

EXPLANATORY NOTE

Parliamentary and Presidential Elections were held in Mozambique on 1 and 2 December 2004. The Secretary-General sent:

- a Commonwealth Observer Group, which was present for the end of the campaign period, the voting and the counting of votes at the polling stations;
- a Commonwealth Expert Team, which was present to observe the rest of the results process.

This is the report of the Commonwealth Observer Group. The Report of the Commonwealth Expert Team which was present for the results process, and Portuguese translations of the Conclusions and Recommendations of both reports, can also be found on this web-site.

The report is reproduced here in the form in which it was signed by the Commonwealth Observers in Maputo prior to their departure on 8 December 2004. On 22 December 2004, when the report of the Expert Team had been received, copies of both reports were transmitted by the Secretary-General to the President of Mozambique. The Secretary-General subsequently sent further copies to the Chairman of the Comissão Nacional de Eleições, the Secretaries-General of the main political parties and Commonwealth governments. The two reports were placed on this web-site and released to the media on Friday 7 January 2005.

The annexes are not shown in the electronic copy which follows. However, they can be found in the printed copy, which is available from:

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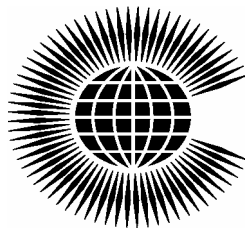
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ADVANCE COPY

THE PARLIAMENTARY AND PRESIDENTIAL ELECTIONS IN MOZAMBIQUE

1-2 December 2004

**The Report of the
Commonwealth Observer
Group**



Commonwealth Secretariat

**The Parliamentary and Presidential Elections in Mozambique
1-2 December 2004**

**REPORT OF THE
COMMONWEALTH OBSERVER GROUP**

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Glossary

ACTA	minutes of a part of the electoral process (i.e. of voting at the polling station)
ASSEMBLEIA DA REPÚBLICA	the Assembly of the Republic - Mozambique's parliament
ASSEMBLEIA DE VOTO	a polling station
CADERNO ELEITORAL	the voters' register
CDE	Comissão Distrital de Eleições - the District Electoral Commission
CPE	Comissão Provincial de Eleições - the Provincial Electoral Commission
CNE	Comissão Nacional de Eleições - the National Electoral Commission
EDITAL	Results sheet (plural <i>editais</i>)
STAE	Secretariado Técnico da Administração Eleitoral - the technical secretariat of the electoral administration)
VOTO EM BRANCO	a blank ballot paper
VOTO NULO	an Invalid Vote
VOTO PROTESTADO	a Disputed or Challenged Ballot



Commonwealth Observer Group

Mozambique Parliamentary and Presidential Elections
December 2004

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8 December 2004

Dear Secretary-General

We have now completed our Report to you on Mozambique's 2004 Parliamentary and Presidential Elections and forward it with this letter.

In our Terms of Reference you asked us to determine whether the conditions existed for a free expression of will by the electors. We believe that such conditions did exist.

You will see from our Report that we congratulate Comissão Nacional de Eleições and its colleague election management bodies for their performance up to this point. We also express the hope that the transparency and credibility of the phases of the electoral process for which we have been present will also characterise the important parts of the electoral process which are yet to come. In this context, we are pleased that you are sending Commonwealth colleagues to be present in Mozambique from the time of our departure to the announcement of the results.

We are grateful to you for providing this opportunity to assist in the consolidation of democracy in Mozambique and hope that our Report will make a useful contribution to that process.

Yours sincerely

Vaughan A Lewis
Chairperson

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Chapter One

INTRODUCTION

INVITATION AND ASSESSMENT MISSION

Eighteen months before these Elections Commonwealth Secretary-General Don McKinnon was verbally invited by President Chissano to send Observers for the Parliamentary and Presidential Elections. A formal letter of invitation was sent to the Secretary-General by Rev Dr Arão Litsure, the President of the *Comissão Nacional Eleições* (CNE, National Electoral Commission), on 12 October 2004. The Secretary-General agreed in principle that he would send Observers. First, however, he despatched an Assessment Mission of Commonwealth Secretariat officials. The purpose of the Assessment Mission was to establish, firstly, whether there would be broad support from the political parties and civil society for the presence of Commonwealth observers; and secondly, whether the Observers would be able to have full access to the process, as required by the *Guidelines* adopted by Commonwealth Heads of Government in 1991.

The Mission was assured by CNE that Commonwealth Observers would have access to polling stations and counting centres. However, CNE also made clear that international and domestic observers would not have access to the room at CNE Headquarters in Maputo where the results from the provincial centres would be entered into the national results database: it was too small and the presence of observers might distract the data entry operators. Instead, observers would be able to see the process through glass screens, with results displayed on monitors in a neighbouring room. In response, the Assessment Mission made clear that the Commonwealth's *Guidelines* concerning election observation made clear that full access was required, to all stages of the process. This matter had already been raised with the domestic and other international observers, who had similarly insisted on the principles of transparency and access. This matter had attracted considerable media publicity, especially through the public remarks made by the CNE, the leaders of the Electoral Observatory (a coalition of Mozambican non-governmental domestic observers) and the European Union Observers.

After meeting the political parties and civil society organisations, the Mission concluded that there would be broad support for the presence of Commonwealth Observers. However, all the political parties urged that the Observers should have full access to the process. In addition they argued that observers should be present until the announcement of results, which would be some weeks after the voting itself. The Secretary-General subsequently made clear that while the Observer Group would have to leave on 8 December he would ensure that a Commonwealth presence would be provided in another form once the

Observer Group had departed, and that this would remain throughout the results process.

OBSERVATION GROUP CONSTITUTED

On 12 November 2004 the Secretary-General informed Dr Litsure that he had decided to constitute a Commonwealth Observer Group (COG) for the Parliamentary and Presidential Elections. President Chissano had earlier made clear that these would take place on 1 and 2 December 2004. (The exchange of correspondence is at *Annex Two*). The Secretary-General informed Dr Litsure of the Group's Terms of Reference and composition. He also made clear that in order to be able to form a judgement on the credibility of the electoral process Commonwealth Observers needed to have access to all its stages.

The Observer Group consisted of ten eminent observers, led by former Prime Minister of St Lucia Dr Vaughan Lewis. The Group was supported by a Staff Support Team of six officials from the Commonwealth Secretariat led by Professor Ade Adefuye, Head of the Africa Section in the Political Affairs Division. When the Group deployed, the staff would reinforce the Observers to ensure a total presence on the ground on election day of 14 observers, divided into seven two-person teams.

The Observer Group was preceded from 13 to 22 November by an 'Advance Group' of two – Mr Elijah Rubvuta, Executive Director of Zambia's Foundation for Democratic Process and Mr Linford Andrews from the Political Affairs Division of the Commonwealth Secretariat. They travelled widely, observing the preparations for the elections, media coverage and the campaign, in order to obtain an impression of the electoral environment ahead of the arrival of the main Group and to represent an early presence on the ground for the COG. Immediately after the arrival of the full Observer Group, the 'Advance Group' briefed it on their impressions of the process.

TERMS OF REFERENCE

The Secretary-General provided the Group with the following Terms of Reference:

"The Group is established by the Commonwealth Secretary-General at the request of the Comissão Nacional Eleições. It is to observe relevant aspects of the organisation and conduct of the Parliamentary and Presidential Elections which are scheduled to take place on 1 and 2 December 2004, in accordance with the laws of Mozambique. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgment whether the conditions exist for a free expression of will by the electors and if the results of the election reflect the wishes of the people.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly.

It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Mozambique, the Comissão Nacional Eleições, the leadership of the political parties taking part in the elections and thereafter to all Commonwealth governments”.

The Secretary-General invited the members of the Observer Group in their individual capacities. He made clear - to the Observers, to the *Comissão Nacional Eleições* and the Government of Mozambique, and to the media (see press release at Annex Three) - that within the above Terms of Reference the Observers would form an independent judgement and that the views they expressed regarding the elections would be their own and not those either of their respective Governments or of the Commonwealth Secretariat.

ACTIVITIES OF THE GROUP

The Commonwealth Observer Group held a press conference in Maputo on Tuesday 23 November 2004 (see Annex Four). In response to questions concerning CNE decisions on the extent of access to be granted to observers, Group Chairperson Dr Vaughan Lewis said that the Commonwealth stood with the other domestic and international observers on the issue. If observers were to make a judgement on the credibility of the process they needed to be able to see it.

After hearing from the Advance Group the COG then met and were briefed by the President of CNE, Rev Dr Arão Litsure. The Group noted that there was no change to CNE's position on the extent of access granted to observers after the polling station count. However, at a later briefing for international observers, CNE clarified that there would be access to its review of the invalid and challenged ballot papers. When the Group subsequently met with the Director-General of STAE, Dr Carrasco, he provided further clarification and reassurance on a number of other points.

From 24 to 26 November, the Group met representatives of political parties, non-governmental organizations, media organizations, other Observers and Commonwealth High Commissioners. (See Annex Five for the Group's full Schedule of Engagements).

On Saturday and Sunday 27 and 28 November 2004, the Observers deployed across the country (see Annex Six for details, as given in the Deployment Statement issued to the media on Monday 29 November). Two teams were present in the north, two in the centre of the country and two in the south. The Chairperson himself was in the capital, Maputo, for the two election days, but before election day visited the second city, Beira, and Tete Province in order to get a sense of the pre-election atmosphere outside the capital.

During deployment, the teams first visited the police and the Provincial Election Commissions, then replicated at local level the programme of briefings received in Maputo: the Group met the political parties, non-governmental organizations and other observers. In addition, the Observers made a special effort to meet with the electors themselves to discover how they viewed the process. They observed the very end of the campaign, the final preparations for the election and travelled as widely as possible around their deployment areas (which in a number of cases consisted of two provinces). The Observers were assisted in their work by Observation Notes and Checklists (see Annex Seven).

On the two election days, the teams visited as many polling stations as possible, observing the voting and counting of votes. On each day, they began with the opening of the station and saw the closure at the end of the day. On the night of 1 December, they saw the conditions in which the ballot papers, boxes and other materials were secured for the night. The following night, they were present for the counting of the votes.

Altogether, on 1 and 2 December, the Observers visited 303 polling stations in seven provinces and were present at 14 counts. On 3 and 4 December, the Observers checked further on the results process at the district collation centres as well as the provincial centres and sought feedback from the political parties, non-governmental organisations and other observers.

On behalf of the Group, on the morning of 4 December 2004, the Chairperson issued an Interim Statement on the election process so far (see Annex Eight). Members of the Group re-assembled in Maputo later that day. They briefed each other on their observation of the end of the campaign, the election days themselves and what they had been able to see of the results process. Then they began drafting their report.

In parallel with the writing of the report some members of the Observer Group and the Staff Support Team saw what they could of the operations at the CNE's Maputo centre. They were particularly concerned to observe the adjudication on the challenged and invalid ballots (which were sent directly to the centre from the polling stations). On Monday 6 December 2004, two members were able to do so.

This report was completed on 7 December 2004 and taken by hand to the Commonwealth Secretary-General. The Group issued a "Departure Statement" (see Annex Nine) and left Mozambique the following day.

Chapter Two

Background and Historical Review

The first people in what is now Mozambique were farmers and hunters. They were followed by merchants from Arabian and Asian countries and Swahili traders from east Africa arrived in the area in search for gold, ivory, valuable skins and rhino horns. The Portuguese moved into the country to control Mozambique's strategic ports and the gold and ivory trade in the 15th century.

Resistance to colonial rule picked up speed in the mid-20th century due to students, other activists and the urban elites called *assimilados*. The turning point came in 1962, when groups of political exiles, led by Eduardo Mondlane, came together in Tanzania to form the Front for Liberation of Mozambique (Frelimo).

Liberation struggle

In 1964 Frelimo launched its first military operation, starting Mozambique's protracted struggle for independence. When Mr Mondlane was murdered in a move orchestrated by the Portuguese police in 1969, Samora Machel took over the leading position within Frelimo. The war intensified and by the early 1970s Frelimo was heading for present-day Maputo. Together with wars of liberation in Portugal's other African colonies, the war in Mozambique imposed increasing strain on the political system in Portugal itself. Army officers (MFA) toppled the dictatorship in Portugal, and the new Government moved to offer Frelimo a cease-fire that was to lead to self-determination, but not independence. Frelimo rejected the offer and finally the MFA managed to override the Government and grant independence to Mozambique.

