

Towards Stable Electoral Laws in Mozambique

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Abstract

Following a protracted violent conflict that engulfed Mozambique spanning a period of 16 years of armed war that has destroyed not only lives and infrastructure, but also debilitated the social tissue of the nation, the country seems poised for stability and economic progress. Having adopted a centrally controlled system after independence in 1975 to structure the country to move towards development guided by the socialist ideology, in 1990 a new constitution was adopted to bring about far-reaching transformation in both the economic realm and political domain. Subsequent to the historic General Peace Agreement (GPA) signed in 1992, which effectively ended the war, Mozambique nurtured the new-found peace with its first democratic election held in 1994 for the presidency and the national parliament. As part of the conflict management mechanism of the GPA, the 1990 Constitution was amended to allow the country to adopt a proportional representation electoral

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system. The 1994 democratic election and its outcome surely helped deepen reconciliation between the belligerent parties and this process was given even more impetus by the 1998 local government elections and the 1999 general election, despite complaints of other contestants in both events. That there were high expectations from all key actors in advance of the 2003 local government elections and the 2004 general election is thus no wonder.

A Brief Political and Constitutional History of Mozambique

Mozambique has been independent since 1975, after more than a decade of struggle against the Portuguese colonial ruler. However, the independence did not bring about peace. In fact, already in April 1976 the first incursions were made in the West zones of the country bordering the then Rhodesia, initiating what became a protracted armed conflict, which lasted for 16 years. After independence the model chosen by the new elite in power to structure the government and construct development was socialism – implying a centrally planned economy and the state controlling all domains of public life, education and health care as well as the process of production and distribution of goods. The system excluded automatically those not sharing the same ideology, including the emergent bourgeoisie, the religious leaders and believers, and the traditional elite. The system also denied important elements of the African culture, supposedly to be destroyed according to that line of thought, to give space to the envisaged modernisation.

These political measures contributed to a feeling of exclusion in state affairs among those not allowed to take part in the inner circle of the political elite. External forces capitalised on the sentiment, creating and exacerbating a conflict that almost destroyed the country's social fabric, leading to a climate of polarisation in the political domain. The first constitution of 1975, discussed and approved by the Central Committee of the Front for the Liberation of Mozambique (FRELIMO), the ruling party, at Tofo Beach in the province of Inhambane, was designed to reflect the model of government based on one-party rule and a monolithic parliament. The ruling party would decide all aspects of public life including the functioning of the tribunals. The Constitution of 1975 lent a prominent role to FRELIMO recognising its determinant role in the struggle for independence, being consequently 'the legitimate representative of the Mozambican people' (preamble of the 1990 Constitution). It stated in article 2 that 'the power belongs to the workers and

peasants united and conducted by FRELIMO and is exercised by the organs of popular power’.

The first constitutional revision took place in 1977, when the country officially adopted the socialist line and created a system of so-called people’s assemblies in the existing levels of government, from the People’s National Assembly in Maputo, the capital of the Republic, to the People’s Locality Assemblies in the smallest administrative unit in the country. In 1978 all property was nationalised including those belonging to the religious denominations, which included hospitals and schools managed by the Christian churches. In 1983, during the Third Congress of FRELIMO, the economic performance of the country was highly criticised thus opening up a major national debate. The decision was then taken to decentralise some of the political institutions from central to local level in 1984. The state of things started to change in the country by then, with the first contacts taking place with the Bretton Wood institutions after the then president, Samora Machel, had declared the country in bankruptcy, thus not able to honour the payment of its debts. The second constitutional revision took place in 1986, and at the same time the National People’s Assembly created a commission to review the Charter in accordance with the changes taking place in the economy, to be formally structured from January 1987 with the introduction of the structural adjustment programme (SAP).

The SAP and other changes required, in fact, a new constitution, not a mere revision of the old one. Even if a new draft was presented and discussed openly in the country in sessions of popular debate organised by the National People’s Assembly during 1987-88, the reforms were so substantial that something totally different was required to embrace the new disposition. In fact, the Fifth Congress of FRELIMO that took place in 1987 discussed and approved substantial changes in the politico-economic life of the country, such as political pluralism and a role for the private sector in the economy.

In 1990, a new draft, more in accordance with the new Mozambique in terms of economy and politics, was presented and discussed within the Central Committee of FRELIMO, and this was also widely debated in the country involving different sectors of the still incipient civil society. The new Constitution was to provide a space for the democratic exercise of the right to participate in public affairs, not only in regular elections but also the right to establish associations to contribute to creating an emerging and vibrant civil society.

