporters of Guebuza and Chissano continues. The displacement of Chissano as president of the party was unplanned and unexpected, but happened when Guebuza loyalists felt that Chissano was undermining the new government. Thus Guebuza is spending some of his time taking control of and rebuilding the party as a mobilising tool for the new government.

So change is slow, and most observers are maintaining a wait and see attitude. A special three day meeting of the ministers, deputy ministers, governors, and permanent secretaries 8-10 July was clearly intended to knock some heads together and impose discipline on the government.

In his opening statement, President Guebuza said the meeting "is to lay groundwork for changes in our attitude and comportment in relation to governance and the people."

Five goals

President Guebuza has effectively set five initial goals for his government:

- To give the general public a belief that change is possible, and that government can make a contribution to positive change in Mozambique. This is clearly one of the purposes of speeches stressing the need to combat poverty.
- To impose morality and discipline in government. There has been a crackdown on corruption and abuses, and people are forced to start work on time.
- To politicise government and make civil servants feel they are working toward something – to give them goals and a sense of purpose.
- To give high priority to combating poverty and to rural development, shifting the focus away from Maputo and a few big projects. The change in focus is dramatic. Guebuza and his ministers and governors are spending more time in rural areas.
- To have a joined-up government instead of a collection of individual ministries. Key decisions are being taken at a higher level, and the new Ministry of Planning and Development is intended to lead to a greater degree of coordination, especially on development issues.

Discipline

Twenty-five years ago, President Samora Machel walked unannounced into hospitals and ministries to shock people into doing their jobs properly. This is happening again. As a result, people now arrive at work on time at 7.30 – which has often not happened for a decade. In health, hospital doctors are required to spend a certain amount of time in the hospital before they do private practice; previously some were rarely seen on the wards.

People have been dismissed on the spot, but this has run into trouble in some places because labour law introduced since Samora's offensives mean there are dismissal procedures which have been violated, and that replacements cannot simply be appointed by a minister but require an open competition.

Meetings now start on time, with doors often closed to exclude latecomers. Guebuza is present in council of ministers meetings which have been shortened to just two hours. Ministers are expected to read the papers in advance and meetings are more business-like, with direct interventions from the President.

Cars have been a major area of abuse and ministries have reduced the number of people who have personal cars (the Ministry of Agriculture recalled more than 100 cars) and have cut back on fuel payments for the personal use of cars of senior officials. Similarly, mobile phone payments were cut. Some ministries are restricting salary top-ups.

Another abuse was travel, particularly foreign travel, purely to earn per diems. Foreign travel has been curbed in most ministries and now must be

justified, and there are even restrictions in the Ministry of Health on travel to the provinces.

Quick wins and losses

Any new government must press for quick wins, particularly from speeding up initiatives started by the previous government, and this government is no different with openings of a range of projects which had already been underway. New ministers must also solve problems which quickly accumulate on their desks. But in many places the government is still reactive rather than proactive, and the stress on immediate gains may be overwhelming some ministries. The requirement that the minister approve all travel, for example, means a pile of papers on the minister's desk each day, and less time for strategic thinking. Cutting provincial travel may curb abuses, but it goes against the new provincial focus of the government.

There is also sometimes a fine line between abuse of position and essential extra income. There were clear abuses of cars, travel and top-ups. But salaries are low, and some people depended on the money from trips or on not having to pay for fuel. This could push more good people out of government.

Politics in command

When any government takes power, its election manifesto and party programme should be at the centre of its government programme. So in that sense, politics should always be in command, and a criticism of the Chissano government was that politics and programmes had been forgotten.

But politics are in command in this government in three other ways. First, this is not a government of experts and technicians, but rather a government of managers. In many ways it is modelled on the Harvard Business School approach that a good manager can manage anything, without technical expertise, if they are good at problem solving and decision making. This government has been chosen for its political skills and for having strong links in the provinces, and thus being expected to focus on rural development. So ministers and governors must be seen as managers and political leaders, rather than experts in their field.

Second, Guebuza is putting much more emphasis on the Frelimo party as a channel of information, influence, support and mobilisation. There seems a shift back toward the one party state era, where they party played a stronger role and, at its best, kept the leadership in touch with the base.

Third, Guebuza is a nationalist and many of his supporters criticise what was seen as the subservience of the Chissano government to foreign donors and investors. Donors are already finding that their meetings with the new government are at a lower level than in the past. National interest will clearly be higher on the agenda and offers of aid and investment will be scrutinised more closely.

Knocking heads together

Ministers and governors have come in for increasing criticism for short-term thinking, populist actions, and for making sweeping changes that throw out the good with the bad. In his hard-hitting statement on 8 July at the opening of the extended council of ministers meeting, President Guebuza raised precisely these issues. He said that people must stop wasting time competing with each other or comparing themselves to their predecessors, and instead cooperate more and work more as a team.

Attempts to completely break with the "deixa andar" past have provoked a disruptive backlash, and Guebuza is making more effort to win support from the old guard. In particular, he stressed that "successful change doesn't break with the past", but rather builds on past experience, values the past, and learns from the experience of others.

Guebuza also hit at populist actions. And he noted "we are not satisfied simply with punctuality and diligence of our staff" – instead what counts is the quality of the results.

He pointed out that in his tour of the country, he was often told 65% or even 90% of targets had been met. "But when we meet 70%, 80% or 95%, we are saying that we did not do what we planned to do." He was particularly critical about being given "flimsy excuses that don't even convince the people giving them". Instead of finding excuses, Guebuza said, it is necessary to identify the real causes, so that it is possible to find real responses and makes changes within institutions.

He also said the tendency simply to react to immediate problems and the failure to be proactive "is obvious". He told those in the meeting to ask themselves what they had done to speed up paperwork and what decisions they had taken to give a new dynamism to the functioning of their institution.

Corruption: Will heads roll?

Armando Guebuza campaigned on an anti-corruption platform in last year's election, and he will be judged on this. So far, the picture is mixed. In private, there have been some changes. Several government officials have quietly reached agreements to repay some stolen money and resign. At high level, it has been agreed that the Frelimo elite must stop siphoning off money from the state budget. There have been audits of staff, to eliminate "ghost" workers who do not exist but for whom salaries are paid. On the other hand, there has been strong resistance by key figures in the party and government to attempts to restrict their ability to dole out patronage and money. And government has remained unwilling to publish last year's damning survey on public perceptions of corruption.

There have been no discussions about possible conflict of interest, which should be an issue with this government. The president has major business

interests which depend on state patronage, such as fishing licences. The Minister of Health owns a private clinic but as minister is responsible for regulating his own clinic and his competition.