The agreement granting Mozambique's independence was signed on 7 September 1974 in Lusaka, and a Transitional Government led by Mr Joaquim Chissano as interim Prime Minister, and including six representatives from Frelimo and four appointed by the Portuguese, was installed on 20 September 1974. This caretaker government ushered the country to independence on June 25 1975. The assumption of power by Frelimo did not result in peace.

The Civil War

In 1977, after Frelimo's third congress, the establishment of representative structures of governance under a single party system was initiated. The process was concluded in 1978 with the installation of Peoples' Assemblies.

Following independence, the new Government committed itself to assist the liberation movements fighting for independence against colonial and minority rule in southern Africa. Samora Machel, Mozambique's first President, allowed the Zimbabwe African National Liberation Army

(ZANLA) to operate from bases in Mozambique against Ian Smith's white minority regime in then Rhodesia. The Rhodesian intelligence service, in cooperation with some disillusioned Mozambicans and Portuguese, set up the Mozambique National Resistance (Renamo) to destabilize Mozambique and force it to withdraw support from ZANLA.

As the civil war took hold, social and economic infrastructure, including schools, health posts, bridges and factories, were destroyed. More than 1.5 million refugees fled to neighbouring countries and twice that number were displaced internally, while the country became dependent on international food aid.

After Zimbabwe's independence in 1980, support from Rhodesian security agencies ended. The Government of South Africa then became Renamo's principal foreign backer. Renamo moved to control and stop Mozambique's assistance for the ANC in its fight against the apartheid regime in South Africa. By 1983 Renamo controlled vast parts of the Mozambican countryside. The Mozambican government started talks with the South African government to end its support for Renamo in 1984. A pact, the Nkomati Accord, was signed, though talks between the two governments ultimately failed.

In October 1986, President Samora Machel was killed in a plane crash, the cause of which is yet to be accurately determined.

Given the civil war, military incursions from apartheid South Africa and the difficult economic situation the Government of Mozambique initiated discussions with the IMF and the World Bank. In 1987, the country began its first structural adjustment programme. This led to the arrival of Western aid agencies and the establishment of one of the world's largest international relief programmes.

Consolidation of peace and introduction of multi-party democracy

The increasing seriousness of the civil war prompted several attempts to bring the Government and Renamo together for talks. In 1989 a breakthrough came, when a delegation of Mozambican church leaders met with Renamo in Nairobi, where they presented proposals to initiate a dialogue. The first round of talks finally started in July 1990 in Rome, with mediation from the Catholic Church and the Italian Government, finally leading to the signature of the General Peace Agreement in October 1992.

The General Peace Agreement provided for the assembly and demobilization of both Frelimo and Renamo troops. The demobilization process was carried out under the auspices of the United Nations Operation in Mozambique (ONUMOZ).

The end of conflict allowed more than 1 million refugees to return and internally displaced people to resume normal life in the rural areas. The post-election period was marked by dramatic social and economic progress, and Mozambique emerged as a successful example of national reconciliation.

1994 Parliamentary and Presidential Elections

The first multi-party Presidential and Parliamentary Elections were held on 27-29 October 1994, based on the framework agreed upon in the peace agreement. Of the twelve presidential candidates only three besides Mr Chissano (Frelimo) and Mr Dhlakama (Renamo), who obtained 53.3 and 33.7 per cent of the vote respectively, managed to get more than two per cent of the vote.

Twelve political parties and ten coalitions participated in the Parliamentary Elections, which required a minimum of five per cent of the national vote to secure seats in the *Assembleia da República*. Apart from Frelimo and Renamo, only the Democratic Union (UD) coalition got 5.15 per cent and obtained nine of the 250 seats in the *Assembleia*. Mr Dhlakama accepted the results of the vote despite some alleged irregularities and Mr Chissano formed an all-Frelimo government, despite pressure from Renamo and some Western governments for a government of national unity.

1999 Parliamentary and Presidential Elections

The second multiparty national elections, held in December 1999, were described as free and fair by international observers. Frelimo's margin of success was less than in 1994, but once again it secured a majority in the *Assembleia da República*. It was the most popular party in only four of the ten provinces, namely the three southern regions and Cabo Delgado in the far north. The trend was mirrored in the results of the Presidential election, with Mr Chissano's share of the vote dropping to 52.3% (from 53.3% in 1994), while the share gained by Renamo's candidate, Mr Dhlakama, rose from 33.7% to 47.7%. While certain irregularities were considered to have influenced the final result, the election outcome was endorsed by international observers.

Renamo reacted angrily to its loss, accusing Frelimo of fraud, refusing to recognise the Government, and threatening to establish a parallel administration in the provinces where it had won majorities. Mounting political tension led to police raids on Renamo offices in October. This was followed by demonstrations¹ throughout the country, all held on the same day.

Resumption of negotiations

Frelimo and Renamo were sufficiently shocked by these events to reaffirm their commitment to democracy, and formal negotiations resumed in January 2001. But these were again marked by inflexibility on both sides. Mr Dhlakama reiterated his demand for the right to be able to appoint provincial governors in areas where Renamo had won a majority. Mr Chissano initially hinted that he might permit informal consultations on

¹ One such protest, in Montepuez, Cabo Delgado province, degenerated into violence, leaving 40 dead (including police); a subsequent police crackdown led to the death of 80 alleged Renamo activists in an overcrowded police cell. Several Renamo members and two policemen involved in the incidents have since been jailed.

the subject, but later retracted his offer, insisting that such appointments were a presidential prerogative.

The talks ended in stalemate in 2001 but some progress was made with regard to the reform of the electoral process. Renamo and Frelimo were both represented on the CNE and party agents were allowed to represent parties to observe at polling stations, district and provincial levels, as well as having some access at the final tabulation and collation of votes at national level.

However, the proposal for power sharing that would have enabled Renamo to take part in the governance of the country was rejected by Frelimo hardliners.

Local Elections

Mozambique's first ever local elections were held on 30 June 1998 in 33 cities and towns. They were boycotted by Renamo, citing flaws in the registration process. Fewer than 15 percent of registered voters turned out to vote and the electoral arrangements were widely criticized. Frelimo won the "presidencies" and a majority of seats in the local assemblies in all 33 cities and towns.

In the 2003 Local Elections, Frelimo won in 28 of the 33 municipalities. The 24% turnout was well above the 15% turnout in the first municipal elections. International observers criticised the lack of transparency in the results process, cited possible misinterpretations of the law by the CNE, and objected to bureaucratic obstructions to observation. There were also concerns about the secrecy of the final computerized tabulation.

2004 Parliamentary and Presidential Elections

Initially, 25 political parties and coalitions and eight presidential candidates submitted their nomination forms for the 1-2 December Parliamentary and Presidential elections. Some parties were rejected for not meeting the criteria². A total of 21 parties were on the final list for the elections (see Annex Ten). Presidential nominations were submitted to the Constitutional Council and required 10,000 nomination signatures. Parliamentary candidates had to submit a series of documents, including a certificate stating they had no criminal record, to the CNE. In previous elections candidates have been disqualified.

Only two parties, Frelimo and Renamo, were represented in the *Assembleia da República* and were expected to receive the vast majority of votes. Their presidential candidates were Armando Guebuza for Frelimo

² Under Mozambique's electoral legislation, to win any seats at all, a party must win at least 5% of the national vote. In 1994, one coalition of small parties edged past this threshold with 5.15%; in 1999 the small parties together gained 12.7%, but no single party gained more than 2.7% of the vote and none gained a parliamentary seat. Again in the 2004 Elections, the small parties failed to form a coalition.

and Afonso Dhlakama for Renamo. Renamo stood as the Renamo União Eleitoral in a coalition with 10 other parties³.

After Renamo, the most prominent of the opposition parties was the Partido para a Paz, Democracia e Desenvolvimento (PDD). In July 2004, PDD leader Raul Domingos announced that he would stand in the general elections (as a Presidential candidate) and would not join other coalitions⁴. PDD was a broad alliance of civil society activists and urban intellectuals from Maputo, the capital, and central and northern areas, where the party was hoping to pick up some ethnic support based on the figure of its leader, Raul Domingos, who is a Sena, one of the two dominant ethnic groups in the central part of the country.

The Constitutional Council accepted five of the eight presidential nominations for the 1-2 December election. Three were rejected because they did not present at least 10,000 valid supporting signatures from registered voters. There were strong grounds for believing that many of the signatures they did present had been obtained fraudulently. In one case, the Council said the forms "had almost all been obviously filled in and signed by the same handful of individuals".

The five approved candidates were: Armando Guebuza, Frelimo; Afonso Dhlakama, Renamo; Raul Domingos, Party for Peace, Development and Democracy (PDD); Carlos Reis, Mozambique National Union (UNAMO); and Yaqub Sibindy, Independent Party of Mozambique (PIMO).

The main political parties

Southerners have historically dominated Frelimo, including the first leader of the movement, Eduardo Mondlane, and later Presidents Samora Machel and Joaquim Chissano—all Shangaan speakers from Gaza province. Frelimo's socialist orientation did not recognise indigenous cultural practices—including traditional village-level authorities, which were abolished after independence. The attempt during the party's first 15 years in power to impose cultural and political change from above had disastrous consequences for the Government's popularity—a fact belatedly realised in the early 1990s.

Divisions within Frelimo intensified in the 1990s as previous socialist policies were abandoned and the unifying influence of war and resistance

³ National Convention Party (PCN), Mozambique United Front (FUMO), Mozambican Nationalist Movement Patriotic Action Front (FAP), Democratic Renewal Party (PRD), Independent Alliance of Mozambique (ALIMO), National Unity Party (PUN), United Democratic Front (UDF), Mozambican People's Progress Party (PPPM), Ecological Party of Mozambique (PEMO). The only change in the composition of the coalition from the one that fought the 1999 elections is that the Mozambique National Union (UNAMO) has left, to be replaced by the Ecological Party of Mozambique (PEMO).

⁴ Standing in local elections in November 2003 as IPADE, it won single seats in Beira and Dondo municipal assemblies. Domingos was once the deputy leader in Renamo and headed the team that negotiated the 1992 peace agreement with the Government, but was expelled from Renamo in 2000.

to apartheid South Africa disappeared. Nonetheless, the party retained its dominance in the political system.

Renamo is widely believed to be the only viable opposition party in Mozambican politics. It won roughly 40% of the vote in the two successive democratic elections and was the most popular party in six out of ten provinces.

Political Affiliations

Mozambique has a large number of ethnic groups, although there are clear collective identities based on southern, central and northern distinctions. Frelimo's current Presidential candidate, Armando Guebuza, is a Ronga from Maputo province. Frelimo has also traditionally held the allegiance of the Makonde of Cabo Delgado, where it first launched its war of liberation. Renamo has generally drawn support from the centre, which is its heartland, as well as the north. The Ndau are the Renamo bedrock, together with the Sena. Both dominate Manica and Sofala provinces.

The dominant ethnic groups in the north are the Macua, in Nampula province; the Chuabo, in Zambezia province; and the Yao in Niassa province. The north is a politically contested area: it has generally voted for Renamo in the past two elections, but Frelimo has made steady inroads and recognises that control of the area is central to its political future, as the region accounts for 45% of the country's population.

Constitutional Changes

In October 2004, the ad hoc constitutional reform commission drafted a consensual text on constitutional reform. Most of the disagreements between Frelimo and Renamo Parliamentarians hinged on whether the body that decides on constitutional issues and the validation of electoral results should be called a Constitutional Council or a Constitutional Court⁵. The draft text abandoned the idea first mooted in 1997 of making the post of Prime Minister directly answerable to the *Assembleia da República* and did not remove the article that gives the Executive the possibility of legislating by decree. Both measures would have helped to increase the power of the *Assembleia da República*.

Economic Developments

The civil war between Government and Renamo forces and the flight of many skilled Portuguese settlers following independence had a profoundly damaging effect on the economy.