After the General Peace Agreement was signed in 1992, the constitution was revised for the first time, to accommodate the 'Principles of the Electoral Act'. In 1996 a new amendment was added to accommodate the local government: local organs institutionalising the local power 'with the objective to organise the participation of the citizens in the solution of the problems proper of its communities and promote the local development and the deepening of democracy'.

State and Constitutionalism

The State of independent Mozambique has had two constitutions so far. The first one introduced the new dispensation after independence, stating the new national sovereign state and the right of the Mozambicans as free people. The second one incorporated constitutional reforms introduced in the economic system and adopted with the structural adjustment programme of January 1987 to embrace the law of the market in the economic sphere, and to embrace plural liberal democracy in the political sphere. According to the Constitution of 1975, Mozambique is an independent, sovereign, unitary and democratic state, subdivided into 11 provinces and 128 districts, as well as administrative posts and localities. FRELIMO was to guide state affairs and the direction of the economy as well as the social institutions in the country.

The new constitution of 1990 'contains the principles of a multi-party system, separation of powers, guarantees for human rights, the right to strike, freedom of speech, of association, of press, and of religion'. Capital punishment is ruled out by the new Constitution. Article 2 of the Constitution of 1990 states that 'sovereignty is vested in the people', the governing body is accordingly, elected by 'universal suffrage', 'secret, direct, personal and equal vote', lending to the system a 'concrete political content when elections are held in a representative regime of political democracy' (Carrilho 1996:126). It is important to point out that the new Constitution opened the door for the end of the armed conflict that had by then already engulfed the country for 14 years. Compared to the earlier one, the new constitution is not only a model of pluralism and freedom including the market regulating trade issues, but states also the right of the citizens and the initiative of law by the people's elected representatives.

The 1975 Constitution

The Constitution of 1975 was a reflection of the overwhelming role of the state not only in economic affairs but also in the life of the individuals. The role of FRELIMO was a reference point in the society, covering the political, economic and cultural domains. In a sense the role of FRELIMO was almost coincident to the role of the state. At individual level the *concept of people* was the most used term to refer to the inhabitants of the country.

According to the Constitution of 1975 (article 45 of the Constitution) the power to make law rested with the following:

- a. The Central Committee of FRELIMO, which establishes the orientations and defines the principles of the legislation;
- b. The Permanent Commission at the People's Assembly;
- c. The Cabinet; and
- d. The Commissions at the People's Assembly.

The Constitution of 1990 is a reflection of pluralism, where the state opens a substantial space to civic forces to participate in the process of decision-making such as the private sector in economic affairs. According to the Constitution of 1990, the power to law (article 137 of the Constitution) rests with:

- a. The President of the Republic;
- b. The Commissions of the Assembly of the Republic;
- c. The Deputies; and
- d. The Cabinet.

One fundamental difference in this matter is the attempt to detach FRELIMO as a party from the state, and thereafter from the right and prerogative to create laws. Besides the other organs of sovereignty, the power to make laws lies now on the members of parliament involving all parties there represented.

The 1990 Constitution and the General Peace Agreement of 1992

In 1992, a General Peace Accord (GPA) was signed in Rome ending an armed conflict of 16 years. The GPA was 'initially *de facto* above the Constitution, [but] later *de jure* submitted to it' (Carrilho 1996:127). According to Carrilho,

Box 1: Extracts of the Principles of the Electoral Act in the GP

The Electoral Act in the Protocol III of the GPA was signed on 12 March 1992 with the following elements:

Freedom of the press and access to the media. Citizens have the 'right to freedom of the press and freedom of information', and 'those rights shall not be limited by censorship'. Moreover, 'advertisements which conform to the prevailing commercial laws may not be refused for political reasons'.

Freedom of association, expression and political communication. The rights 'shall not extend to the activities of unlawful private paramilitary groups or groups which promote violence of any form or terrorism, racism or separatism'. 'Freedom of association, expression and political communication shall encompass access, without discrimination, to the use of public places and facilities'.

Freedom of movement and residence.

Return of Mozambican refugees and displaced persons and their reintegration.

Electoral procedures: a democratic, impartial and pluralistic voting system introducing norms for:

(i) general principles such as (a) 'the Electoral Act shall establish an electoral system which is consonant with the principles of the direct, equal, secret and personal ballot' and (b) Elections to the Assembly of the Republic and for President of the republic shall be held simultaneously, (ii) the right to vote, (iii) the national electoral commission, (iv) voting assemblies, (v) election to the assembly of the republic, stating in (b) 'The Electoral Act shall provide for an electoral system based on the principle of proportional representation for the elections to the Assembly', and in (f) 'A minimum percentage of votes cast nationwide shall be established, below which competing political parties may not have a seat in the Assembly. This percentage shall be agreed in consultation with all political parties in the country and shall not be less than 5 percent or more than 20 percent', (vi) election of the president of the republic, (vii) financing and facilities.