Investigations into corruption allegations involving former education minister Alcido Nugenha and former interior minister Almerino Manhenje suggest an initial willingness to investigate past corruption and perhaps to allow a few prosecutions – at least of people closely allied to Chissano.

Will naming & shaming end 'deixa andar'?

The line between popular actions and populism can be very fine. Gaza governor Djalma Lourenço has become controversial for his public meetings where he shames officials and issues orders apparently without considering the context. Is such strong action necessary to end 'deixa andar', or does it implicitly make promises that cannot be fulfilled?

For example, Lourenço visited Xigubo district and ordered the head of the administrative post and the provincial director of public works to drink the same dirty water that the people there drank. And in unannounced visits to hospitals in Chicumbane and Xai-Xai, he simply ordered that there should no longer be queues of patients waiting to be seen.

In all three places the actions were popular because they promised change. But how serious is *deixa andar*? Are hospital queues long simply because staff are lazy and don't come to work on time, or does it require a deeper analysis of ways to improve health provision? Time will tell.

Similarly, the governor ordered the demolition of a tourist building on the beach at Xai-Xai and another in Bilene. The South African owner of the Bilene building claims he has all the correct documents but the governor refused to talk to him; if he really did gain permission, it may be evidence of corruption. In Xai-Xai, permission was granted by the municipal council, which says the governor has no right to intervene. But there is clearly a question as to why the council gave permission to build something when it was officially opposed by the Environment Ministry.

In both cases the buildings should not have been constructed, but in both cases key underlying issues about how permission was granted seem to have been ignored. Improper buildings will be demolished, but will the system which approved them continue in place?

But there are three reasons to think there will be few prosecutions for past crimes. First, the Frelimo elite is tightly intertwined economically and there are strong business links between Chissano and Guebuza wings of the party; any deep investigation of corruption in the Chissano era would also expose misconduct of Guebuza allies. Second, the donor community, which pays a significant share of the bills, has shown no interest in exposing past corruption. Third, keeping the party together is the highest priority and Guebuza will be reluctant to cause waves with corruption prosecutions; it has already been agreed that Joaquim Chissano himself is protected.

Centralisation and decentralisation

To Guebuza, an end to "*deixa andar*" and more coordination between ministries means much tighter central control. Many decisions and agreements had been left to national directors, who are now accused of only looking at ministry priorities (and sometimes personal priorities) instead of national interest. Some contracts are being renegotiated and key decisions are being taken at higher level.

At the same time, there is also a degree of decentralisation. Perhaps unexpectedly, Guebuza has given his backing to decentralisation and increased power at district level. District "consultative councils", pioneered in Nampula, will continue to be extended to other provinces, as will district budgeting. Lucas Chomera, Minister of State Administration and former governor of Zambézia, has a clear mandate to move forward on this.

One reason for the pushes in both direction may be a more sophisticated understanding of the dynamics. For example, consultative councils have a genuine influence on plans, and they have a real involvement in district planning which improves both the planning and the local development process. Traditional leaders are involved in collecting local taxes, which has expanded spending power at local level. But decision-making power still rests with central government – the president, ministers, governors and district administrators. Thus we are seeing a centralisation of power mixed with a real increase in local involvement and influence.

"Credibility tested daily"

"As leaders in the process of change we must be examples of integrity and of delivering what we promise," said Armando Guebuza in his opening speech on 8 July. "Only if we are the first to change and are seen to give an example can we stimulate our collaborators and the people to follow our example." And Guebuza concluded by saying "our credibility is subjected to severe test every day – a harsher test than we could ever have imagined."

Joseph Hanlon

Survey shows serious public & private corruption

Mozambique is one of the most corrupt countries in southern Africa (only Zambia and Angola are worse) and most people feel the corruption has become worse since 1999, according to a survey which the government refuses to publish. It highlights not only public sector corruption, but shows that private sector corruption is a major problem. The "Governance and Corruption Survey" was done in March and April 2004 by Austral; it covered 2447 families, 486 companies, and 992 civil servants in all provinces.

The survey puts corruption in context. For example, for ordinary families, corruption is only number eight in the list of problems. Asked about the main problems of the country, people list, in order: unemployment, cost of living, inflation, water, food, roads, crime, and only then, corruption.

The survey is also important because it asks civil servants (*funcionários*) about their attitudes. It finds centralisation, a clear lack of accountability, and civil servants feeling little responsibility to the public. Among concerns about the functioning of their

institutions, civil servants gave high priority to improving their own salary. They say there is poor control of spending within government and say the institutions are law and order (Justice, Interior and the prosecutors office) are worst.

Of civil servants surveyed, an incredible 61% see government corruption as "very serious" and 35% say the payment of bribes is "common". By contrast, of the general public 34% see government corruption as "very serious". Private sector corruption is also a problem, with 20% of the public calling private sector corruption "very serious" and 46% civil servants seeing private sector corruption as "very serious".

On corruption, the general public sees the police and the traffic police as the least honest institutions in the country, and the media and religious organisations as most honest. Because of the spread of the survey and the number of people outside the main cities, "media" in practice means Radio Moçambique more than the print media.

Half of the general public says it pays bribes and half says it does not. Of businesses, more than 60% admit they sometimes pay bribes, particularly to customs and traffic police. Bribes can be high, with a significant percentage of bribes relating to contracts being over 25% of the contract value.

1-2 December 2004 and 21 May 2005 elections

Frelimo wins Mocímboa da Praia with record 75% turnout but more misconduct

Frelimo won a closely fought by-election in Mocímboa da Praia on 21 May, with a record turnout of around 75%, but with evidence of misconduct similar to that at the national elections on 1-2 December 2004.

The small town of Mocímboa da Praia had one of the most fiercely contested local elections on 19 November 2003, which led to a turnout of 46%. Frelimo's margin of victory in the race for mayor (*presidente*) was only 197 votes. On 18 October 2004 Mayor Camissa Adamo Abdala died, so a by-election was called.

Again the contest was hard fought. Both main parties believed they could win and sent senior figures to campaign. Turnout jumped from 7,177 in 2003 to 10,560 – clear evidence that people do vote in local elections if the campaign is exciting and they feel their votes makes a difference. Frelimo's candidate, Amadeu Francisco Pedro, beat the Renamo candidate, Saide Assane, by 533 votes (5258 to 4725). Because of duplications and other inaccuracies in the electoral role, an exact turnout cannot be given, but the *Bulletin* estimates the turnout at 75%.

Renamo protested about excessive police presence on the streets and the arrest of four of its officials on the night of the count; they were held for 24 hours and then released. In a statement on 22 May, the day after the election, Renamo information head Fernando Mazanga said that "more than 500 votes for Saide Assane were made invalid through the use of indelible ink" to make an extra mark on the ballot paper.