In the ten years since the introduction of multi-party democracy, the external economic support which followed the shift away from a socialist to a free market economy has had a positive impact on Mozambique's economic outlook. Recent Government data have estimated real GDP growth of 8.4% in the first half of 2004. Inflation has been declining. Annual inflation was 10.6% in October 2004, owing to a stronger metical and high agricultural output, with estimated output growth of 10.3% in

⁵ Economist Intelligence Unit Country Report – Mozambique, July 2004

2003/04⁶. Despite the rapid economic growth, subsistence agriculture continues to employ the vast majority of the country's workforce.

Mozambique and the Commonwealth

Mozambique joined the Commonwealth in 1995, following a decision adopted by Commonwealth Heads of Government at their meeting in Auckland, New Zealand that membership should be granted as "an exceptional case". Mozambique has enjoyed a special relationship with the Commonwealth since independence in 1975, and has benefited from Commonwealth technical assistance in a number of areas. The decision to grant Mozambique membership status was also driven by the country's close support of the Commonwealth approach on the anti-apartheid issue and in recognition of its commitment to Commonwealth principles of democracy and the rule of law.

⁶ Economist Intelligence Unit Country Report – Mozambique (update), December 2004

Chapter Three

THE ELECTORAL FRAMEWORK

CONSTITUTION

The Constitution under which these elections were held came into force in November 1990. It provides for equality under the law and entrenches freedom of expression, association and assembly and other basic political and human rights. Article 109 provides for the separation of powers between the executive, judiciary and legislature and for a Constitutional Council.

The Constitution stipulates that there shall be “universal, direct, secret and periodic suffrage” elections every five years, both for the members of the *Assembleia da República* and for the post of President. The President is the Head of State and Head of Government. The *Assembleia da República* is the highest legislative body in the Republic. It has the power to make “laws and resolutions of a general character” in order to “regulate social and economic affairs and the administration of State activity”. These include the electoral law. It meets twice a year, for a total of 90 working days.

The Constitution states that all citizens of 18 years and older have the right to vote, and describes this as “a civic duty”⁷. It also grants citizens the freedom to form and to participate in democratic political parties. It describes political parties as “the expression of political pluralism” and “the fundamental instruments for the democratic participation of citizens in the governing of the country”⁸.

ELECTORAL LAWS AND REGULATIONS

The legal framework for these elections was set out in Law no.7/04 of 17 June 2004, known as the ‘Electoral Law’. In response to problems encountered at the previous Parliamentary and Presidential Elections, the law differed in a number of respects from that which had been in force in 1999⁹.

⁷ This is subject to two exceptions: those who have committed an ‘intentional crime’ and those who are incapable of voting independently are not allowed to vote.

⁸ The Constitution specifies that political parties shall be national in scope and be regulated by law. It prohibits “advocating or resorting to violence in order to change the political and social order of the country” and further requires that the parties “uphold national interests”; “contribute to the formation of public opinion, especially on major national issues”; “strengthen the patriotic spirit of citizens and the consolidation of the Mozambican nation”; and that they shall “contribute, through the political and civic education of citizens, towards peace and stability in the country”.

⁹ For instance, this time polling station staff, police and journalists would be able to vote at any polling station (not necessarily those at which they were registered); the use by political parties of property belonging to central or local government or State companies would be banned; parties would have the right to check ballot paper proofs before printing; party agents at polling stations would receive their credentials from the District Electoral Commission; it would not be possible to extend voting to a third day; on the

Changes to the Law

Five changes made for the local elections in 2003 were retained: exit polls would be banned; opinion polls would not be allowed in the period from the start of the campaign up to the declaration of the results; agents would be given copies of the official results sheets (rather than being asked to write down the figures themselves) and the polling station record; two of the five officials on duty at any polling station should be able to speak the local language; polling station staff would be recruited through a public and transparent process. It should be noted that the new law made clear that duly accredited party agents and observers would now receive copies of the minutes and results sheets at the polling station, provincial and national level: this was an improvement on 1999.

Presidential Election

Several of the main provisions of the Constitution and the Electoral Law regarding the Presidential Elections are set out below; others appear in later chapters.

In the Presidential election the candidate who obtains more than half the valid votes would be elected. If no candidate does so on the first round there is provision for a second or 'run-off' election, involving only the two candidates who won the most votes. In the case of a run-off the candidate with the most valid votes would be elected. Any second round must take place within 21 days of the results of the first.

Any Mozambican citizen may stand for the post of President provided that she/he meets certain conditions. These are that she/he is a registered voter; possesses "original nationality" (i.e. is not naturalised); is the child of parents who held original Mozambican nationality; is at least 35; and is in full possession of her/his political and civic rights (i.e. has not been deprived of any as a result of any offence). Candidates have to be proposed by 10,000 voters.

Elections to the Assembleia da República

At present the *Assembleia da República* has 250 members. At this election, for the first time, two of these would be elected by Mozambicans living abroad – one for Africa, one for the rest of the world. The elections to the *Assembleia da República* are conducted according to a variation on the party list system of proportional representation. There are 10 multi-member constituencies, each corresponding to a province of Mozambique (one of which is the city of Maputo itself): the numbers of Members per constituency are proportional to the number of voters registered there. Elections to the *Assembleia da República* may be contested by any citizens of voting age who have registered for the election, unless they have been convicted of certain crimes or belong to certain categories as set out

polling station results sheet – *edital* – the votes would be written in both figures and words; *editais* given to party agents would be admissible in the district, provincial and national collation process if the officials' copies were lost. However, we noted that with the exception of having the number of votes in words as well as figures the *editais*, or results forms, would be the same as used in 1999 (when there were many mistakes).

below¹⁰. In order to be represented in the *Assembleia da República* a party must attain at least 5% of the national vote. We noted that in 1999 the method of allocating seats to the provinces had led to the allocation of 251 seats – one too many; one therefore had to be subtracted later. This method was not changed for this election.

Constitutional Council

A body known as the Constitutional Council, which has special jurisdiction on legal matters arising from the Constitution, is responsible for approving the nominations of Presidential candidates; ruling on certain electoral complaints, claims and appeals; and approving and declaring the election results. There is no appeal against the decisions of the Constitutional Council.

ARRANGEMENTS FOR ELECTION MANAGEMENT

Responsibility for election management in Mozambique involves several bodies. The main policy body is the *Comissão Nacional Eleições* (CNE). There are also district and provincial election commissions and a technical secretariat, STAE.

Comissão Nacional Eleições

CNE has nineteen members, who each serve for five years. Eighteen of these are appointed by the parties represented in the outgoing *Assembleia da República*, in proportion to their representation there; in the case of the CNE which was in place for this election ten members were appointed by Frelimo and eight by Renamo-União Eleitoral. The nineteenth member of CNE, its President, is elected by the other eighteen members of CNE from candidates proposed by civil society organisations; one of the two Deputy Presidents is drawn from the Frelimo members and the other from the Renamo members. The Government appoints a representative from the *Assembleia da República* who attends sessions of CNE, with the right to speak but without the right to vote.

CNE's principal responsibilities include, but are not limited to, preparing the electoral schedule; approving the materials used in the electoral process; allocating State funds as appropriate; organising the voter registration, voting and results processes; and in general ensuring that the whole process is organised properly. It is also responsible, *inter alia*, for allocating times for campaigning on the public broadcast media; regulating access to public sites; devising a code of conduct for candidates; promoting civic and voter education; and dealing with certain categories of complaints.

According to Law 20/2002, CNE is independent and "in the exercise of its functions it owes obedience only to constitutional law". However, we noted that all but one of CNE's members were from the two main political parties and that appointments to STAE were frequently made on a political

¹⁰ The list is: members of the Council of Ministers (i.e. Cabinet), serving members of CNE, STAE staff, magistrates, members of the armed or para-military forces, diplomats, employees of foreign governments or international organisations.

basis. This meant that the election management arrangements were highly politicised. Further, decisions were apparently not always made by consensus – resort was made to voting when agreement between the two sets of party appointees could not be reached. Since the CNE majority was from Frelimo, decisions that were put to the vote invariably went Frelimo's way. In our view, both the structure of CNE and the way it operated in practice meant that independence was lacking. The very structure of CNE is also bound to bring on the very problem from which election management bodies should be free – debate amongst its members motivated by partisan considerations. The introduction of political appointments to STAE (see below) gave further grounds for concern.

The present election management arrangements in Mozambique must be seen in the context of the country's history and the nature of its politics during the last thirty years. However, Mozambique may now feel that it is time to review those arrangements, especially as they relate to the composition and independence of CNE. Given Mozambique's membership of the Commonwealth, we hope that CNE or the Government of Mozambique might explore with the Commonwealth Secretary-General the provision of assistance for such a review.

Provincial and District Election Bodies

There are election commissions at city, district and provincial level. The most important of these – the provincial commissions – are known as *Comité Provincial de Eleições* (CPEs). Both are composed in a similar manner to CNE itself, reflecting party representation: this means that they too are sites for political contest, rather than independent election management bodies. We believe that this arrangement too should be reviewed, with a view to ensuring independence not only from the State but also from the main political forces.

Secretariado Técnico da Administração Eleitoral (STAE)

For the implementation of its decisions CNE is assisted by a "technical secretariat", the *Secretariado Técnico da Administração Eleitoral* (STAE). This executive agency has offices and staff at the national, provincial, district and city levels. It is subordinate to CNE and operates within CNE's policy and guidelines. Under CNE's supervision STAE is responsible for the organization of the electoral process, including voter registration, the training of election staff and the provision and transport of materials. STAE is represented on CNE, but has no voting rights there.

In spite of the provisions of the electoral law, STAE staff consist of a mixture of technical experts and political appointees: for instance, one of the two Deputy Directors-General of STAE at the time of this election was appointed by FRELIMO and the other by Renamo-União Eleitoral; similarly, a number of other appointments are made in proportion to party strength in the *Assembleia da República*.

Above we have noted that the members of CNE and the district and provincial electoral bodies were appointed on a political basis. We note further that the executive agency charged with making the day-to-day

election mechanics work was also affected by this politicisation. We regret this and believe that it is highly inappropriate for recruitment to a State agency to be organised in this way. We urge CNE and the Government of Mozambique to review the present arrangement.

CODES OF CONDUCT

CNE produced a Code of Conduct concerning the behaviour of political parties and candidates and a *Regulation concerning Party Political Broadcasts*. The *Regulation* is attached as Annex Twelve. The Code for the political parties is described on pages 24 to 25.

Another Code of Conduct for candidates and political parties was agreed between and signed by the leaders of 22 political parties at a conference organised by the Netherlands Institute for Multiparty Democracy (NIMD) in May 2004. According to the document itself, this Code was drawn up to ensure that the elections would be “conducted in an atmosphere of peace, stability, democracy and transparency”. Its nineteen clauses affirm the signatories’ support for various elements of good practice – co-operating with the electoral authorities, solving conflict through dialogue, allowing others to campaign, refraining from making ‘false allegations’, accepting the results (or using the competent bodies to make complaints) etc.

ACCESS BY OBSERVERS

CNE’s statements on the degree of access to the process which would be allowed to domestic and international observers – and its interpretation of the law on this point - became a major issue in the run-up to the election. Many statements were made by official spokesmen, not all of which were completely consistent.

Law Number 7/04 of 17 June 2004 and the Regulations for the Observation of the 2004 Elections¹¹ appeared to us to allow the presence of observers at all stages of the process. The latter said “the observation of the suffrage starts with the beginning of the electoral campaign and ends with the announcement of the results of the elections”.

CNE was clear that observers would be able to see the polling, counting and the transmission of the results to the district and provincial centres. However:

- some CNE representatives said that observers would not be allowed to speak to Presiding Officers, that interpreters could not be present at polling stations with observers, and that observers would not be allowed to speak to voters within the 300 metres limit around the polling station.

This was of considerable concern to us. We were also concerned about CNE rulings concerning aspects of the process after the arrival of the polling station results at the provincial centres. A detailed description of

¹¹ Deliberation 36/2004, 28 September 2004

the results process from this point is given in Chapter Seven, on pages 41 and 42. The matters which concerned us were as follows:

- CNE said that observers would not be allowed to be physically present in the room at provincial centres where the polling station *editais* would be entered into the results data-base. Similarly, CNE said that observers would not be allowed into the computer room at national level; but they would be able to view the room through a glass screen. At both national and provincial level observers (and journalists) would be able to use specially provided computer terminals to see *editais* as entered into the results database.
- we were also concerned about access to the process for reconsidering polling station *editais* which contained errors. On the principle that "justice must not only be done, but be seen to be done" we were concerned that the process should be in the open. It might well have been characterised by total integrity: the point was that this had to be seen to be the case.