Guarantees for the electoral process and the role of the international observers.

Source: The General Peace Agreement of Mozambique 1992

although the GPA by its nature, object and subjects came close to being an international treaty or accord, it was passed as law (13/92 of 14 October) by the Mozambican parliament in a formal sense, its value was therefore beneath that of the Constitution (1996:127-128).

The GPA changed the Constitution and introduced 'principles of Electoral Law' in article 107. Paragraph 3 of article 107 was revised and changed from majority vote to proportional vote according to the protocol of the GPA. The new Constitution and the GPA have thus established the foundations for the creation of the planning, executing, directing and supervision organs of the electoral processes for the multi-party elections where the organs are the National Electoral Commission (CNE) and the Technical Secretariat of the Electoral Administration (STAE). From 1994 to 2002 those organs have seen modifications in form and contents, in an attempt to obtain broader consensus between the two major parties. The last changes took place in 2002, to build a new framework for 2003 and 2004, the date when the next local and national elections respectively were due to take place.

The Electoral Process and Electoral System Reform Imperatives

The first plural and democratic election in Mozambique took place in 1994, in accordance with the new Constitution of November 1990 and in keeping with the GPA signed in October 1992. The electoral system adopted in 1994 after a Conference of all Parties, was of proportional representation, (article 107, paragraph 3 of the Constitution, in the version revised according to Law 12/92 of 9 October, and article 128 of the electoral law), to be presented through party lists (article 124 of the electoral law).

According to the electoral law, the number of seats was to be 250 (article 193, paragraph 3)¹. The province was to be the electoral constituency and the

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- 1 According to the law the number of seats to be chosen within the country were 248, two to be decided by the Mozambican residents outside the country. However, because no consensus was reached in the parliament on how to register those Mozambicans living outside the country, suspicion that the embassies and consulates would not do it properly, considering that the government appointed all the functionaries, the 250 seats were all voted inside the country.
 - 2 The number of registered voters has changed the number of seats in the provinces of Maputo City (-2), Inhambanc (-1), Manica (+2), Tete (+3), Nampula (-4) and Nyassa (+2), between the first national election held in 1994 and the second one held in 1999.

distribution of the seats was to be in accordance with the number of voters registered (article 200), not of the density of the population². The votes would

Box 2: The Hondt Method

The first step of the Hondt method is to determine the quotient by dividing the total number of registered voters by the number of total seats³. For the national elections in 1999 the total number of voters was 7 099 105 (85.5 percent of the potential voters) to be divided by 250. The quotient was 28 396.

The second step is to divide the total number of registered voters for each province (the electoral circle) by the quotient. The result gives the number of seats to be elected by the province. In case the result of the division is superior to the half of the general quotient (28 396), the electoral circle gets one more seat to elect its members for the parliament.

be converted into seats at the National Parliament according to a principle settled by the Hondt method (article 204).

The best innovation in the democratic process is, by far, the increasing participation of the civil society of urban and rural varieties. The urban civil society is participating at city level, modifying some governance paradigms by creating an ambience to compel government to discuss and consider the importance of the strength embedded in the work of the national organisations. The rural civil society, including the traditional elite, is also taking part in the process of democratisation. The traditional healers are at present not only accepted by the political system but also valued as important part of the process of healing both the body and the spirit, participating in health campaigns across the country, including the combat against HIV-AIDS. Traditional chiefs are also valued as an important element of liaison between the state and the rural communities. The legal framework of the local government (law 2/97) has opened a space for the local government to interact with

3 For 1994, 1998 and 1999 a new census was held specifically for the election. In 2002 a new law was approved (18/2002) invalidating the laws 5/97 and 9/99, transforming the census into a continuous process.

the traditional chiefs, and subsequently, the decree 15/2000 has designed the guidelines of how the interaction can take place. A law on the role this elite should play, if any at all, in the general structure of the state affairs, is however, not discussed yet.