The protest was rejected by the National Election Commission for lack of evidence and then by the Constitutional Council on 28 June because, by law, it can only consider complaints which would change the results of the election. The total number of invalid votes was only 444, less than the difference between the two candidates and less than the claim of "more than 500" made by Renamo. (After the initial count, there had been 574 invalid votes, but these were all reconsidered by the National Election

Commission, as required by law, and 130 were accepted as valid and added to the totals of the two candidates.)

Nevertheless, Renamo called protests against the Constitutional Council decision, including a peaceful demonstration in Mocimboa da Praia on 7 July. Demonstrations in Cabo Delgado inevitably cause considerable apprehension because a Renamo demonstration in Montepuez in November 2000 led to violence which eventually caused more than 100 deaths.

One issue was the very heavy police presence during the election period, with extra police brought in from the provincial capital, Pemba. Both Renamo and national observers have accused the police of being heavy-handed and biased. An independent national observer commented that the police even confused the high early turnout with an attempt to disrupt the elections.

The observer noted that when votes were being counted, high officials of both parties were going around the polling stations "in an extreme violation of the climate of tranquility that the process requires", but only Renamo officials were arrested.

Renamo votes were invalidated

Although the Constitutional Council is technically correct that accepting Renamo's complaints about the Mocimboa da Praia by-election would not change the result, independent observers also make clear that some of Renamo's objections are valid.

In particular, it is clear that votes were made invalid (nulo) in at least one polling station, and probably in at least four. In primary school Pandique in Nanduaudia (register numbers 0B724/04 and 0B874/04) 100 of a total 745 votes (13.4%) were ruled invalid. During the count, Renamo party delegates claimed that the second scrutineer was using the ink pad set aside for illiterate voters to vote by fingerprint (not the indelible ink, as stated by Mazanga), and during the counting process she was putting an extra fingerprint on ballots in favour of Renamo in order to make them invalid. They said this was done with 57 of the ballot papers, while the remaining 43 were in reality invalid. Renamo also claims that it attempted to make a formal protest at the time, but that the polling station staff refused to accept the protest.

In the 2004 national election there were 2.9% invalid votes across the country. In the 2002 local elections there were 2.0% invalid votes in Mocimboa da Praia. Of the 20 polling stations, the results of 16 seem reasonable, with the percentage of invalid votes ranging from a low of 0.7% up to 5.9%. But there are four polling stations where the percentage of invalid votes must be suspect: 10.8%, 13.1%, 13.4% (where Renamo made its complaint), and 18.2%.

The picture is particularly clear in the four polling stations at the secondary school. All four are 1999 register books and normally one would expect a very similar voting pattern. Instead we see:

Station	Pedro	Assane	Nulo
0B706/99	37%	44%	18%
0B707/99	38%	59%	2%
0B708/99	40%	55%	2%
1B145/99	42%	42%	13%

In all four polling stations, the Frelimo candidate Amadeu Pedro received 37-42% of the total vote. But in the two polling stations with only 2% nullos, the Renamo candidate Saide Assane received 55-59% but in the other two with high levels of nullos Assane received only 42-44%. This suggests very strongly that votes for Assane were invalidated in those two polling stations.

The *Bulletin* (issue 31, page 7) saw evidence that this also happened in the 2004 general election, where it was obvious during reconsideration of invalid votes that there were groups of ballot papers with an extra fingerprint in exactly the same position on each ballot paper, and where some polling stations had very high levels of invalid votes.

Comment:

What constitutes 'proof'?

The National Election Commission rejected Renamo's complaints because of a lack of "evidence". But this creates an impossible situation. The only "evidence" is the invalidated ballot papers, but all nullos remain in the possession of the CNE.

Invalidating ballot papers is a crime. It would not be difficult to look at nullos to see if they appear to contain similar extra fingerprints, and the police could easily compare those with fingerprints of polling station staff. In particular, Renamo has accused a particular named individual, and if she really did put fingerprints on valid ballot papers this should be easy to show.

To repeat the key point: if ballot papers have been invalidated in this way, then the perpetrators of the crime have, by definition, left a fingerprint behind!

The *Bulletin* does not believe that the CNE can simply ignore complaints about nullos because it is impossible to provide proof. Instead, we think excessive percentages of nullos, such as at Mocimboa da Praia secondary school, must be accepted as sufficient evidence to provoke a further investigation on the part of the CNE – especially when the CNE has the evidence in its own offices.

The CNE must be more open to protests when there has been obvious misconduct, as in this case.

JH

Constitutional Council says CNE violated law in 2004

The 1-2 December 2004 national election was validated by the Constitutional Council. But in its ruling on 19 January 2005 it was highly critical of the CNE's organisation of the election, of the CNE's inability to provide adequate software, of the failure of the parties to understand the law and meet deadlines, and of errors in the law itself. It said that the failure of the political parties and the CNE to meet deadlines undermined the credibility of the elections.

The Constitutional Council did order one change. After definitive lists were agreed, Renamo asked to move Linete Olofsson from a low position on the Zambézia list to a higher electable one. The CNE agreed, but the Council said the CNE "had violated the law", and reversed the change in the list.

The Council is highly critical of the CNE and says its institutionalisation and professionalism is incomplete and unsatisfactory.

The Council pointed especially to the electoral register, which was a complete mess with registration books from 1999, 2003 and 2004, many people registered more than once, and the failure to correctly link register books to polling stations. The Constitutional Council pointed out that in its ruling in early 2004 on the 2003 local elections it called for a single register to be created, but the CNE and STAE did not do so. It says that the CNE is violating the law by failing to maintain an accurate and up-to-date electoral register.

The failure to provide district-by-district results was also a violation of the law.

The media exposed various serious violations of electoral law and the Constitutional Council is highly critical of the failure to investigate and prosecute these. This creates the image, it says, that election law violations go unpunished. "If violations of the election law remain unpunished, they will multiply and threaten the entire fundamental principals of our state. This is a real threat," the Council said.

Complaints by national and international observers about lack of transparency are backed by the Council. Although it did not need to rule on the issue, it felt the need to stress that "transparency is a fundamental principal of the electoral process and essential to its credibility."

On the electoral law, the Constitutional Council points out that in its 2004 ruling it said that there were improper overlaps in the time periods for various activities in the electoral process, but this ruling was ignored when the law was revised. For example, the electoral campaign starts only 10 days after lists of candidates are presented, and thus before final lists are actually approved. The campaign also begins before parties know their place on the list, which makes it hard to prepare campaign materials.