In 1999 around 7% of *editais* were excluded from the final count. In the Presidential election CNE corrected and included 297 and rejected 550 (just less than 7%). In the election for the *Assembleia da República*, 300 were allowed and 727 rejected (more than 8.7%). This meant that in each election at least 300,000 votes were included as a result of the CNE reconsideration process, which was more than the difference between the two main parties when the final results were announced. However, despite the importance of this process observers, party agents and press were not allowed to be present when the CPEs considered these *editais* and made changes to some of them. CPEs also send many of the difficult *editais* to the CNE and again observers and agents were not allowed to be present while these were corrected or rejected.

CNE said that the arrangements would be the same at this election. It added that it regarded the decision-making process in this respect as "internal". A STAE press release on 21 October 2004 made clear that official spokespersons and the *Boletim de República* would provide information on the process for determining which *editais* would finally be included in the total and which would not. However it was unclear whether sufficient information would be published to enable the observers to make an informed judgement.

- at the end of the results process, CNE could adjust the official provincial results totals in line with its own parallel 'provisional count': in the past no information had been published on what was done during this process and why, and no observers were present: it appeared that the same arrangements would apply this time.

In the months immediately prior to the elections most attention – from the media and from observers - concerned observation of the data-entry of the *editais*. As time went on we became more concerned at the absence of outside observation of the processes concerning the disputed

editais, the exclusion of observers from the final 'adjustment' of the results, the lack of information concerning both and the restrictions on observers at polling stations¹².

¹² There had been one other issue. However, after initial lack of clarity it finally emerged that observers (and party agents) would, on request, be allowed to be present for CNE's determination concerning the 'reclassification' of the invalid ballot papers (*nulos*) and challenged votes, which would be sent directly to CNE in Maputo from the polling stations. CNE also promised to provide detailed accounts of its decisions. This mattered: in 1999 some 500,000 ballot papers had fallen into this category: CNE eventually 're-classified' and included some 130,000, while the rest were permanently excluded.

Chapter Four

Preparations for the Elections

The National Assembly Election

Twenty-five political parties and coalitions submitted nomination forms of which twenty-one met the necessary conditions to contest the *Assembleia da República* election for the 250 available seats. The distribution of seats by Province was as follows:

<u>Province</u>	<u>Number of seats</u>
Niassa	12
Cabo Delgado	22
Nampula	50
Zambezia	48
Tete	18
Manica	14
Sofala	22
Inhambane	16
Gaza	17
Maputo Province	13
Maputo City	16
Diaspora - Africa	1
Diaspora – Rest of World	1
<u>Total</u>	<u>250</u>

The 2004 election introduced an allocation of two Parliamentary seats to the Mozambican diaspora in Africa and elsewhere overseas at the expense of seats available to represent the Provinces. The Renamo party complained that CNE would be unable to meet its statutory obligation to, “verify that there are the necessary material conditions and mechanisms to control, accompany and monitor” the voting process overseas. Renamo also argued that it would not be able to monitor the process abroad itself and that voting would be open to pro-Frelimo manipulation.

We were unable to determine whether such concerns about the overseas component of the electorate and election were founded. However, we were informed that Renamo was subsequently able, to some extent, to observe the election abroad.

We are also conscious that the number of votes required to secure a ‘Diaspora’ seat in the National Assembly, on a proportional basis, seems to be less than for a Provincial seat; it is difficult to be conclusive about this owing to uncertainty about the actual number of voters in the diaspora for which estimates range from 200,000 to 400,000.

The Presidential Election and the Candidates

Five of the eight nominations for the first round of the Presidential election were accepted, three being rejected because they did not present at least 10,000 valid supporting signatures from registered voters.

The five approved candidates for the first round were: Armando Guebuza (Frelimo); Afonso Dhlakama (Renamo); Raul Domingos (PDD); Carlos Reis (UNAMO); and Yaqub Sibindy (PIMO). As events unfolded, a second round to the Presidential election was not required.

The Electoral Register

More than 1.2 million voters registered in mid-2004, either as new voters or those who had moved from one electorate to another or lost their earlier registration cards. This brought the total number on the Electoral Register to just over 9 million. The estimated total electorate, by Province, was:

<u>Province</u>	<u>Number of voters</u>
Niassa	453,461
Cabo Delgado	794,270
Nampula	1,831,897
Zambezia	1,749,121
Tete	660,741
Manica	531,264
Sofala	802,149
Inhambane	579,356
Gaza	609,214
Maputo Province	483,493
Maputo City	600,249
<u>Total</u>	<u>9,095,185</u>

The Register comprises three component parts dating from 1999, 2003 and 2004. STAE acknowledged that the Register contained a number of duplications and omissions. Its own estimate of the total pool of voters was 7.6 million, and accordingly prepared ballot papers for a maximum of 8 million.

A polling station is established for every 1,000 voters: once 1,000 people have registered in one location, there is a voter list and a polling station is opened. The 1999 part of the Register is divided into voter lists containing approximately 1,000 voters each, but the 2003 and 2004 parts of the Register are only divided into voter lists containing up to a maximum of 500 voters. The net result is that some polling stations had to use a multiple number of voter lists containing omissions and duplications; in addition, some polling stations were expected to process approximately 1,000 voters while other stations were only processing several hundred voters.

Voter Registration

There were a number of allegations about the registration process. For instance, the registration occurs manually and it was alleged that errors were made in the transfer of data to the computerised voter lists. It was also alleged that the process to update the Register in late-June/early-July 2004 was truncated in some parts of the country, disenfranchising some potential voters. Such concerns led to CNE tasking STAE to check all voter lists before the elections, line-by-line, against the handwritten originals.

The final copies of the voter lists did not become available until very close to the elections and could not be scrutinised by political parties or Observers before they were put into use. In the circumstances, we were unable to judge the veracity of the allegations.

The differences mentioned above relating to the Register and registration highlight the need for a more accurate Register to be developed and maintained. Since 2002, there has been provision in the law for an annual update of the Register which offers the opportunity to achieve this, and the updates of 2003 and 2004 illustrate that progress is being made in this area. If, in addition, the Register is managed in a continuous fashion (including an ongoing process of public display, objection, and revision) this would further help address the variations in figures, assist in planning and preparation for future elections, and be in keeping with successful practice elsewhere in the Commonwealth.

Civic and Voter Education

We discovered clear evidence of an effective education campaign conducted in a multi-faceted way, drawing on governmental as well as non-governmental and political party resources and networks. Given the limited spread of television and newspaper coverage, as well as the national levels of illiteracy, it was notable that radio played a key role in the education programme as well as community-level briefing and discussion, and widespread use of posters. The outcome was that the voting population at large had a good sense of where polling stations would be located, when the elections would take place, and the actions required of them at the polling station.

Recruitment, Training, and Deployment of Staff

The recruitment of competent staff and the subsequent training exercise would have been a large undertaking. We did not see the text of the advertisements which were the basis for recruitment of polling day staff. Our conclusion is that the arrangements put in place led to the successful recruitment of a full complement of polling station staff.

We believe that staff were fully capable to establish their polling stations and to conduct the voting process in an effective manner. Staff were also trained sufficiently well to be able to complete the vote count, albeit in time-consuming fashion. Where more notable difficulties arose was when the election materials were returned and collated at the District level after the polling station count; at this stage, it appeared that training and instructions to staff at the pre-election preparatory stage had not been clearly transmitted. This is an area where the training and content of

manuals could usefully be strengthened and made more user-friendly in future, possibly including greater use of video training.

Generally, staff were deployed to their polling stations in an efficient and timely manner.

Distribution of Materials

Generally, the supply chain for distribution of materials in the lead-up to the elections worked well. Almost all polling stations appeared to receive sufficient materials to enable the eventual conduct of the elections. Where deficiencies arose, such as the supply of lamps to those polling stations without electricity, there were systems in place to deal expeditiously with the situation.

There were two notable exceptions. One concerned the polling stations where materials were not delivered at all. The other was the inability of CNE and STAE to publish and distribute the voter lists for polling stations in timely fashion ahead of the elections. Consequently, there was only one copy of each voter list available at polling stations which prevented the party agents from discharging their duties fully.

The actual use of the materials for the elections is further addressed in Chapter 7.

Contingency Plans

We were told by STAE officials that contingency plans were in place. However, no occasion arose which we observed that would have tested these plans.

Access for Observers in the Preparatory Stages

With one exception in one Province, we were given free and ready access to observe all preparatory stages of the election process. This included useful discussions with key officials at provincial and national levels, and sight of election materials and their distribution.

Use of Information Technology (IT)

Information technology has been used progressively more extensively in Mozambique's elections and now plays a central role in underpinning the collation and tabulation of results at provincial and national levels. The use of IT, and the credibility of the software, can therefore be politically sensitive matters and, indeed, this was the case during these elections.

We were consequently concerned that the audit of the software used for these elections was not put out to open tender, and the results of that audit were not publicised until only days before the elections. We note that the audit did, in fact, draw attention to a number of weaknesses in the software.

We ourselves were not in a position to judge the efficacy and reliability of the software used in these elections. Nevertheless, we feel that greater confidence by all political parties and the wider public in the use of IT chosen could be achieved if the details of that IT were disclosed by CNE

and STAE at an earlier stage in the election cycle, as well as the process by which that IT is to be independently audited.

Recommendations:

- Continuous voter registration (including an ongoing process of public display, objection, and revision) should be introduced and the provisional Register should be open to public scrutiny well in advance of election day.
- Political parties and other key stakeholders should have access to the Register voting lists and the polling station numbers well in advance of the elections.
- Training and more user-friendly supporting material for Election Staff should be provided to address in particular the correct processes to follow during the result process.
- CNE and STAE should disclose at an earlier stage in the election cycle the details of IT to be used, as well as the process by which that IT is to be independently audited, in order to increase public confidence in its use.

Chapter Five

The Campaign

In accordance with the provisions of the Electoral Law¹³, the election campaigns were to start 45 days before the election date, and end 48 hours before the voting day. The official campaign for the 2004 elections was conducted from 17 October to 28 November.

Funding

The total cost of the Parliamentary and Presidential elections was estimated to be US\$21.5 million. Of this sum, US\$5.8 million came from the Mozambican state budget, US\$12.5 million from the European Union, and the rest from the United Nations Development Programme (UNDP)¹⁴. These funds were guaranteed, and were paid to the Electoral Administration Technical Secretariat (STAE) as and when needed.¹⁵

The Electoral Law provides for election campaign finance from the State budget¹⁶. In the 2004 election, the Government allocated over US\$2 million to finance political party campaigns. The funds were disbursed in a similar manner as in the 1999 elections, one-third for Presidential candidates, one-third for parties currently holding seats in the *Assembleia da República* based on the proportion of seats held, and one-third for parties standing for the *Assembleia da República* based on the number of candidates.¹⁷

Many candidates and political parties complained about the delays in channelling funds for the electoral campaign and said that they received the funds late, and in some cases after the campaigns had started.

According to the Electoral Law¹⁸, the funding of election campaigns by foreign governments, non-governmental organizations and institutions or national public companies is not allowed. These organisations may, however, contribute to electoral financing by strengthening the State budget allocation for election campaigns.