As a culmination of the process of participation of the civil society in state affairs, and in order to value its role in reinforcing democracy, the bench of the opposition in the parliament, the National Resistance Movement of Mozambique (RENAMO) Electoral Union, has suggested that the head of the CNE be chosen by and among the civil society. The suggestion was accepted by consensus, and that is one of the major changes in the structure of the CNE for the local and national elections of 2003 and 2004. It will have a longer life-span of five years for the first time, not only 120 days as the previous ones. Furthermore, as an outcome of the innovation introduced in 2002 (law 20/2002), the STAF will be subordinated to the CNE for the whole term of its life-span. Previously it was subordinated to the Ministry of State Administration after the dissolution of the CNE that used to cease its operations 120 days after the elections.

Electoral System and Conflict Management

The decision to choose the electoral system in 1994 took place after a long process of discussion involving large sectors of the society and all registered parties. At first, and given the presidential nature of the system of government, parliament adopted in the Constitution a system of majority vote for the parliamentary elections. RENAMO contested the principle during the negotiations in Rome before the GPA was signed in October 1992.

The first conflict was resolved by the Multiparty Conference in Maputo from July 1993 until middle 1994, which, even if the discussion was slow and at times leading to nowhere, had the merit of producing a broad consensus in the question of the electoral system. Also the question of the composition of the first National Electoral Commission was decided there, with a formula according to which no one would have the upper hand. The president was chosen by consensus among the political parties there represented. The 'magic' formula was abandoned afterwards, never to produce the initial consensus again, and this caused a stalemate in 1999 when the opposition accused the CNE of bias towards the government of the day.

According to Carrilho (1996:138) 'the choice of representativeness versus governability' (quoting Diamond 1990:54) was solved by proportional representation, by giving more weight to representativeness (Diamond 2000:54). The Constitution and the Electoral Law did provide for independent candidates to run for presidency, but did not provide for independent individuals and groups to run and/or present candidates to the national parliament outside the party or coalition lists, what was made possible for the local government elections in 1998, when a group of citizens could register and present candidates for the municipal parliament.

The Electoral Law of 1994

The electoral law of 1994 was designed under the framework of the Constitution and the GPA. That framework was and still is, one of the major challenges to democracy in terms of representation, considering the five per cent threshold to obtain a seat, and that only the two major parties, FRELIMO and RENAMO, have been able to surpass the threshold. FRELIMO has used its 30 years in power to strengthen its position while RENAMO gained more votes in the areas it controls.

The threshold of five per cent has kept the majority of the small parties from entering parliament, which has thus far ensured a two-party system or what others term a duopoly. In 1994, a coalition of three parties, the Democratic Union (UD), made just above five per cent to secure nine seats, to become a balance between the two giants⁴. In 1999, RENAMO invited ten small parties for a coalition known as RENAMO-Electoral Union. In 1994 FRELIMO maintained the presidency and the majority in parliament with 129 seats, RENAMO got 112 seats and the UD nine.

4 The three parties are the Liberal and Democratic Party (PALMO), the Mozambican National Party (PANAMO) and the National Democratic Party (PANADF). They constituted a small bench in the parliament until they broke up before the end of the term on issues that were in fact not solved in the beginning of the mandate, connected to the number of seats to be divided among the three parties.

The Electoral Law of 1997

The first local elections for municipalities were held in 1998, guided by a package of laws designed in 1997 by the government and approved in the same year by parliament. Although the package was tailor-made for the local election, it was not considered appropriate by the opposition in order to guarantee fairness and transparency in the process. Consequently the opposition decided to boycott the election. The major opposition party, RENAMO, called for a boycott and the response was overwhelming. All joined the boycott but two small parties, the Workers Party (PT) and the United Mozambican Resistance (RUMO), which did participate along with groups of citizens which presented candidates in ten municipalities⁵. For 2003 the package was amended and even if not totally satisfied the opposition did participate in the election.

Apart from the amendment in the Constitution in 1996, by Law 6/96 of 22nd November, the following laws were approved by parliament⁶ for local government elections:

- Law 2/97 of 18th February: Approving the legal framework for the implementation of the local municipalities⁷.
- Law 4/97 of 28th May: Creating the National Electoral Commission.
- Law 5/97 of 28th May: Institutionalising the systematic electoral census for the realisation of the elections and opinion polls.
- Law 6/97 of 28th May: Establishing the legal-juridical framework for the elections of the local municipal organs.
- Law 7/98 of 31st May: Establishing the framework for the administrative tutelage of the State upon the local municipalities.

5 PT and the RUMO are represented in the municipalities of Maputo and Matola, and PT also in Xaixai. Groups of citizens did participate presenting candidates in big city municipalities such as Maputo, Beira, Nampula, Pemba, Chibuto and Nacala, as well as in small village municipalities such as Manhiça. They are represented in the municipalities of the cities of Maputo, Beira and Nacala, and the small town of Manhiça.