But the Constitutional Council goes on to point

out that "these deadline, which were quickly shown to be unrealistic, were not observed." It says any law revision must include a more realistic electoral calendar-

The Constitutional Council also criticised the way the electoral law was written, where only some articles were changed, which it says led to lack of proper articulation between the electoral bodies. It also notes the law was approved late, which also caused problems.

- All members of the Constitutional Council agreed the validation of the 1-2 December 2004 election and the criticisms of the CNE and STAE, but Renamo nominee Manuel Frank added a declaration saying that the widespread irregularities meant the election "was free but not entirely transparent or just". It is incomprehensible that after a year of preparation, the CNE was unable to correct errors in the computer software and electoral register, Frank wrote.

CNE repudiates Constitutional Council

The CNE has totally rejected the strong criticisms of the Constitutional Council; it will ignore them and take no action.

If the Constitutional Council had wanted the CNE to act, then the Council would have rejected the election results instead of approving them, the CNE argues. The CNE sees no point in going through the Constitutional Council criticisms in detail and dealing with them because "nothing will happen if we don't. If nothing is done, there are no penalties called for," explained CNE spokesman Filipe Mandlate.

The Constitutional Council said the CNE and STAE had acted illegally by failing to give district by district results as was specifically required in the law. Filipe Mandlate said it could have been done, but was considered unnecessary because "these omissions did not have any effect on the result."

Mandlate stressed that the CNE was concentrating on the Mocímboa da Praia by-election and its recommendations to the Ad hoc Commission revising the electoral law, and had no time to consider the Constitutional Council ruling.

Election law debate

Consensus on need for election law revision

The Constitutional Council in its ruling on the 1-2 December 2004 election was highly critical of the National Election Commission (Comissão Nacional de Eleições, CNE) for its delays and violations of the law (see page 7). National and international observers were also critical (see *Bulletin* 31). The Carter Center said that "serious weaknesses" and irregularities "undermine the credibility of Mozambique's electoral authorities."

But the Constitutional Council also criticised errors in the law. And there is a broad consensus that the weak performances of CNE and the Technical Secretariat for Electoral Administration (Secretariado Técnico de Administração Eleitoral, STAE) derive from problems in the electoral law itself.

More than a decade after the end of the war, the distrust between the two main parties remains strong. This has resulted in an electoral system which is party-based but is now so complex that both parties try to use the election machinery to the advantage of the party, or for personal gain, leading to disruption and delay. It has also led to a system which is difficult to manage and enfeebled by staff prioritising personal and party advantage. This, in turn has led to obsessive secrecy as participants try to hide their misconduct and malpractice.

Thus a debate on changing the law started soon after the election. On 2 March parliament (Assembleia da República, AR) established an Ad hoc Commission to Revise the Electoral Law and later that month extended the life of the CNE until a new law was agreed – reflecting a consensus on the need to change the nature of the CNE and thus not

wanting to simply appoint new members to the existing one. At a seminar 7-8 March promoted by AWEPA and three other organisations the discussion was frank and open, and it was clear that both Frelimo and Renamo recognised the problems and were prepared to revise the law.

Since the beginning of June Frelimo and Renamo have been working separately to develop their proposed changes in the law. The question is whether the two parties can move beyond their distrust to build a system which will actually work, and if they can be more open to non-party people committed to free and fair elections.

Two of the hottest issues, the role of parties and the 5% threshold, are dealt with in separate articles below.

Another key issue is the electoral register, which has been strongly criticised for its inaccuracies. With the departure of Orlando Comé as head of the computer department, STAE is now attempting to clean up a notoriously problematic department seen as at the root of the register problem. The Ad hoc Commission will consider if the old register can be cleaned up and updated, but it will probably decide to do an entirely new registration. This will be more expensive but provide a firmer basis for the next elections.

The election date is also a problem. Rain had already stated when elections were held last year, and Mozambique's SADC neighbours were amazed at the attempt to hold elections in the rainy season. The first election was 27-29 October 1994 and the second and third were in early December. The obvious choice would be to return to an early October date, before the rains start, but Frelimo will not allow its five year term to be shortened, even by two months. That means moving the election until after the rains, probably May, and extending Frelimo's term in office by at least 6 months.

Several other issues are also under discussion:

- Is one day of voting enough instead of two as at present?
- Should the polling date be fixed by law?
- Can the pre-election calendar be extended to allow more time for the various steps which now overlap?

Election law calendar

March 2005: Ad hoc Commission established
June, July 2005: Frelimo & Renamo develop positions

1 August 2005: Frelimo & Renamo present proposals to Ad hoc Commission

August 2005: Ad hoc Commission compares proposals to see where there is agreement

September-December 2005: Ad hoc commission tries to reach agreement on draft law – perhaps noting disagreements by the two parties.

January-February 2006: Public discussion of the draft law

2007: Provincial elections – first elections under new law

2008: Municipal elections

2009: National elections

- Is it too expensive to have elections in three years out of five and should provincial elections be held at the same time as either national or local elections?
- How can the CNE be made more professional and more able to manage STAE and the election process?

- Is it wrong to expect CNE members to work exclusively for the CNE? Should they be allowed to work part time or take on other work during non-election periods?

What role for parties in electoral administration?

Renamo's deep distrust of Frelimo and of what it sees as a Frelimo bias in the state apparatus led it to demand an extensive role for parties in the election machinery. This was a condition for Renamo participation in the first election in 1994. The National Election Commission (Comissão Nacional de Eleições, CNE) is party-based rather than independent, and after each election Renamo demanded a stronger party role including more and larger election commissions and increasing numbers of party-nominated technicians within the Technical Secretariat for Electoral Administration (Secretariado Técnico de Administração Eleitoral, STAE).

Renamo's fears are at least partly justified. Many STAE officials have been honest and dedicated to the task of running smooth and honest elections. However some STAE officials, for example in areas such as computers and registration, have been manifestly biased toward Frelimo. But Renamo failed to detect and expose this misconduct, and instead only used its position to block and disrupt.

Thus the "partyisation" has only made the electoral administration more partisan, with increasing numbers of people feeling they must serve party interests rather than national interests – even to the extent of putting the entire electoral process at risk. The 2004 elections were probably the worst Mozambique has run, with significant delays, disruption and misconduct. The Constitutional Council, press and national and international observers all denounced irregularities, obstruction and even illegal actions by the CNE and STAE.