Code of Conduct for Political Parties

There was a Code of Conduct regulating the activities of candidates, political parties, coalitions of political parties and groups of contesting citizens, regarding the electoral campaigns. It provided for specific rights

¹³ Article 18, Act no. 7/2004 (17 June)

¹⁴ Information provided by the UNDP and EU Electoral Observer Mission

¹⁵ Election Update 2004, Mozambique (No. 1), Electoral Institute of Southern Africa (EISA)

¹⁶ Article 35, Act no. 7/2004 (17 June)

¹⁷ Election Update 2004, Mozambique (No. 1), Electoral Institute of Southern Africa (EISA)

¹⁸ Article 35, Act no. 7/2004 (17 June)

and obligations of political parties related to the electoral campaign¹⁹, as follows:

- to be provided with funds from the State budget before the beginning of campaigns, in order to conduct an electoral campaign;
- to conduct freely the electoral campaign at any place within the national territory;
- to have access to spaces and public premises for campaigning activities and electoral propaganda;
- to be treated equally by public and private entities so as to freely and under the best conditions conduct the electoral campaign;
- to use the public radio broadcasting service and television in accordance with the law;
- to have, in accordance with a process of random selection for airtime to broadcast electoral campaigns, in the public broadcasting services and television

With regard to the obligations related to electoral campaigns, all the candidates, political parties or party coalitions and groups of contesting citizens in the elections of 2004, were required to comply as follows:

- not to imitate or copy the symbols, colours or signs of other political parties or coalitions;
- to abstain from political propaganda outside the prescribed periods of time;
- to present requests and legal communications to the administrative authorities, in order to guarantee the security of the campaigns;
- not to present claims without reason or good faith;
- not to use public resources in the electoral campaign except in the cases allowed by law;
- not to abuse air time with inflammatory or injurious language, that would incite disorder, violence, hatred or war;
- to account, within the stipulated deadlines, for the use of expenses related to the electoral campaign met with the use of funds provided from the state budget.

With a few exceptions referred to below, we did not witness or receive complaints from the political parties of instances where the code of conduct was not followed.

Campaign platforms

The political parties spent months preparing their election campaigns, which were highly visible in some parts of the country, and we were able to observe the final days of campaigning. Smaller political parties seemed to lack the requisite resources and conducted very low key campaigns.

Frelimo's presidential candidate, Armando Guebuza, led the campaigning, rather than outgoing President Joaquim Chissano. The Frelimo campaign

¹⁹ Articles 3 & 4, Code of Conduct for Candidates, Political Parties, Party Coalitions and Groups of Contesting Citizens in the General Elections of 2004, Deliberation no. 34/2004 (23 September), issued by CNE.

was highly visible, with visits by national figures throughout the country, as well as strong grassroots organisations that have succeeded in attracting voters to well-attended rallies. Mr Guebuza was widely seen as projecting a clear and forceful message regarding Frelimo's policies. Some of our observation teams were able to witness Frelimo rallies where many supporters were transported from various parts of the districts.

Renamo, for its part, pledged to improve living conditions and leveled accusations against the government and Frelimo, accusing it of corruption and electoral fraud. The Renamo campaign got off to a slower start but nonetheless made a strong showing with the distribution of campaign material and well-attended rallies accompanying its leader, Mr Afonso Dhlakama. He promised changes in the functioning of State administration. He also pledged to fight against poverty, corruption, crime and unemployment among other promises.

PDD was the only opposition party besides Renamo to mount a strong nation-wide campaign, producing electoral material, taking full advantage of its access to State media for party political broadcasts and organising rallies across the country. The party gave rise to high expectations regarding its electoral potential as a positive force in opposition politics that could generate greater democratic accountability within the governing elite, as well as providing an alternative opposition challenge to that of Renamo. In its campaign, PDD focused on the importance of quality education, improved water management, and industrial protectionism. Only two of our teams witnessed a PDD campaign meeting or an event by any of the other political parties except for Frelimo and Renamo.

The Independent Party of Mozambique (PIMO) defended public morality, while the Labour Party proposed the re-introduction of the death penalty into the judicial system.

From the limited number of campaigns we were able to observe, they were mainly well organised rallies or caravans, with party colours prominently on display in many forms. Supporters were seen draped in flags, and in general the campaigns were characterised by a festive mood. In the very final phase of campaigning, we were informed that the 2004 campaigns placed more emphasis on door-to-door campaigning than in previous elections. We also observed that there were many more election posters on behalf of Frelimo. In the rural areas, we witnessed no significant signs of electoral activities and hardly any posters. However, as far as we were able to determine, candidates and political parties freely conducted election campaigns in many parts of the country and under good conditions, as provided by the law.²⁰

In rural areas voters appeared to be aware of the 2004 elections, though it was not clear whether some voters understood the implications of their vote. We were unable to observe at first hand the extent to which political parties sought to engage the local population on issues affecting particular areas and little presence was noted of the party individuals

²⁰ Articles 20 & 21, Act no. 7/2004 (17 June)

representing these areas in the campaigns. For example, whether HIV/AIDS - which is a big issue in other countries in the region - featured prominently or whether other issues affecting the country such as employment, poverty, economic and regional marginalization featured. It was also not clear what the issues of the campaigns by the various parties were.

We also noted that while the 2004 elections were both Parliamentary and Presidential, there was little emphasis on the Parliamentary elections and little evidence of the existence of political party candidates for the Parliamentary seats, as political parties concentrated their activities in the cities and provincial headquarters towns.

Overall, we witnessed very low key political campaigns that lacked enthusiasm and passion, characteristic of the previous Parliamentary and Presidential elections.

Campaign allegations

We received various complaints of irregularities including violence and intimidation during the campaign period from political parties and domestic observers. We were unable to confirm at first hand most of the allegations made to us.

There were allegations on the part of Renamo and PDD that the ruling party was using State resources in their campaigns, including government vehicles²¹. Our team that visited Ilha de Moçambique also received allegations of sporadic incidents of violence and intimidation from Renamo. During our briefings in Maputo other parties also complained of violence.

The CNE condemned acts of violence that occurred during the campaign, but insisted that such incidents were "sporadic and isolated"²². The CNE also claimed that in general the election campaign had been marked by a "climate of peace, tranquility, concord and harmony". We commend the CNE's appeals during the campaigns calling for mutual respect, tolerance and public order.

Both Renamo and PDD also claimed that in provinces such as Tete, Nampula and Zambézia there were numerous incidents of harassment, with "no go" areas for the opposition²³. While our teams were not able fully to verify these allegations, several of our interlocutors alluded to the allegations during briefing consultations held with various stakeholders.

²¹ Following complaints in past elections that Frelimo was using government cars in the campaign, the electoral law was changed to make it illegal to use state resources.

²² CNE Statement, 19 November 2004

²³ For example, there were reports of attacks on PDD supporters in the Changara, Cahora Bassa and Magoe districts of Tete. In the same province during the 1999 elections, Frelimo violence against Renamo was confirmed (Mozambique Political Process Bulletin, 14 November 2004)

While we did not witness any campaigns conducted outside this period, we received some complaints that party agents were conducting campaigns in some rural areas on the polling days.

Overall judgement

Our overall assessment of the campaign is that, while several allegations of impropriety and harassment were in evidence, the latter part of the campaign which we were able to observe was generally calm, with a relative absence of intimidation. In our estimation political parties were allowed to campaign freely and voters had access to their messages.

The most striking aspect was the difference between the ruling party's campaigns and that of the opposition, especially Renamo; while Frelimo had access to much more resources, Renamo appeared to be more modest in its campaign, followed by PDD. We noticed little presence by the rest of the political parties.

We are aware that much discussion is taking place on issue of campaign financing for political parties and that the particular arrangements in Mozambique might be looked at in that context.

Chapter Six

The Media

Overview

Mozambique has both State and privately-owned media. The medium with the most widespread coverage is radio. In addition there are television stations, newspapers and magazines and fax papers, (which appear quite unique to this part of the world).

The Constitution of Mozambique, under Article 74²⁴, enshrines the right to freedom of expression and freedom of information as well as the right to information. In addition the Press Law enacted in 1991 provides a detailed framework to regulate the press and also to protect journalists' rights.

We observed that in general the tone of coverage was measured and comprehensive. We noted in general a commendable level of decency and did not notice biased reporting of electoral violence. Even in the last days prior to the poll, there were no inflammatory headlines in the media and the news hierarchy was not completely submitted to the political agenda. We saw no traces of systematic demonisation and, at least at language level, candidates' basic human rights were respected.

LEGAL AND REGULATORY FRAMEWORKS

Law No 18/91: The Press Law of 10th August 1991

The 1991 Press Law in Mozambique allows for state, cooperative, mixed and private ownership. The State may also acquire holdings in mass media that do not form part of the public sector, or may determine other forms of subsidy or support. Only Mozambican citizens or institutions and associations are allowed to own mass media.

The public or State sector of the media comprises the national television radio station, the national television, and the news agency.

²⁴ Article 74

1. All citizens shall have the right to freedom of expression and to freedom of the press as well as the right to freedom of information.
2. Freedom of expression, which includes the right to disseminate one's opinion by all legal means, and the right to information, shall not be limited by censorship.
3. Freedom of the press shall include in particular the freedom of journalistic expression and creativity, access to source of information, protection of profession independence and confidentiality, and the right to publish newspapers and other publications.
4. The exercise of the rights and freedoms referred to in this article shall be regulated by law based on the necessary respect for the Constitution, for the dignity of the human person, and for the mandates of foreign policy and national defence.

Article 9 of the law states that the directors of mass media must be of Mozambican nationality. It also states that directors of the State mass media are appointed by the Government.

The 1991 law guarantees, among other things, impartial, objective and balanced news coverage and the State-owned media are expected to carry out their duties 'free from interference by any outside interest that may compromise their independence and shall be guided in their activity by standards of high technical and professional quality.'

The law is explicit on the role of State-owned media in promoting multi-party democracy and during elections. It stipulates the following:

1. Political parties represented in the *Assembleia da República* shall have the right to broadcast time on national radio and television, under the terms established in the Regulation on Broadcasting Time.
2. During election periods, the competing parties shall have the right to regular and balanced broadcasting time on national radio and television, under the terms established by the Electoral law.
3. The opposition political parties represented in the *Assembleia da República* shall have the right of reply in relation to those political declarations made by the government on radio and television stations which directly question their respective political positions.

Article 12 stipulates the regulations governing political broadcasting time. It states that parties represented in parliament are allowed specific broadcasting time and during election periods competing parties have the right to regular and balanced broadcasting time under the terms established by the Electoral Law.

Conselho Superior Da Comunicação Social (Supreme Media Council)

This was established under Chapter VI of the 1991 Press Law, as an autonomous body, to ensure the independence of mass media, freedom of the press and respect of the right to information.

Besides its two members appointed by the President of the Republic and the four others elected by the *Assembleia da República*, this eleven-member Supreme Media Council also consists of a magistrate appointed by the Supreme Council of Magistrature, three representatives of journalists elected by their respective professional associations and one representative of media companies or institutions. The President of the Media Council is appointed by the President of the Republic from within the membership of the Council. Under the law, membership of the Supreme Media Council is incompatible with any Government position and with leadership of a political party.

Elected for a five-year term, members of the Council enjoy security of tenure and cannot be removed except under specified reasons.

The responsibilities of the Supreme Media Council are, inter alia:

1. To ensure the exercise of the right to information and of the freedom of the press;
2. To guarantee the independence and impartiality of the public sector mass media, as well as the autonomy of the professions in the sector;
3. To seek rigour and objectivity in the exercise of professional activity in the press area;
4. To guarantee the right to broadcasting time and the right to reply stipulated under Articles 12 and 33 of the 1991 Press Law.

The main opposition Renamo party has accused the Council of bias and of not processing its complaint against state television in a timely manner, of state television's coverage of the ruling party's candidate as extensive as that given to a Head of State. The complaint took four months to be processed, by which time the campaign period had begun.

This shortcoming, acknowledged by members of the Council's technical staff, may give credence to the opposition's suggestions that the instrument is unreliable as regards timely adjudication of complaints made by the public against the media.

Regulation on Broadcasting Time

In September 2004, ahead of the respective deadlines for Presidential and Parliamentary nominations, the *Comissão Nacional Eleições* (CNE) published a set of regulations governing the practical execution of the right to airtime conferred on candidates running for presidential or parliamentary office on the various public broadcasting outlets. At face value, these regulations did not appear to provide any incumbency bonus. Besides, they explicitly mention that 'expenses of the transmission [...] and broadcasting [...] shall be paid by the State'.

The regulations prohibit live broadcast of political party publicity and require that the pre-recorded material to be submitted to the appropriate broadcaster four hours before going on air.