6 It was there but not sufficiently explicit.

7 The local government was to be implanted in two types of places: the municipalities in cities and small towns, and the villages corresponding to the territories of the seat of the administrative posts.

- Law 8/97 of 31st May: Establishing the special norms that regulate the organisation and the functioning of the city of Maputo (the city capital of the Republic).
- Law 9/97 of 31st May: Defining the statute of the office holders and members of the local municipalities.
- Law 10/97 of 31st May: Creating the municipalities in cities and villages and in some territorial circumscriptions⁸.
- Law 11/97 of 31st May: Defining and establishing the legal-juridical regime of the municipal finances and patrimony.

Table 1: The Dimension of the Municipal Assembly

Voters	Members in the Assembly
Less than 20,000	13
20,000 – 30,000	17
30,000 – 40,000	21
40,000 – 60,000	31
60,000 – 100,000	39
More than 100,000	39 plus one for each 20,000 more
The city of Maputo	No more than 71

Source: Law 2/97, paragraph 36, and law 8/97, article 5

8 All 23 cities and 10 of the 60 villages, one in each province were involved; not a single locality was chosen for the first act, a decision of the legislator that designed it to be gradual in terms of number of municipalities involved. According to the Ministry of State Administration, a statement made when presenting the law to the parliament in 1997, 'the proposal of ten out of the 60 small towns is funded in the principle of gradualism what is explained by the inexistence or insufficiency of economic and social conditions, necessary and indispensable to the implantation of the functioning of municipalities in small towns in general'. The ten villages are then seen as pilot experience by the legislator, to be evaluated after the first five years. For 2003, the gradualism has not increased, the time considered by the legislator still too short to extend the municipalities to other small towns and to the villages.

The Municipal Council that exercises jurisdiction over different domains in the municipal government was to be formed by the President of the Council plus a number of town councillors; the number to be decided by law considering the whole population in the municipal territory, according to table 2.

Table 2: The Dimension of the Municipal Council

Population	Number of Members of the Municipal Council
Less than 50,000	5
50,000 - 1000,000	7
100,000 - 200,000	9
More than 200,000	11
The city of Maputo	14-18

Source: Law 2/97, article 50 and law 8/97, article 7

The election took place in June 1998 in 33 municipalities according to the law 10/97, but only 15 per cent of those eligible did cast their vote. FRELIMO won all municipalities, but two small parties got some places in Xaixai, Matola and Maputo, and four groups of citizens were represented in Maputo, Beira, Manhica and Nacala.

In spite of the high rate of abstention, the election reflected the willingness of the citizens to participate in the process. Citizen groupings at local level represented local interests when at national level voting along the lines of the bigger parties⁹.

⁹ In the municipality of Maputo, the group of citizens, 'Together for the City' which got the second place in the local parliament, is clearly an amalgamation of FRELIMO members or ex-members. Some among them ex-office holders in previous national governments, which decided to create a political-civic movement to administer the city focusing mainly in the local interests.

The Amendments in the National Electoral Law for 1999

National electoral laws were also amended for the 1999 elections. The amendments changed the organic structure of the STAE. The innovation was to permit the appointment of two Deputy General Directors by the political parties according to the representation in parliament. They would assist the General Director but have no right to vote. The CNE was also changed. In 1994, the most consensual CNE was composed of members chosen by the government, by RENAMO, as well as from the small parties. In 1998 (local elections) and 1999 (national elections) it was composed only of members indicated by the government and by the parties represented in parliament.

Paragraph 2 of article 19 of law 4/99 that created the CNE, stipulated that in the electoral periods the organic framework of STAE, at each level, is to be complemented by political appointments. Law 4/99 introduced alterations in the composition of CNE, enlarging the organ at provincial, district and city levels. The new composition of the CNE for 1999 increased from eight members in 1998 to 17 members: 15 members elected proportionally by political parties represented in parliament, and two members appointed by government. The president of the organ was to be nominated by civil society and appointed by the President of the Republic.

At provincial level CNE was to have seven members, one designated by government and six by the parties represented in the parliament, proportionally. At district and city level, the membership stood at five in the total, one plus four following the same principle. The amended electoral law in 1999 did also provide for a new electoral census, and the limit of 18 years to register to vote, to be completed up to the last day of the census. In 1999 FRELIMO's candidate won the presidency, and representation in the national parliament is 133 seats for FRELIMO and 117 seats for RENAMO-Electoral Union.