Many observers argued that the breakdown in the election administration in 2004 was caused by the party basis of CNE and STAE, and called for the creation of a more independent and non-partisan system. But is this possible? The one attempt to do this so far has not been seen as a success. The presidents of the national and provincial election commissions for the 2003 and 2004 elections were nominated by civil society and intended to be independent. But in practice they were nominated by "civil society" organisations close to Frelimo and have been seen as, in fact, Frelimo choices. Thus the opposition argues that, in practice, Frelimo will not accept an independent election administration which it cannot control.

Civil society has called for taking parties out of CNE and STAE. Brazao Mazula, president of the Electoral Observatory and president of the first CNE, accepts that members could be nominated by parties. But he argues for a professionalisation of the CNE to guarantee that its members administer the electoral process on the basis of the electoral law, and do not take instructions from parties and account for their actions to the party officials who

nominated them. He argues that the CNE should not be a replica of parliament, and instead we should look at how elections commissions work in other countries.

"The CNE must be less bureaucratic. In order to avoid the conflicts that have grown up within the CNE, the people who work there need to be more humble and remember they are working for the

Which rules for provincial elections?

The new constitution establishes provincial assemblies and says they must be elected for the first time before 19 January 2008. (articles 142 and 304) The constitution simply says that provincial assemblies must approve the programme of the provincial government, but otherwise "their composition, functioning and competencies are to be set by law". So far there has been no discussion of this issue.

Thus it remains totally unclear how much power these assemblies will have, if any. Under the constitution, governors are appointed by the president and have substantial power, but assemblies are elected. For the foreseeable future, this guarantees that several provinces will have governors from a different party than the assembly majority. So there may be reluctance to give assemblies much power, and they may simply become patronage posts to give salaries to party activists.

Meanwhile, it is also unclear if local or national election laws will apply, and whether provincial assembly members will be elected from a single list or if there will be some attempt at district lists. The difference is important in that in national elections only registered parties can stand and there is a 5% threshold, whereas in local elections independent citizen's lists can stand and there is no threshold.

country. They are not in the CNE to show that they know more than others or can interpret the laws better than others, but instead to work for peace, democracy and the good of Mozambicans," Mazula declared.

Otilia Aquino, President of AMODE (Mozambique Development Association, Associação Moçambicana para o Desenvolvimento), also calls for taking parties out of CNE and STAE. But she admits there is a danger. She argues that all sectors of society are increasingly under influences and pressures from the ruling party, meaning Frelimo could put its people into CNE and STAE under the cloak of civil society. That would mean that in the name of being non-party, we would have electoral institutions with only Frelimo and not Renamo.

Salomão Moiane, editor of the weekly *Zambeze*, says that the CNE should be non-partisan and smaller. Filipe Mandlate, a member of the current CNE and its spokesperson, agrees. He told the *Bulletin* that the present 19 members is far too many: "I think it could be reduced to 3-5 members chosen by public competition."

Neither party is prepared to accept a non-partisan CNE, and Renamo will not accept a smaller CNE. But Alfredo Gamito, Frelimo MP and head of the Ad hoc Commission to Revise the Electoral Law, does argue that the CNE must be "less party-based". Renamo President Afonso Dhlakama accepts this and proposes a new model: 3 Frelimo, 3 Renamo, 2 nominated by non-parliamentary parties, and 11 from civil society through a public competition.

Dhlakama argues that this is not the time to even think about having a completely independent and non-partisan CNE, without Frelimo and Renamo. In an interview with the *Bulletin*, he said Mozambique still does not have a strong and independent civil society, and that Frelimo still controls all sectors of society. Frelimo is still a state-party. "All society suffers the influence of Frelimo, from the state through civil society to the private sector. The regime still controls everything. Therefore, to think of an electoral administration without political parties is, in reality, to exclude Renamo from the control of the electoral process and leave Frelimo alone in the these bodies, to do whatever it wants. Nevertheless, we do have to reduce the presence of the parties in the electoral administration."

There is now quite a wide discussion of the idea of some sort of open competition for CNE posts, as in South Africa, and for STAE posts, although no one has proposed a formal mechanism. Salomão Moiane says that it will be difficult to find people who do not have links with political parties, and wonders about looking for people from religious communities. "We have to widen the search through a public process so that the people selected are accountable to the public. People who apply would have to show in public their capacity for independence, even if they have party links. A good example is Dr Rui

Baltazar", who is now president of the Constitutional Council. "Everyone knows his links with Frelimo, but at the same time, no one doubts his independence and we don't think Frelimo would be brave enough to try to put pressure on him." But there is also concern that some good people might not be prepared to make a formal, public application.

Filipe Mandlate said that for STAE to be functional, its staff must be there on merit alone, selected through public competition. But he also warns this is not sufficient to have exemplary elections. It is also necessary to have a good election law, unlike the present one which can be used as a cloak to hide behind and which actually encourages delaying manoeuvres.

Afonso Dhlakama rejects the present system where CNE members are named by parliamentary parties in proportion to the representation in parliament. This is wrong because it means Frelimo always has a built-in majority, which will be even larger with Frelimo's bigger parliamentary majority after the December 2004 elections, he said. Thus Frelimo can do anything it wants and ignore any calls for consensus decisions.

Because of Renamo's use of boycotts and blocking tactics, it is widely accepted that consensus decision making, effectively giving Renamo a veto in election administration, would lead to total paralysis. But perhaps there is an argument for giving Renamo a veto over the selection, every five years, of the independent members of the election commissions. If election commission members need the approval of two-thirds or even three-quarters of parliament, it would ensure that election commission members had the confidence of both main parties.

Adriano Nuvunga

Keep small parties out of parliament?

To gain a seat in parliament (Assembleia da República, AR), a party must win at least 5% of the total national vote for parliament. This threshold (*barreira*) is specifically designed to keep tiny parties out of parliament, and most countries with proportional representation systems like Mozambique also have some threshold. Renamo had demanded a high threshold in the 1990-92 Rome peace talks, to prevent alternative opposition parties from gaining a place (and it has been successful). But after three national elections and with the rewriting of the electoral law, the threshold is subject to much debate; it will probably be lowered, but there are also calls to remove it completely.

The argument for no threshold is that it is more democratic and allows important small groups such as environmentalists to have a voice in parliament. The argument in favour of the threshold is that without it, parliament would have many tiny parties

with just one or two MPs, and this leads to instability, regionalism, opportunism and corruption.

In Mozambique, the issue is particularly acute because there is a huge gap between the two big parties, Frelimo and Renamo, and the 27 small parties. Only one small party has ever passed the threshold, the UD in 1994 gained 5.2% of the vote and won 9 seats. In 2004, PDD (Partido para Paz, Democracia e Desenvolvimento) gained 1.995%, which means it would have fallen below even a 2% threshold. If there had been no threshold PDD would have gained only two seats, one in Zambezia and one in Nampula. The next largest party was PAZS with 0.88% of the vote – below even a 1% threshold – and even without a threshold it would not have gained a seat. (But see the next article, which shows that the d'Hondt system of allocating AR seats favours big parties – one possible compromise would be to eliminate the threshold but keep d'Hondt.)