During our briefings in Maputo, prior to deployment, some political parties claimed that the right of airtime under these Regulations practically favoured the party or parties with sufficient financial and technical means. A close scrutiny of the regulations²⁵ revealed that it does not prohibit the

²⁵ Article 14 states that the public radio and television services may facilitate 'the technical means of recording' for those with the right to broadcasting time, 'under conditions of absolute equality'.

state broadcaster from providing technical assistance for production of their campaign material.

In addition the party presenting the publicity needs to be identified at the start and end of each broadcast.

The Regulation on Broadcasting Time states that each party is allocated a maximum of 15 minutes per week on TVM between 19.00 and 23.30. This can be split into three transmissions and if it is not used then the station should broadcast a one minute spot identifying the party, coalition or candidate.

According to the Regulation Radio Mozambique is required to broadcast a maximum of 5 minutes per day of political party publicity on the national station and on its branches and extension in Portuguese or the language of choice of the candidate, party or coalition. In addition according to the Regulation Radio Mozambique is also obliged to broadcast 5 minutes daily in three transmissions per week on the provincial stations, in national languages between 7.00 and 9.00 am.

The Regulation expressly prohibits the broadcast of publicity appealing for disorder or insurrection or inciting hatred or violence. It states that, on the last day of the electoral campaign, the presidential candidates shall have access to the public service radio for five minutes and to public television for three minutes between 19.00 and 22.30.

The political parties used the radio, television and print media extensively to campaign.

Radio

Radio is the main source of information in Mozambique. The only national broadcaster is the State-owned Radio Mozambique. In addition, there are a variety of private stations which are run by religious and community groups and most of these broadcast on FM and therefore have a short range. During the civil war, Renamo set up its own radio service. This has now been licensed by the Government and is still broadcasting as Radio Terra Verde. Other political parties, including Frelimo, do not have their own radio stations.

There are also more than ten stations which are run by community organisations and religious groups which broadcast in specific urban or rural areas only.

Television

Television is relatively new to Mozambique. The state broadcaster *Televisão de Moçambique* (TVM) is the main television station in the country. It was created by the Government in 1981 and started test broadcasting to Maputo until 1994 when the service became fully operational and extended its coverage to Beira and Nampula. Four years later, TVM went nationwide and is now broadcast in all main cities and twenty smaller urban areas. TVM is overseen by a department within the Prime Minister's Office. It receives 60% of its funding from the

government and derives its remaining revenue from advertising. TVM broadcasts are mainly received in the urban areas and their environs.

In addition to State-owned television there is a local private station, Soico *Television* (STV), which broadcasts only in Maputo.

Print Media

The newspaper with the highest circulation in Mozambique is *Notícias*, whose majority share holder is the state through the equity held by the Central Bank. *Notícias*, is published from Monday to Saturday, with a daily circulation of approximately 13,000 copies. Other newspapers in this group are the Sunday paper *Domingo* and the Beira based *Diário de Moçambique*.

In addition there are several weekly papers which include *Demos*, *Fim de Semana*, *Savana* and *Zambeze*.

Agência de Informação de Moçambique (AIM), the national news agency receives more than 50% of its funding from the government and the rest from its subscribers.

THE ROLE OF THE MEDIA IN THE CAMPAIGN

The media, particularly radio and television, played an important role in the campaign. The State radio and television broadcasters aired political party advertisements and publicity encouraging people to go out and vote. The television advertisements urging voter turnout, particularly those targeted at young people were commendable. As the election drew closer, the stations broadcast more information about the campaign.

The various stakeholders that we met prior to deployment were quite satisfied with the fairness displayed by the media generally although the state TV station provoked mixed feelings.

The role of the radio stations

In addition to the political party advertisements Radio Mozambique broadcast special election programmes in the run up to the elections including debates between political parties and civic education advertisements.

In general few complaints were made against public radio, even by Renamo, which felt that radio coverage was balanced and fair. There appears to be general satisfaction with the performance of various regional outlets of the public radio broadcaster, while private radio stations also performed creditably during the campaign period.

The role of television

TVM broadcast several special programmes during the campaign including a two hour debate between representatives of 16 political parties. They offered to broadcast a debate between the presidential candidates but were unable to get them to agree to it.

TVM dedicated 25 teams to cover the elections and these reported back daily. In the last two days before voting TVM reduced its coverage of the political parties.

In addition TVM dedicated a camera crew which travelled with the Frelimo and Renamo presidential candidates on their campaign flights. These crews relayed their reports back to Maputo for broadcast.

Renamo complained that they were not getting equitable coverage on TVM. Their main complaint was not that they were not covered but that TVM's coverage was mostly negative in that it focused on the poverty of the people attending Renamo rallies and this gave the impression that the party only drew its support from this sector of society.

According to Renamo TVM gave more coverage in its news bulletins to Frelimo than it did to them. In response TVM said that this was because they were given a campaign schedule by Frelimo and not by Renamo. They added that, with the exception of Frelimo, the political parties were not well organised and that it was very difficult to cover them and that the smaller parties as well did not provide the station their campaign schedules.

TVM also admitted that they did not cover the smaller political parties because either they were not campaigning or because the station was using its limited resources to follow the larger parties, namely Frelimo and Renamo.

The role of the print media

For the period of the campaign *Notícias* increased the number of pages allocated to politics from two to three. Generally the paper provided coverage to the various political parties although the two main parties – Frelimo and Renamo – were given more space than the other political parties. In addition the newspapers ran civic education campaigns and carried advertisements paid for by political parties.

In general the print media displayed a commendable level of unbiased coverage.

Recommendations

Although the 1991 Press Law stipulates some provisions for monitoring the media, in practice we found that these have not been enforced. In addition we felt that, although not overtly biased, the media could improve its coverage.

We recommend that CNE should monitor the media, produce guidelines providing for balance and equitable access on the part of the political parties and ensure that it has the required enforcement powers.

We believe that both the public and private media should be encouraged to adopt appropriate procedures to improve their coverage of elections and to play their full part in strengthening Mozambique's democracy.

Chapter Seven

The Poll, Count and Results Process

POLLING

At each polling centre there was at least one but usually several individual polling stations – *assembleia de voto*. There were approximately 13,000 such stations. Many were at the places where voter registration had taken place, but some 2,000 were new.

The Polling Stations

On both the polling days - Wednesday and Thursday 1 and 2 December - the polls were due to open at 7.00 am and close at 6.00 pm. At each polling station there would be a Presiding Officer, four other officials, one or more voting lists, one ballot box for the Presidential Election and one for the Parliamentary Election to the *Assembleia da República*. Each party would be entitled to be represented by up to two party agents – known as *delegados*. Campaigning and campaign materials would be banned at the station itself and within 300 metres around the station.

Opening of Polling Stations

Our teams were present for the opening at seven polling stations. At all the polling stations the boxes were displayed to the party agents before voting began, to show that they were empty. Numbered seals were applied and the numbers noted.

Prescribed Procedure for Voting

The procedure prescribed in advance by STAE in its *Manual for Polling Station Staff* was as follows. On entering the station the voter should show the polling station staff her/his Voter's Card and the staff would check the register. If the prospective voter's name appeared on the register the details would be read out by officials to confirm the fact. She/he would be asked to show her/his hands for traces of indelible ink (to ensure that she/he had not already voted). Then she/he would be given the ballot papers, one for each election, and the Presiding Officer would explain how the voter's marks should be made and how the papers should be folded. To aid identification the Presidential Ballot Paper would show the candidate's name and photograph and that for the *Assembleia da República* election would show the name and the party symbol. (Both papers would bear sequential serial numbers: this had not been the case in 1999).

The voter would then go to the polling booth, a small table screened on three sides, to choose her/his candidate, by marking the paper either with a cross or a finger-print in the appropriate place. The voter would then fold the ballot paper and place it into the relevant ballot box. The final stage in the process would be for the voter to put her/his right index finger in the jar of indelible ink. The voter would then be given back his/her Voter's Card and would leave the station.

The first to vote would be the polling station staff, police and any accredited journalists working at the station. Their votes would be placed in envelopes, blue for the Presidential election and white for the election for the *Assembleia da República*.

According to STAE, a voter who had lost her/his Voter's Card could vote but only if she/he were on the register and could show her/his National Identification card. Voters with Voter's Cards whose names were not on the register were also allowed to vote. Those with a disability could be helped by a voter of their own choice. The ill, pregnant women, old people, those with disabilities and medical personnel would be able to go to the head of the queue if they wished.

Closing procedure

According to STAE, at the closing of the station on the first voting day the Presiding Officer would seal the voting aperture on the ballot boxes, with the used ballot papers inside, and the number of the seal would be recorded. In view of all those present the registers, polling station documentation and unused ballot papers would be sealed into tamper-proof envelopes, which in turn would be signed by the polling station staff and the party agents. The agents or their nominees would then remain with the boxes and bags at the polling station all night.

On the second voting day the tamper-proof envelopes and the seals on the boxes would be checked to show that there had been no interference overnight. The envelopes would then be opened, the seals on the boxes broken and the station would be re-established so that voting could begin again. Those in the queue when voting stopped the night before would be allowed to vote first the following day. The station would close at 6.00pm or whenever after 6.00pm all those present within the polling station at that time had voted.

Observation of the Process

Our teams had access to the process wherever they went. Contrary to earlier indications, the Observers were allowed to speak with the Presiding Officers and interpreters were allowed to accompany them. There was no difficulty in obtaining the views of the party agents. We found that voters and party agents alike had very few complaints.

We were struck by the extent of adherence to the prescribed procedures, at the opening, the closure and throughout both voting days. We were also impressed by the uniformity in the application of the procedures and the scrupulous attention to the details of the process by the polling station staff.

Our seven teams observed an opening and a closing on each day: they found that at all stations visited the opening and closing took place on time or very near to time and the correct procedures were followed. The registers were generally in a good condition – we saw none that were hand-written. They were also properly marked when voters voted. The stations could have had the 1999, 2003 and 2004 registers or any combination of the three: many had two of these registers, some had only

the most recent. Generally the right books were in the right stations and generally they seemed to be accurate.

In all but two of the centres we visited the secrecy of the ballot was assured, in all but one the ballot boxes were properly sealed (each with eight plastic numbered seals) and everywhere the voting booths were well screened. The procedures for storing the ballot boxes, papers and key materials overnight at the end of the first day were adhered to everywhere where we were present and we found that there had been no tampering. However, we were concerned that the polling station staff left the boxes overnight in the care only of the police and the party agents. We believe that the CNE should emphasise and ensure that, in accordance with the law, the Presiding Officer has the prime and legal responsibility for the security of the ballot boxes overnight.

The voters themselves were calm and orderly, even when they had waited to vote for some time. Most appeared to understand the voting system well, although some did not appreciate the need for secrecy of the ballot and had to be reminded by polling station officials that they should mark their ballot papers in the screened booth. We came across no obstacles to the participation of women: indeed, we noted that at many stations the majority of the voters and polling station staff were women.

We noted that the flow of voters through the polling station was quite slow at first, though it speeded up as time went on: in some places, for instance, the officials initially used only one of the two screened voting booths, but later used both. In general we believe that it should be able to speed up the voting without sacrificing the integrity of the process, for instance by allowing more than one voter into the station at a time for the explanation of the voting process, rather than bringing them in one by one.

The officials were efficient and helpful to voters. We were pleased to see that the old, ill and pregnant were brought to the front of the queues. We were especially impressed by some of the assistance provided to voters with disabilities.

Party agents were present at most stations visited and made few complaints. Almost always Frelimo and Renamo were represented. However, there were some places where there were agents from only one party, which aroused our concern. The agents were generally effective, although sometimes we noted that they were over-assertive: in several cases they insisted that the ballot boxes be opened and re-sealed after the process had begun, simply because they had not been present for the opening.

In some places domestic observers were at every station, elsewhere they were seen less frequently. Where they were present they did their job well, were clearly identified and were helpful to Commonwealth Observers. We commend the domestic observers and – given that their particular strength is that they can be present in much greater numbers

than their international colleagues – hope that it will be possible for there to be more of them next time²⁶.

Security was discreet and effective. We saw no campaigning at polling stations: the 300m limit was respected.