The 2002 Amendments to the Electoral Law

In 2002 parliament amended the law for local elections to be held in 2003, in order to make it more consensual. Three new laws were discussed and approved, providing a framework for the national elections to be held in 2004:

- Law 18/2002 of 10 October: Altering the laws 5/97 and 9/99, related to the institution of the systematic electoral census for the realisation of elections and opinions polls.
- Law 19/2002 of 10 October: Introducing alterations to the law 6/97, related to the election of the organs of the local municipalities.
- Law 2/2002 of 10 October: Creating the National Electoral Commission.

The new CNE will have 19 members, 17 appointed by the parliament on a proportional basis, and one member without a voting right, appointed by the government. The 19th member is the president of CNE appointed by the civil society. The CNE will choose the provincial and district commission to be in force from 45 days before the date of the electoral census, electoral acts and electoral polls, and ceases its functions ten days after the results have been presented to the public. The electoral commissions at city and district levels, function from 30 days before the date of the electoral census, electoral acts and opinion polls, and cease their functions five days after the results have been presented to the public.

The most notable feature of the amendment was that the CNE was to be headed by a member appointed by the civil society, to be approved by the parliament from the list of at least three names, and nominated by the President of the Republic. The process caused a good feeling of counting in state affairs in the civil society, even if because it was a new practice it has probably not produced the best results in the eyes of all sectors of the civil society¹⁰. Decisions in the CNE will be made by consensus, there will be a permanent voter's roll, and CNE will remain a permanent structure.

STAE will have its General Director selected by the CNE, after a public contest based on curriculum evaluation, and appointed by the Cabinet on the

10 A national exercise took place co-ordinated by the Movement for Peace and Citizenship under the umbrella of the Mozambican Association for Democracy (AMODE) involving civic and religious associations. It produced in the end a short list of three names. However, the Christian Council of Churches (CCM) congregating 22 Protestant Churches decided to indicate its own candidate, a new name making it four names all together, the last one was the candidate picked up by the ruling party with the majority of the seats in the parliament and consequently also in the CNE. Even if denouncing the last moment move as a manoeuvre from the part of FRELIMO, RENAMO-UE and the other parties have accepted the results hoping that the head of the CNE will lend a new dynamic into the whole electoral process.

recommendation of the CNE. During the electoral period the Director of the STAE is assisted by two Deputy General Directors nominated by the political parties according to the representation in the parliament. This fact will hopefully prevent boycotts and turn the election into a really participatory democratic exercise¹¹. Moreover, the new law (20/2002) will hopefully prevent the accusations of fraud that the opposition has made since 1994, the worst in 1999 when the Supreme Court ruled out the appeal. This fact has contributed to keeping the state in a stalemate for many months and has halted foreign investment to commence much needed development.

Gender Representation in Decision-Making

The position of women in Mozambique has been a concern since the first days of independence. However, in spite of the efforts, it was only in the 1990s that the presence of women in public decision-making arenas became more visible (UNDP 2002:40). The increasing percentage of women in the legislative bodies and in the political administrative powers is a consequence of that effort. It resulted from the awareness that women have a lot to offer for the development of the country, from 'the impossibility of isolating women's participation in decision-making from the mechanisms of socialisation that shape the female identity around values and practices that limit their access and opportunities' (UNDP 2002:41) in the society, and from the increasing number of women receiving professional training under the programmes of formal education.

Mozambique is thus one of the countries on the continent where, although still relatively limited in relation to the proportion of women in the total population, the representation of women in the top legislative body is one of the highest, not only in Africa but also in the world as indicated by table 3 (see page 113).

Table 4 (see page 113) indicates that there is still a long way to go to reach a fair representation of women in the administrative political power in Mozambique. The numbers are however, gradually increasing.

11 The major opposition party RENAMO, has already declared that it will participate in the process.

Table 3: Women's Participation in Legislative Power (%)

Decision Making Area	Local Authority Bodies	Assembly of the Republic	
	1998	1994	1999
Deputies		27.6	29.4
Chairpersons of Municipal Assemblies	3.0		
Members of Municipal Assemblies	30.4		

Source: Instituto Nacional de Estatística 2000:69 (Table 8.1)

Table 4: Women's Participation in Administrative Power (%), 1999

Decision Making Area	Women	Men	Total
Ministers	14.3	85.7	100.0
Deputy Ministers	29.4	70.6	100.0
Permanent Secretaries	31.3	68.7	100.0
National Directors	16.0	84.0	100.0
Deputy National Directors	19.6	80.4	100.0
Provincial Governors	0.0	100.0	100.0
Provincial Directors	7.6	92.4	100.0
Deputy Provincial Directors	20.0	80.0	100.0
District Directors	4.4	95.6	100.0
District Administrators	4.7	95.3	100.0