The two big parties are represented on the parliamentary Ad hoc Commission to Revise the Electoral Law, and both agree on the need to lower the threshold. Afonso Dhlakama wants a cut of only 1%, to 4%. Alfredo Gamito, chair of the ad hoc commission, said that discussions within Frelimo pointed to a reduction to about 2.5%.

But even 2.5% would have kept out the PDD in the 2004 election, and some in Frelimo have called for a threshold as low as 1.5%.

The Electoral Observatory (Observatório Eleitoral) – a coalition of six civil society organisations interested in the electoral process – argues for 2%. The Labour Party (Partido Trabalhista, PT) also supports 2%, even though this would have still kept PT out of parliament.

Otília Aquino, president of AMODE (Associação Moçambicana para o Desenvolvimento), calls for the elimination of the threshold. Even though it does not mean that the small parties can elect MPs, it at least removes an impediment, which is important from the viewpoint of consolidating peace and democracy.

Speaking to the *Bulletin* in January 2005, Manuel Tomé of Frelimo called for the reduction of the threshold to 2.5%, and said that any further reduction would lead to the trivialising of parliament. For his part, Renamo president Afonso Dhlakama said that the complete elimination of the threshold would "weaken democracy" or even "destroy democracy". To remove the threshold is to say that "every man and his wife and children and their cousins can create a political party and enter parliament."

Similarly, Brazao Mazula, president of the Electoral Observatory, takes a cautious position: "in the short term, we propose a threshold of 2%. This would not be the same impediment as 5%. But we argue that to defend the dignity of parliament, a seat should be fought for and not be a free gift."

Seat distribution method also hurts small parties

The 5% threshold is not the only barrier to small parties. Luis de Brito of EISA (Electoral Institute of Southern Africa) also points out that the d'Hondt method for distributing seats to parties favours big parties, and that there are other proportional representation systems which give more seats to small parties.

In this discussion, we will consider Nampula in the 2004 election. Table 1 gives the total votes as announced by the Constitutional Council (which does not include re-qualified nulos). Nampula has 50 parliamentary seats.

Why do we need a distribution method? To see this, simply divide the number of votes for Frelimo and Renamo by 50 (assuming the threshold still exists), and we find that there should be 7639 votes per seat in parliament. Dividing the votes for the two parties by this number, we see that Frelimo gains 27.4 seats and Renamo gains 22.6 seats. But people cannot be divided – there cannot be 0.4 of a person. So we need some method to allocate the last seat. These methods were all developed before computers, and designed to be done by hand.

Mozambique uses the d'Hondt method, in which the number of votes for each party is divided by 1, 2, 3, 4, 5 etc. We show this in table 2 (omitting many lines). These results are then put in a list in numerical order.

Table 1
AR votes, Nampula, 2004

Frelimo	208957
Renamo	173014
PDD	9486
PAZS	7310
Pimo	5652
PT	3789
Parena	3244
Pasomo	3032
Palmo	2945
MBG	2574
UD	2525
Sol	2264
PVM	2132
PEC-MT	1998
Parede	1872
Usamo	1771
TOTAL	432565

If the threshold is still in place and there are only Renamo and Frelimo, then the 1st seat goes to Frelimo (208 957), the 2nd seat goes to Renamo (173 014), the 3rd seat goes to Frelimo (104 478), the 4th seat goes to Renamo (86 507), and on down to the 50th seat (7 522) which is Renamo's 23rd seat. This means Frelimo has 27 seats and Renamo 23, as was declared.

Note that if there is no threshold and PDD is included, then the 41st seat (9486) goes to PDD and the 50th number in the list is 7739, Frelimo's 27th seat. The result is then Frelimo 27, Renamo 22, and PDD 1.

Now look at the other small parties. PAZS has the largest number of votes, with 7310, but this is still smaller than the 50th number in the list. So even with no threshold, none of the smaller parties gains a seat. This is because the d'Hondt method is designed to favour larger parties.

Luis de Brito points out that there are many different systems. One, called the "method of quotients and largest remainders", gives the most seats to small parties. We start by dividing the total number of valid votes by numbers of seats, which means that there are 8801 voters for each parliamentary seat. The first step is to allocate seats to parties based on this number. PDD gets one seat and still has 685 votes "not used". Renamo has 19 seats (19x8801=167219) and has 5795 votes not used. Frelimo has 23 seats and 6534 votes not used. No other party has enough votes to gain a seat in this way. But only 43 seats have been allocated in this way, so the remaining 7 seats are allocated to the parties with the **most votes not used**. Table 3 is a table of the "remainders" or votes not used. The 7 remaining seats are allocated to the 7 highest parties on the remainders list: PAZS, Frelimo, Renamo, Pimo, PT, Parena, and Pasomo. This would give Frelimo 24 seats, Renamo 20, and 6 other parties one seat each. The argument in favour of this method is that it is fairer, more democratic, and brings small parties into parliament; the argument against is that Pasomo would win a seat with only 3032 votes.

If there were no threshold, under the d'Hondt system Frelimo would have 160 seats, Renamo 88, and PDD 2. But Luis de Brito calculates that with no threshold, under the method of quotients and largest remainders, Frelimo would have 146 seats, Renamo 82, PDD 10, PAZS 4, Pimo 2, PT 2, and four other parties 1 each.

Table 2
d'Hondt calculation, Nampula 2004

	Frelimo	Renamo	PDD
÷ 1	208957	173014	9486
÷ 2	104478	86507	4743
÷ 3	69652	57671	
÷ 18	11609	9612	
÷ 19	10998	9106	
÷ 20	10448	8651	
÷ 21	9950	8238	
÷ 22	9498	7864	
÷ 23	9085	7522	
÷ 24	8707	7209	
÷ 25	8358		
÷ 26	8037		
÷ 27	7739		
÷ 28	7463		

Table 3
Remainders, Nampula, 2004

PAZS	7310
Frelimo	6534
Renamo	5795
Pimo	5652
PT	3789
Parena	3244
Pasomo	3032
Palmo	2945
MBG	2574
UD	2525
Sol	2264
PVM	2132
PEC-MT	1998
Parede	1872
Usamo	1771
PDD	685

AWEPA proposals for election law changes

Changes needed in vote counting and publication of results

At local level Mozambique's election system is effective and transparent – making it one of the best in the world. The voting process is open and efficient. Polling stations work well; eligible people can vote and indelible ink prevents multiple voting. Counting in the polling station and then posting results there, and giving copies to parties, has proved to be a firm basis for a clear and honest election. In 2004, this enabled parallel counts by Radio Moçambique and the Electoral Observatory which ensured the integrity of the results.