Later we refer to stations that did not open at all because of the absence of materials. However, all stations we visited were well equipped. There were some shortages – for instance many stations only had one ink pad for those preferring to vote with a finger-print - but no absence of key materials such as the ballot papers. The full complement of staff was present everywhere. The stations were usually located in school classrooms; although these were sometimes small the layout was generally good and the facilities, although often basic and makeshift, were adequate for the purpose. There was a simple pattern, the flow of voters worked well and the signage (indicating the stations and identifying the staff) was excellent.

Finally, we should note that a member of the Advance Group was able to observe the voting at one of the polling stations outside Mozambique. Prior to the election there had been charges that since the voting at foreign missions would be under the supervision of members of Mozambique's foreign service it would be open to manipulation on behalf of the ruling party. The observer noted the voting at the Mozambique High Commission in Lusaka. He noted that the High Commission facilitated voting by Mozambicans resident in Zambia (for instance by providing coaches to bring voters from the Copper Belt towns). Turnout was good: of the 761 people on the voter's list 754 voted – 99%. The voting proceeded according to the stipulated procedures, but it was slow (partly because many were first-time voters and there were translations into local languages). No party agents or other observers were present.

Problems

We came across few serious irregularities. For example, in one place a party agent appeared to offer explicit guidance to a voter inside a polling station: we should add, however, that the Presiding Officer immediately ejected the offending agent.

However, there were a number of problem areas: some polling stations opened only for one day or less, and some did not open at all; polling stations were sometimes unevenly distributed and in some areas voters had to cast their ballots a long way from where they lived; in some places there was confusion about the location of the polling stations; at none of the polling stations did party agents have the register; and the choice of

²⁶ The Electoral Observatory was a coalition of seven NGOs, led by former CNE President Dr Brazao Mazula. Its members included the League of Human Rights, religious bodies CEDES, the Muslim and Christian Councils and development and democracy NGO AMODE. The Observatory fielded 1,600 short-term observers and 200 long-term observers. Another organisation which is outside the Observatory - FECIV – provided a further 600 observers. The Electoral Observatory used its observers to undertake a Parallel Vote Tabulation. Similar exercises were conducted by Radio Mozambique, Frelimo and Renamo.

polling station location was not always made with the needs of voters with disabilities in mind. The following paragraphs provide more details.

- Some polling stations opened only for one day or less and some did not open at all. According to CNE there were 43 polling stations in the second category. The number of stations which did not open at all was minimised by CNE and others, since the numbers of voters involved amounted to less than 0.02% of those on the national Electoral Register – around 24,945 people. However, for every voter who should have been able to vote at one of these stations the failure to open the station was very serious: it represented 100% removal of the opportunity to vote. We find it regrettable that the election management bodies did not make adequate provision in all cases for weather, fuel and other access and transport problems.
- in some places the polling stations were a considerable distance from the voters' homes, which was a particular problem for the old and ill. We also noted that there was an uneven distribution of stations: often many were grouped together, when in other areas there were none at all; and we noted that CNE did not always stick to its own rule that people should vote where they registered. We regret this. As a matter of principle polling stations should be as close as possible to the voters. We are also conscious that the greater the distance the greater the room for influence on the part of those who provide transport, whether employers or political parties.
- in several places the voters were confused about the location of their polling stations. We were told that relatively large numbers of voters – 50 at one station, 30 at another and so on – had been turned away because they were at the wrong place. At one station near the border with Swaziland over 100 voters were sent first to one station then another and finally dispersed because no one could tell them where they should vote. A similar number in Maputo waited to vote at a polling station which it was found did not exist.

We believe that CNE could and should have done much more to ensure that voters were aware of the location of their stations. Further, as party representatives pointed out, had the political parties had the polling station numbers (some of which were repeated as part of the number shown on the Voter's Card) and the registers in advance they would have been able to reinforce such CNE efforts by informing their supporters accordingly. In this way at least some of the confusion would have been avoided.

- we regard it as a failing that CNE did not provide the registers to the political parties in good time before the election. This meant, for instance, that there was only one copy of the register in the polling stations - party agents did not have one against which to check off the names of the voters.

- in several places we found that polling stations were upstairs in buildings with no lifts. While station officials were as helpful as possible to voters with disabilities the choice of polling station location – as in these cases – had clearly not always been made with the needs of voters with disabilities in mind.

By the time we had completed this report no official turn-out figure was available. However, it was generally understood that it was lower than at previous elections, and in some provinces it seemed to have been very low indeed. We can guess at some of the reasons: for instance, the timing of the election (a dry season date might have produced a higher turnout). Some of the changes we have recommended might have helped to boost turnout: for instance, the earlier release of the register and a more even distribution of polling stations. However, the explanation – and therefore ways of addressing this matter for the future – no doubt involves various other factors too. We hope that CNE, the political parties and all others involved in strengthening democracy in Mozambique can give thought to the reasons for the low turnout this time and ways of ensuring the highest possible turnout in future elections. High turnouts are in themselves good for democracy.

Finally, we recommend that CNE review the practice of holding the voting on two days. We believe that the voting could take place just as successfully and more efficiently if confined to only one day, even if it requires additional facilities, including the establishment of more polling stations. It would make the storage of the ballot papers and boxes overnight at the centre unnecessary and it would ensure that staff were less tired when they came to count the votes.

THE COUNT

The counting of votes took place at the polling station, immediately following the closure on 2 December. In official CNE parlance this was the “intermediate count”.

Prescribed Procedure for Counting

The essential elements of the prescribed procedure are set out below.

First, the Presiding Officer would count the unused ballot papers, score them through with an ‘S’ and then place them in a tamper-proof bag. Then she/he would count the number of those whose names were marked on the register as having voted.

The physical count of the ballots cast would follow, starting with the ballot box used for the Presidential poll. The ballot papers of those not registered at that station (contained in envelopes) would be separated to be counted, the envelopes opened and their ballots mixed with the others. At the end all the ballot papers would be returned to the box, which would be sealed once more (with a note taken of the seal numbers). The process would then be repeated with the box for the election to the *Assembleia da República*.

Then the ballot box for the Presidential poll would be opened again and the papers taken one at a time, opened, announced, displayed to the agents present and placed in piles for each candidate. Objections by the agents would be written on the back of the affected ballot papers, signed and the papers removed for later consideration by CNE along with the invalid ballot papers.

An announcement of the results would be made by the Presiding Officer and an *edital* would be drawn up and copies given to each agent. The minutes (*actas*) of the count would be signed by the polling station staff and agents and copies given to the agents.

The process would then be repeated for the *Assembleia da República* ballot box. Once the documentation had been completed the result was declared and the *edital* and minutes for that election given to the agents. The results would be pasted outside the station, the materials and equipment packed away and both the *editais* and the minutes of the polling station would be conveyed to district level.

Observation of the Process

Generally the conduct of the count was in line with procedure, although in a few places the Presiding Officers seemed too inclined to declare ballot papers as invalid (*nulos*).

The count was also transparent. Party agents were able to be present throughout and they were able to see everything and be satisfied that a count was correct, even if this meant asking the polling station staff to recount. At this election the agents were also provided with copies of the *editais*, a development which we welcome.

However, the count took a very long time. The actual counting of votes did not take long, but the ancillary processes were extremely bureaucratic and time-consuming. As time went on the tired polling station staff began to make mistakes. Since those who conducted the count had been on duty for 36 hours when the count began, it was easy to see why so many *editais* at previous elections contained errors.

We welcome the practice of counting votes at the polling station. Sometimes facilities were poor, especially lighting, but the principle is a good one. Should future elections be held on one day, as we recommend earlier, we believe that CNE should continue to hold the count at the polling station, immediately after the closure.

THE RESULTS PROCESS

The process for transmitting and announcing the results was as follows.

Transmission of Results

The polling station *editais* would be collected from the polling station by the district STAE. Once all the *editais* for the polling stations in the district had arrived they would be sent to the CPE at its provincial centre. Meanwhile, the electoral material – the used and unused ballot papers,

the ballot boxes, the registers etc – would also be delivered to the district STAE for safe-keeping.

From the provincial level copies of the minutes and the original *editais* from the polling stations would be sent on to CNE in Maputo. Meanwhile, two copies of the *editais* would be made by the CPE: one would be given to a member of one team of data-entry computer operators and the other would be given to a member of a second team. Using independent computer networks the two data-entry computer operators would each enter the *editais* results into their computers. Assuming the entries matched the figures would go forward into the data-base for the official count, which would be conducted by the provincial election commissions, the CPE. Where there was no match the *editais* would be ejected from the system, to be reintroduced later.

Using the polling station minutes, party copies of the *editais* and other relevant evidence, the CPE would also adjudicate on problem polling station *editais* – for instance, *editais* which were unsigned or unstamped, or where the figures did not add up. Once ‘cleaned up’ the corrected *editais* would also be sent into the data-entry system.

At the end of the CPE’s count the information would be stored on a CD-ROM and transmitted to CNE in Maputo. Copies of the provincial *edital* and the minutes (*actas*) would be available to party agents and observers and would show how many polling stations had not been included.

Meanwhile, the invalid and the challenged ballot papers would have been sent by the CPEs to CNE in Maputo. CNE would then make a final determination on whether they would be included or excluded in the provincial totals.

CNE in Maputo would also conduct its own computerised results process, called a ‘provisional count’. Using its own copies of the polling station *editais* and minutes it would compile a national result, province by province. This would be compared with the outcome of the CPEs’ counts, as contained on the CD-ROMs. Any differences would then be analysed and checked against the *editais*. CNE would then make whatever adjustments it felt to be necessary.

Announcement of Results

By law the results at provincial level would be available not more than seven days after the closing of the polls (at this election by 9 December). At national level a final result would be available not more than fifteen days after the closing of the polls (at this election by 18 December 2004).

Observation of the Process

We had intended to “follow the results” from the polling station to the district and then to the provincial centre. Some of our observers followed the STAE officials after they had collected the *editais* from the polling stations. On 3 December we visited the district STAE centres again to pick up the process after the count the night before. However, on every visit we found that the district STAE officials were still waiting for all the

polling station *editais* to come in before transferring any of them to the provincial level. The process was so protracted that by the time we had to return to Maputo on 4 December to prepare our report none of our teams had seen any transmission from the district to the provincial level.

From the moment of our return to Maputo on 4 December we were ready to observe CNE's handling of the invalid and challenged votes. On Monday 6 December the first of these arrived in Maputo and two of our members went to the CNE headquarters to see how they were dealt with. They saw the handling of invalid votes (*nulos*). This part of the process appeared to be in line with the procedures. However, the Observers did not see the part of the process regarding the challenged votes²⁷.

Overall Assessment of Results Process

As noted above, we were able to observe the counting of votes at the polling stations, which we have noted was generally in line with procedure. However, because we would leave on 8 December we would be unable to see the rest of the results process, which would continue for up to fifteen days after the polling station count²⁸.

We clearly cannot assess the credibility of those parts of the results process which took place after we had departed. However, we do wish to endorse and to repeat the statement made by the Commonwealth Observer Group which was present for the 1999 elections that "it must be possible to streamline this system".

We urge CNE to use the period between now and the next election to consider how the present results process might be simplified and speeded-up or replaced altogether with a new and much more efficient arrangement. We also recommend that those parts of the current results process which are at present closed to the political parties and observers (see pages 16-17) should be opened up, so that the whole process is transparent.

We are sure that other Commonwealth election management bodies and the Commonwealth Secretary-General would be eager to help should Mozambique wish to approach them to assist in any such forthcoming review of the results process.

OBSERVERS

There were over 400 international observers. Apart from our own Commonwealth Observer Group there were also international observers from the European Union (130, including 32 long-term observers and a team of seven Members of the European Parliament), the Carter Center (60, including 9 long-term observers), SADC Parliamentary Forum (63), EISA (34), UNDP (32), Community of Portuguese Speaking Countries

²⁷ The handling of the disputed *editais* would begin later: observers would not be allowed to be present for this.

²⁸ Other Commonwealth colleagues would be present in Mozambique when we left and would be able to remain until the results were announced. We hope that they will be given the required access to the results process and that their presence will help to reassure the people of Mozambique.

(CPLP), the SADC Executive and the African Union (10). There were also 'national' groups of observers from Italy, Angola, South Africa, Nigeria and Japan. Diplomats based in Maputo also sent out teams on election day.