Source: Instituto Nacional de Estatística 2000:70 (Table 8.2)

Key Policy Challenges for Governance and Stability

After 10 years of peace and 12 of democracy counting from the date of the approval of the Constitution in 1990, the major challenges at present lying ahead to establish true democratic governance and stability in Mozambique

are of a political and economic nature. In the political domain, reality has shown that 10 years of peace have been enough to bring about a real climate of reconciliation that came into force at the time of the signing of the General Peace Agreement in Rome in 1992. There are difficulties in reaching consensus in parliament between the two major political parties. FRELIMO dominates the urban areas and the south of the country, RENAMO dominates the rural areas, as well as the central and northern provinces, apart from Cabo Delgado where the war for liberation commanded by FRELIMO started in 1964.

In the economic domain, the fact that the country is highly dependent upon external aid for budget support (about 60 per cent in 2002) constitutes a constraint in the form of conditionalities imposed from the outside. Privatisation has been held responsible for leading to the retrenchment of thousands of workers on a daily basis, and thus creating a condition of social insecurity, fermenting urban and rural criminality, and female as well as male prostitution involving under-age adolescents.

Besides, the economy is not yet well structured in the hands of a productive local national bourgeoisie. The local bourgeoisie that exists functions mostly as fronts for foreign capital that leaves behind little for the real and human development of the country. The reforms in place since 1987 have not yet produced results at the micro level: the successes in terms of high growth achieved by the country at macro level are not yet trickling down. The economic model in force is not (yet) opening up enough spaces for participation by the common citizen who presents a good entrepreneur spirit and is willing to work and construct a better life for him/herself, his/her family, the community and the country. Beside those connected to the political power are those opening the doors to offer the facilities required by the private sector, which is interpreted and regarded by the civil society at large, as traffic of influences (see the report of *Ética Moçambique*, Afrisurvey 2001, for the low level of credibility of all state institutions, including the tribunals, the office of the general attorney and the police).

The situation is creating gaps in the political domain because the opposition cannot find space to participate in the game. Considering that the sociology of the vote is so far connected to territorial regions, the exclusion of the opposition from the economic process is creating and consolidating a sense of exclusion in the central and northern provinces. Considering that the foreign investors look for good conditions in terms of functioning infrastructures, the fact that the rural areas and the central and northern provinces are lacking

those basic elements makes the geography of investments to follow a vicious circle, not contributing to promoting democracy and far from the principles of reconciliation highly necessary after 16 years of armed conflict that has divided the country not only into two opposed sides but also into more and less developed areas and regions.

Not only constituting a source of instability but also of *high* inequality, *gender inequality still persists in Mozambique*. The representation of women in the legislative bodies is comparatively high compared to other African countries, but still below the proportion of women in the total population. In respect of political administrative decisions, women have a very low representation, constituting one of the major inequalities in the country, a challenge still to be addressed¹².

The question of the electoral process is still a concern in Mozambique in spite of the reforms that are taking place as late as in 2002 to guide the local elections of 2003 and the general elections of 2004. The structure of both the CNE and the STAF still has to be better addressed in order to become functional in normative administrative terms. Comparing the CNE of 1994, when the process was very much guided by the consideration of peace, to the subsequent bodies of 1998 and 1999, it appears that the CNE has become less concerned with fostering peace.

Hallon (2000:88), reading the first two processes of 1994 and 1998 and comparing them, argues that in 1994 the priority of the head of the CNE was to keep the parties together and facilitate consensus building. The loyalty was to the CNE itself, rather to the parties or personalities represented. In 1998 the approach was totally different, so when RENAMO representatives withdrew after the new law was not in its favour, the head of the body did little to bring them back. In 1999 there were also divergences. For 2003/4 the innovation was to bring a head for the body from outside the political party picture, the result is yet to be seen in practice.

Hallon (2002:89) also raises a concern over the STAF, when he states that 'in 1994 it was an ad hoc body with representation of the parties, and

12 In spite of nice words used by the politicians of all colours on the important role women are playing in structuring the foundations of the family and in the development of the country in general, the position of women is still not a high priority in the country. Just to give one example, the new family law with proposal to address some inequalities has been laying on waiting in parliament for at least the last two sessions, yet to gain a position of priority in the legislative affairs.

pulled together a set of people who were anxious to make the election work. After that a permanent STAE was established within the civil service, and with no political oversight except from the CNE – and with open hostility between the CNE and STAE heads'. For 2003/4 the system is changing to have STAE under the guidance of CNE, and this might bring a new dynamic to the functioning of the electoral process.