But serious problems have occurred with the tabulation and publication of the results. This has led to allegations of fraud and serious complaints from national and international observers. AWEPA believes that the system has been made unnecessarily complex and secret. This made it difficult for parties and observers to monitor the process, which in turn has led to widespread mistrust of the election system and of the results.

The Constitutional Council in its ruling on the 2004 elections was highly critical of the failure of the National Election Commission to meet its deadlines for final results, and said that the time needed to produce results was “excessively long, especially when compared to other countries.” It noted that the failure to meet deadlines was a clear violation of law.

The Constitutional Council also stressed that “the principle of transparency of the electoral process is an essential element of its national and international credibility. Thus, and without prejudicing the necessity of guaranteeing the security and good conduct of the vote count, adequate conditions must be created that do not allow any doubts about the integrity, competence and strict legality of these operations at local, provincial and national level.”

AWEPA believes that only by simplifying the systems can they be speeded up. Also there is a need for much more transparency. Working in total secrecy, it has proved too easy for parties in the provincial and national election commissions to delay decision making and tabulation.

We begin with a more general point on monitoring. Elections are very complex processes, involving tens of thousands of people. Observers and party monitors try to watch as much as possible, but there is too much going on. The need, then, is to be able to identify errors, misconduct and fraud *after* they have happened. This is normal in business – a company's accounts are audited to check to see that nothing improper was done.

But audits can only be effective if they allow us to find evidence of misconduct. Thus accounting systems are designed to ensure that evidence is provided – that any misconduct will leave a record. The same applies to an election system. We need a mix of monitoring on the spot, clear records and the ability to audit. The Mozambican election system provides a firm basis for this at the polling station – there are party delegates, observers and press present at all key times; the count is done in the polling station; and the results are posted immediately and given to the political parties. What has happened in past elections is that secrecy before and after the voting days means that records are not clear and audits are not possible.

The response has been to increase the amount of on-the-spot monitoring, with party representatives and party nominated technicians at all levels. These extra party people have bureaucratized and slowed down the process – but have not made it any more honest. Complex systems, such as requiring multiple keys to open warehouses, have only proved to be an opportunity for delay and boycott. No one can watch everything; good magicians and fraudsters know that it is easy to divert the attention of observers. They also know that the best way to commit fraud is to make a system more complex, because it creates more places for fraud and fewer people who understand the system.

In the final analysis, the most important check will be if a party can compare its copy of the polling station results sheet with the version in the computer, and also be sure that all the results were added up correctly. This is not an issue of keys and guards and multiple party technicians inside computer rooms. Misconduct and fraud in elections is only exposed by detailed analysis *after* the election, which means systems must be created to make this easier. This means:

- election systems must be as clear and simple as possible,

- there must be clear records of actions and decisions, and
- the system must be transparent and open to allow outsiders to check.

Therefore we call on the ad hoc commission of the AR to emphasize transparency and efficiency in rewriting the law.

We see six core problems:

- Too much centralisation at national level.
- Inability to do recounts.
- The need for more rapid partial results
- Detailed results before the Constitutional Council rules
- Excessive secrecy.
- Inadequate computer systems

Decentralise to the provinces

Most of the actions taken by the National Election Commission (CNE) could be taken by provincial election commissions. Tabulation and publication of results, reconsideration of invalid votes (nullos), consideration of problem results sheets (editais), and consideration of protests and complaints should all be done by provincial election commissions (CPEs). There is no reason to send huge quantities of material to Maputo and expect the National Election Commission to make decisions for the entire country.

Recounts should be possible

A consistent problem in all five elections has been polling station results sheets (editais) which could not be used – because of mistakes or because they were missing, damaged or stolen. At present there is no way to recount the original ballots, which actually encourages the losing party to damage or destroy editais.

AWEPA believes that it is essential to include in the law a procedure for recounts. We propose that:

- The sealed bags of ballot papers from each polling station be sent to provincial STAE (rather than district STAE as at present).
- If – and only if – the edital cannot be used in the tabulation, that the provincial election commission and its agents (STAE staff, members of district election commissions, etc) should recount the ballots and write a new edital.
- This recount must be open to press and party agents, just as they were allowed to be at the original count.
- Recounts should not delay the tabulation of votes from editais which can be used. That is, the law should specify that in the tabulation process, priority should be given to the vast majority of editais which are correct and useable. (This is important because without being clear in the law, it would be possible for some members of the CPE to use the need for recounts to create obstructions and delays.)

Rapid partial results

Inevitably there are problems which delay the release of complete and final results, which in turn creates discontent and rumours of manipulation. In many other countries election commissions tackle this problem by issuing regular partial results with all votes which have been tabulated up to that time. In Portugal, the National Election Commission gives up to the minute partial results on its website. AWEPA believes that the law should require that CPEs release details of partial results at least twice a day. This should include, at least, the number of polling stations included and the votes for each candidate and party.

Furthermore, there must be a better system to make available to parties, press, observers and public all of the documentation relating to the results. Each provincial election commission (CPE) should make a photocopy of every edital, as it arrives at the CPE, and this should be made available in a room set aside for party delegates, observers and press. Once the data has been input into the computer, a copy of that data should be attached to the photocopy of the edital. If the edital cannot be used, then a note should be attached to the copy saying it could not be used. If a recount is done, then they same procedure should be followed.

With modern computer technology, it is possible and practical that as soon as the data from an edital is entered into the computer and accepted (there are necessarily a series of automatic checks, such as number of registered voters), then this information should be available to observers and the public on a computer terminal. This has been done in the past, but only in a way which is difficult to use. Data should also be displayed in a much more “user friendly” format, with information in tabular form which would make it possible to display in one table all the data for an entire district, on a polling station by polling station basis. This should be required by law, and would avoid one of the biggest areas of complaints in past elections.

In the modern world, the law must at least allow and encourage the use of websites accessible to the public (and thus press, party delegates and observers). Provincial websites could be automatically updated instantly (or hourly) and provide both partial results and polling station by polling station lists of results. We appreciate that in some provincial capitals this will still be difficult, and that it might be necessary to regularly transmit results to Maputo and create the website there. We do not believe it is reasonable to require this yet, but we argue that the law should specifically allow (and encourage) the quick posting of partial results on election commission websites.