Our teams shared information with other international observers and co-operated to ensure maximum coverage and to avoid duplication, while at the same time ensuring that our own Group had an independent and balanced impression of the process.

Chapter Eight

Conclusions and Recommendations

Conclusions

We were present in Mozambique from 22 November to 8 December 2004. We were therefore able to observe the final preparations for the Parliamentary and Presidential Elections, the very end of the campaign, the voting and the counting of votes and the beginning of the results process. We cannot assess the credibility of those parts of the results process which took place after we had departed, but what we did see worked.

In our Terms of Reference we were asked to determine whether the conditions existed for a free expression of will by the electors. We believe that such conditions did exist.

We record earlier that the political parties were able to campaign freely and that the voters had access to their messages; there was a reasonably level media playing field; the voting phase of the elections went well; the counting of the votes at the polling stations was generally in line with procedure.

We congratulate CNE and its colleague election management bodies for their performance up to this point. We commend the political parties, the domestic observers and in particular the people of Mozambique for the manner of their participation in this process.

Cognisant of complaints made in 1999 about the last phase of the results process, and of the critical role of CNE in maintaining the integrity of that process, we hope that the transparency and credibility that characterised the preparation, campaign, voting and polling station count phases will also characterise the rest of the electoral process which was due to take place after we had left Mozambique.

Recommendations

1999 RECOMMENDATIONS

In making the recommendations which follow we are conscious that the Commonwealth Observer Group which was present in Mozambique for the Parliamentary and Presidential Elections in 1999 also made a number of practical proposals.

We are pleased to note that at these elections there was evidence that progress had been made concerning three of these, namely that:

- voting booths be positioned in such a way that the 'open side' cannot be seen;
- the appropriate registers are delivered to the correct polling stations; and that
- lighting be improved for the polling station count.

However, in view of our findings at these elections we wish to draw attention to two further recommendations from 1999:

- that consideration should be given to ways of speeding up the voting, counting and results processes, without adversely affecting their integrity; and that
- CNE and STAE might improve the allocation of polling stations.

2004 RECOMMENDATIONS

We offer the following recommendations in the hope that they will be of assistance to Mozambique in the strengthening of its democratic processes, institutions and culture in the years to come.

We recommend that the Government of Mozambique, CNE and the other bodies which are involved in election management in Mozambique should:

- explore with the Commonwealth Secretary-General the provision of assistance for a review of election management arrangements in Mozambique, especially as they relate to the composition and independence of CNE;
- consider the reasons for the relatively low turnout at these elections and ways of ensuring the highest possible turnout in future elections;
- consider holding future elections at a more appropriate time, taking the weather into account.

We further recommend that CNE should:

Results Process

- consider how the present results process might be simplified and speeded up or be replaced altogether with a new and much more efficient arrangement;
- open up those parts of the current results process which are at present closed to the political parties and observers, so that the whole process is transparent;
- continue to hold the count at the polling station, immediately after the closure;

Voting

- review the practice of holding the voting on two days: we believe that it could take place just as successfully and more efficiently if held on one day, even if this requires additional facilities including the establishment of more polling stations;
- make arrangements such that problems of access to polling stations traditionally known to be caused by the weather, and the inadequacy of transport, can be overcome in time to ensure that all stations can open on election day;
- do more to ensure that voters know where their polling stations are;
- ensure that the distance that voters have to travel to cast their ballot is reduced and that the stations are more evenly distributed: polling stations should be as close as possible to the people;
- ensure that the political parties and other key stake holders have access to the register and the polling station numbers in good time before the election;

Campaign and Media

- monitor the media, provide guidelines for balance and equitable access on the part of the political parties, and ensure that CNE has the required enforcement powers;
- encourage both the public and private media to adopt appropriate procedures to improve their coverage of elections and to play their full part in strengthening Mozambique's democracy;

Preparations for the Election

- improve training and produce more user-friendly supporting material for election staff, to address in particular the correct processes to follow during the result process;
- disclose at an earlier stage in the electoral cycle the details of information technology to be used, as well as the process by which that information technology is to be independently audited, in order to increase public confidence in its use;
- introduce a system of continuous voter registration (including an ongoing process of public display, objection, and revision) and ensure that the provisional register is publicly displayed and in other ways open to scrutiny well in advance of election day.

Acknowledgements

We are grateful to the Commonwealth Secretary-General for providing us with this opportunity to assist in the consolidation of democracy in Mozambique.

We are indebted to the President of the Comissão Nacional Eleições, Rev Dr Arão Litsure, and his colleagues for their advice and assistance. We are equally grateful for the support of Dr Antonio Carrasco and his staff at STAE.

We wish to thank the representatives of the political parties, non-governmental organisations, the media, international and domestic observers and Commonwealth High Commissioners for their briefings in Maputo.

We are especially grateful to those who assisted us during our deployment, especially the Mozambique police, the Provincial and District Electoral Commissions and the officials of the Provincial and District STAE.

A special word of thanks must be extended to all our drivers and interpreters, without whom this mission would have been impossible. Their dedication to the task at hand, often into the late hours and beyond the call of duty, is deeply appreciated.

We wish to pay special tribute and extend our sincere gratitude to the Commonwealth Secretariat support team, led by Professor Ade Adefuye, whose outstanding commitment, efficiency and professionalism was invaluable.

Finally, we are grateful to the people of Mozambique, particularly those we met during our travels throughout the country. Their warmth and kindness have left an indelible impression on us. We wish them well in their commitment to democracy

Annexes

ANNEX ONE

Composition of the Commonwealth Observer Group

Dr Vaughan A Lewis (St Lucia) Chairperson

Dr Vaughan Lewis is Professor of International Relations at the Institute of International Relations, University of the West Indies, Trinidad and Tobago. He obtained his doctoral degree in Political Science and International Relations from the University of Manchester, England. Between 1963 and 1982 he taught at universities in England, the United States and at the University of the West Indies, where he was also University Director of the Sir Arthur Lewis Institute of Social and Economic Studies between 1974 and 1982. Dr Lewis was Director General of the Organisation of Eastern Caribbean States between 1982 and 1995 and was Prime Minister of St Lucia in 1996/1997. Dr Lewis is also Leader of the United Workers Party, now in opposition in St Lucia.

Mr Gilbert Ahnee (Mauritius)

Gilbert Ahnee is the Editor-in-Chief of *Le Mauricien*, the leading independent daily in Mauritius. A reputed editorialist in his country, he is well known for his support to such themes as responsible citizenship, elected representatives' accountability and civil society's empowerment within the democratic process. In 2000, in Barbados, he received the Astor Award, the Commonwealth Press Union's (CPU) most prestigious distinction for excellence in journalism and defence of press freedom. In 2002, he headed the Electoral Media Monitoring Team commissioned by the CPU to observe newspapers' behaviour during the run up to the Presidential election in Zimbabwe. Concerning his profession on the African continent, one of his main concerns is about developing business conditions allowing genuine independent reporting.

Hon Hamat N K Bah MP (The Gambia)

Hon Hamat Bah is the Leader and Secretary-General of the National Reconciliation Party. In 1996 and 2001 he contested the Presidential elections in The Gambia. He was elected a Member of Parliament in 1997 and returned in 2002. He was appointed a member of the parliament of the Economic Community of West African States (ECOWAS) in 2000. He is chairman of the Tourism, Culture and Handicraft committee of both the Gambian and the ECOWAS parliaments. He is Vice Chairman of the Foreign Affairs Committees and a member of numerous other committees of the Gambian parliament including the Public Accounts Committee.

Dr Audrey Gadzekpo (Ghana)

Dr Audrey Gadzekpo is a Senior Lecturer at the School of Communication Studies, University of Ghana, with more than 11 years experience of university teaching and research in the areas of media, gender, development, politics and governance. She has more than 17 years practical experience as a journalist, working variously as a reporter, editor, contributor, columnist, talk show host, socio-political commentator, and magazine publisher/editor.

Dr Gadzekpo serves on the board of the Ghana Center for Democratic Development (CDD-Ghana), a think tank involved in democracy work, including election research and monitoring. She has been involved in domestic election monitoring in Ghana since 1996 and is a member of the training team of Ghana's Coalition of Domestic Election Observers (CODEO). The Coalition monitored Ghana's elections in 2000 and is monitoring this year's elections scheduled for December 7.

Ms Jane Michuki (Kenya)

Ms Jane Michuki is an elections expert and advocate of the High Court of Kenya. She is a Board Member of both the Institute for Education in Democracy and Women in Law and Development in Africa. Jane Michuki is a Trustee of the Federation of Women Lawyers, Kenya. She has observed elections in Kenya in 1992, in 1997 and in 2002. Jane Michuki also observed elections in South Africa in 1994, in Tanzania in 2000 and in Zimbabwe in 2002. She served as a technical adviser on legal and constitutional frameworks for elections on behalf of The International Foundation on Electoral Systems (IFES) for elections in Zanzibar in 2000 and in Zimbabwe in 2002.

Hon Justice John Zwibili Mosojane (Botswana)

Hon Justice Mosojane has been the Chairman of the Independent Electoral Commission of Botswana since 1998 and a High Court judge since 1997. Prior to his appointment to the bench he spent 24 years in private practice. He co-founded and became senior partner in the law firm Mosojane, Phumaphi and Company of Francistown. Before entering private practice he briefly worked both with the Attorney General's Chambers as State Counsel and later with the Administration of Justice as a magistrate. He was an elections observer for the United Nations in the first democratic elections in South Africa, which were held in 1994.

Mr Bernard Mullu Narokobi (Papua New Guinea)

Mr Bernard Narokobi graduated with a degree in law from Sydney University before becoming a barrister and solicitor in Papua New Guinea. He was a member of Papua New Guinea's National Parliament from 1987 to 2002. During this period he was Attorney General and Leader of Government Business and held several ministerial portfolios including those of Justice and Agriculture and Livestock. Mr Narokobi has also been Opposition Leader and Speaker in the National Parliament. He was an acting judge in the National Court and chairman of the Law Reform Commission. Mr Narokobi participated in the drafting of the Constitutions of both Papua New Guinea and Vanuatu. He observed the first General Election in Nigeria after 20 years of military government. Mr Narokobi has written several books and is now a private lawyer at Melanesian Lawyers.

Dr Steve Surujbally (Guyana)

In 2001 Steve Surujbally was appointed the Executive Chairman of the first permanent Guyana Elections Commission. He received his bachelors,

masters and doctoral degrees in veterinary medicine from the University of Leipzig, Germany. He was a Fullbright scholar and has written more than 50 publications. He was the Technical Adviser to Guyana's Ministry of Agriculture. For two decades Dr Surujbally has regularly contributed columns and viewpoints in newspapers, on radio and in the electronic media. He is often a guest speaker at national and international fora. He was recently awarded an International Olympic Committee certificate for his promulgation of ethics in sport. Steve Surujbally has received one of Guyana's highest service awards –the Golden Arrow of Achievement. He is a member of the Board of Directors for several private and public sector companies. Dr Surujbally has participated in several election observation missions including in Jamaica and Trinidad and Tobago on behalf of the Caribbean Community.

Ms Fipe Tuitubou (Fiji Islands)

Ms Tuitubou is currently Secretary of the Fiji National Youth Congress and a member of the Pacific Regional Youth Forum of the Commonwealth. She works with the Pacific Concerns Resource Centre and the Secretariat of the Nuclear Free Independent Pacific Movement, whose mission is to 'co-ordinate, articulate and disseminate information about the concerns and struggles of the peoples of the Pacific.'

Mr John Wilde (United Kingdom)

Mr John Wilde is a retired diplomat. He was British High Commissioner to the Republic of Botswana and concurrently the UK Special Representative to the Southern African Development Community (SADC) from 1998 to 2001. Previously he was British High Commissioner to The Gambia, where he was closely involved in the 1997 elections that marked the restoration of civilian government after the military take-over in 1994. He was Head of the European Community Monitor Mission in Bosnia in 1991. He has also served in Malawi, South Africa, Libya and Guinea (Conakry), as well as in Europe, Middle East and Asia. He has dealt with Caribbean and South Pacific affairs from the Foreign and Commonwealth Office in London.