Finally, in terms of democratic governance, the question of corruption has to be mentioned because it is undermining the state and consolidating a culture of misusing public funds with impunity. The state is carrying on at present a comprehensive administrative reform supposed to touch all levels of the civic administration in order to address the subject. The results of such reform will depend very much on the political will as well as on the ability of the executive, the legislative and the judicial to join hands and start common action in terms of making clear that 'no one is above the law'.

Conclusion

The situation of the Mozambican State regarding elections, constitutionalism and political stability has been presented above in broad terms. In terms of legislation the system has been developing in Mozambique in a positive way, providing the legal instruments for the process to function accordingly. This applies both to the choosing of leaders and the choice of the voters translated into parliamentary seats, which according to Matlosa express the foundations of the election and of the electoral system Matlosa (2003:7). The representative system is lending a sense of fairness, where those who manage to obtain even a small percentage of the votes in the constituency can have a seat in the national parliament. However, all indications are that the system has to be reinforced by internal rules in the parliament on the duties and rights as well as the status of the deputies and the parties¹³. Moreover, the question of the five per cent threshold to obtain a seat in the National Assembly is preventing the small parties from having a say in national affairs.

The amendment made in the electoral law in 2002 will probably assure the participation of all political forces in future elections, and hopefully also prevent the accusations of fraud and of the CNE serving the ruling party.

In terms of conflict management, the pluralism of the political system has kept peace alive. However, it has not been able yet to consolidate the principle of interaction, giving and taking for the common good in order to

construct a peaceful situation in state affairs above the classical definition of peace concentrating only on the absence of war. And in the case of Mozambique it is of utmost importance to understand peace in a broader sense, which embraces the inclusive participation in state affairs of the great majority of the citizens and of the regions in the national territory still kept at the side of the process.

In terms of the economy, the growth of the last years has not yet brought along development to the country and has not addressed the questions of growing inequalities. In fact, the picture of success attached to Mozambique has been as much a blessing as a burden. In fact, the conditionalities imposed by the international financial institutions in terms of free trade and privatisations, for example, are keeping the country at bay. Unemployment is rising dramatically with the process of privatisation and more and small businesses are closing the doors. Besides, the majority of the Mozambicans are still not involved in business.

Sources

- Afrisurvey 2001. *Ética Moçambique, Estudo sobre Corrupção em Moçambique 2001*. Maputo.
- Carrilho, J. N. 1996. The Electoral Legislation in Mozambique and the Political and Social Achievement, in Mazula (ed.), *Mozambique – Elections, Democracy and Development*, 125-148. Maputo: Inter-Africa Group.
- The Constitution of the People's Republic of Mozambique – 1975, 1980. Maputo: The Republic of Mozambique.
- The Constitution of the Republic of Mozambique – 1990, 1991. Amsterdam: The African-European Institute.

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- 13 There is at present a stalemate in the national parliament: there are five opposition deputies that left RENAMO but want to remain members of the parliament, and the party wants them out of the parliamentary body, alleging that they have been elected on a party list basis. The case was voted in December 2002 and the majority (FRELIMO) have discharged the allegations stating that once elected the deputy is a member of the parliament on its own right and only when joining another party they can be expelled, what is not yet the case. The fact has brought the police to the parliament, the members of the special forces, for the first time in 25 years, to contain the nerves of RENAMO in the three last sessions in December, which had invaded the floor shouting, chanting and blowing noise instruments in order to prevent the good functioning of the house. When the parliament started the first session of the year 2003 in February, the overall climate was calm; but the question is for how long?

General Peace Agreement in Mozambique – 1992 Amsterdam: The African-European Institute.

Hallon, J. 2000. 1994, 1998, 1999, Baloi and Macuane (eds.) Local Government Elections in Mozambique, International Conference – Final Report. Published by the Training and Research Unit on Social Sciences – UFICS, Eduardo Mondlane University, Maputo.

Instituto Nacional de Estatística (INE) 2000. *Women and Men in Mozambique*. Maputo: INE.

Matlosa, K. 2003. Electoral Systems, Constitutionalism and Conflict Management in Southern Africa. ACCORD, Durban (Terms of Reference).

United Nations Development Program 2002. Mozambique – Gender, Women and Human Development: An Agenda for the Future, National Human Development Report 2001. Johannesburg: DS Print Media.