Detailed complete results quickly

Detailed, polling-station by polling-station results of the 1999 and 2005 elections have never been published. This is very strange, since the data used by the computers to calculate the final results is on a polling-station by polling-station basis, and thus could have been released at the same time as the main results. Since the main check on fraud is the ability of the political parties to compare their copies of the polling station results sheets (editais) with the results as processed by the CNE computers, this means it was impossible to check on fraud.

STAE has argued that the data base always contains “minor” mistakes which must be corrected before publication. But we believe that it is necessary to accept that there will always be some errors and that the results will never be perfect, and that it is essential to publish quickly. AWEPA urges that the law specify that:

- Full details of the results, on a polling-station by polling-station basis, be made available to parties, press and observers in hard copy and electronic format (cd-rom, website, or other) by CPEs and the CNE within 24 hours of the announcement of final results, and that
- Any deadline for complaints or protests, to CPE, CNE or Constitutional Council, allow adequate time (at least seven days) to analyse the detailed results.

Openness and transparency

The biggest complaint of the press and of national and international observers was the obsessive secrecy of CPEs, CNE and STAE. And it is clear that secrecy was used to cover up mistakes and sloppy work. For example, the list of polling stations was never published on the grounds that it was a “state secret”, when in fact in some provinces it had not been prepared in time.

The law must make it clear that everything is public unless there is a specific decision to keep it secret – and that such a decision must be made public.

We would argue that even CPE and CNE meetings should be open to observers, party representatives and the press – it would be useful to expose the time wasting and pointless debates which cause so much delay. The political parties argue that closed meetings allow important political compromises which would not be made in public, but we see no evidence that this has worked. Instead, closed meetings only create space for obstruction. We realise, however, that the main political parties are unlikely to accept open meetings.

We consider it amazing that not only do the CPEs and CNE meet in secret, but they are able to keep their decisions secret. Therefore, even if meetings are not made open, AWEPA calls for the following:

- That the CPEs and CNE must post a list of decisions within 24 hours of the end of any meeting. The list should indicate if the decision was by consensus or majority vote. No individual meeting should be allowed to last for more than one day (to avoid extending a meeting to run over several days as a trick to delay publication of decisions).
- That minutes of CPE and CNE meetings must be approved at the subsequent meeting and then posted within 24 hours.

Similarly, all directives, regulations, instructions and other documents issued by STAEs, CPEs, and CNE must be public. If they are controversial, they inevitably leak to the press – often in a distorted format – so it makes more sense to make them public immediately.

The law must set clear dates for the publication of the electoral register and for a complete list of polling stations (which must include the numbers of the register books for that polling station).

Much of this “publication” could be done on a website, and we believe that, at least, the CNE and national STAE should be required to have websites which they use to post minutes, documents, the list of polling stations, lists of candidates, etc.

Finally, the law must make clear that all processing of ballot papers and results sheets, including reconsideration of invalid ballot papers (nullos) and results sheets (editais) with problems, must be open to parties and observers. The law also must make clear that parties and observers have access to documentation (or at least copies of documents), such as rejected editais.

Inadequate computer systems

Computer tabulation systems have been marked by distrust, confusion and incompetence – and possibly malpractice. These problems have not been resolved by placing party-nominated technicians within STAE and in the computer centres.

We call for the creation of a small Independent Technical Commission to Oversee Computerisation. It would have one member each appointed by the two main parties and an agreed and neutral chair. All three would be qualified computer professionals. The commission would:

- write the specifications for new software, which would be put out to regional or international tender. The software would be required to have adequate security and other checks, including an audit trail showing all changes (and which would be easily readable and could be released to parties on request). The software would also be required to produce the information required for transparency during the count, including partial results and lists of all polling stations and their results. Software could be based on an existing package.
- after delivery, verify that the specification had been met.
- carry out a trial using data from a past election.

- make available copies of the software to parties and independent observers who want to run their own checks.
- commission an independent audit of the software.
- authorise changes to meet audit recommendations and proposals by parties and observers, followed by retesting.
- after final acceptance, ensure that no changes are made except in the event of a major fault and by a unanimous decision of all three members.

Some people in all parties do not want transparency. The loser will always want to claim fraud and may not want to be able to prove or

disprove the claims. Similarly, election officials do not want to admit mistakes and sloppiness. But transparency is the only way to build confidence in the electoral process in Mozambique. And in the end, it is the only way to prevent fraud and misconduct. Political parties and observer groups must be able to analyse details of decisions and of the vote in order to challenge inconsistencies. Hiding from the public view will always look like a cover up, and the loser will always claim fraud. Full transparency exposes mistakes and political deals to public view, but it is also a bold statement that there is nothing to hide.

AWEPA proposes other changes

We see the main problems as occurring in the tabulation and publication of results, and in the general secrecy and lack of transparency of the electoral bodies. But we also wish to call attention to several other issues.

How many AR members? The method of assigning the number of deputies to a province (art 150 of lei 7/2004) is mathematically incorrect and does not always give the right answer. Indeed, in 1999 it led to the assignment of one more deputy than the law allowed. The distribution of seats to parties (art 156 of lei 7/2004) is done by the d'Hondt method to avoid this mathematical problem, and the same method should be used in the first place to assign seats to provinces.

Complaints and protests. Although there is a formal procedure to make complaints and protests, it has proved extraordinarily difficult for opposition parties to make complaints, even when they are well founded and correctly documented. The present procedure requires that a complaint be made first a local level, then appealed up to district, provincial and national levels. Yet few protests are actually dealt with at the lower levels, and most are rejected on procedural or bureaucratic grounds. In 2004, at least some complaints deserved more serious consideration. AWEPA calls for two changes. First, provincial and district elections commissions must actually deal with complaints submitted to them and should not be able to simply ignore complaints and protests. And second, the complaints procedures must be simplified to make it easier to submit valid complaints.

2 days is too much. The present law allows two days for voting and then counting is down at night after the second day, but few people vote on the afternoon of the second day. We believe one day of voting would be sufficient. An alternative would be to close the polls at noon on the second day, which would allow counting to be done in daylight, which would speed up the process.

Fix the date. Holding elections in the rainy season has been widely criticised, including by our neighbours in SADC. It would also make planning much easier if the election date was fixed by law. Both problems would be solved by setting national and local elections on the first weekend in September or the first weekend in October.

Allow more time. We agree with the Constitutional Council, which said in its ruling on the 2004 elections that the periods set in the 2004 law for submission of candidates lists, approval and correction of errors, and publication of lists are unreasonable. As the Council noted, "these deadlines, which were quickly shown to be unrealistic, were not observed." Candidates, parties and election commissions all need more time. And it would be easier to set a schedule if there were a permanently fixed election date.