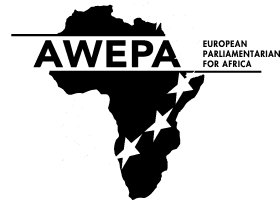


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Editor: Joseph Hanlon (j.hanlon@open.ac.uk)
Deputy Editor: Adriano Nuvunga

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AWEPA, the European Parliamentarians for Africa
Rua Licenciado Coutinho 77 (CP 2648) Maputo
Tel: +258 21 418 603, 21 418 608, 21 418 626
Fax: +258 21 418 604 e-mail: awepa@awepa.org.mz
Formerly *Mozambique Peace Process Bulletin* (Prior issues available online: <http://www.tinyurl.com/mozamb>)
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CIP, Centro de Integridade Pública
Av. Amílcar Cabral 903, 1º (CP 3266) Maputo
Tel: +258 21 327 661, 82 301 639
Fax: +258 21 327 661 e-mail: cipmoz@tv cabo.co.mz

Election law changes to be debated in AR Wednesday

Urgent changes in the electoral laws will be debated in Parliament Wednesday. They are intended to speed up the voting process and avoid the long delays of the 19 November local elections, and specify that all three elections that must happen this year – president, national parliament (AR, Assembleia da República) and the new provincial parliaments – will be held on the same day. The issue is urgent because the elections cannot be held in the rainy season and the date must be announced 180 days in advance.

The proposal was submitted on 24 March as an urgent matter by President Armando Guebuza, and resolves some of the problems of the electoral law, but, as we note below, other problems remain.

The biggest problem to be solved is that on 19 November, with just two ballots, it was taking 2 minutes or more per voter. With up to 1000 voters per polling station and turnouts of more than 50%, this meant some polling stations had to stay open until late in the evening. If this year's elections are all held together, there will be three ballot papers and ballot boxes, which will make the process even slower.

Key changes increase the number of staff and would allow register books to be split between two tables within a polling station.

Electoral law talks of a polling station (assembleia de voto), which is the place where one votes, and a polling station table (mesa da assembleia de voto), which is defined as the electoral staff. The national election law allows more than one table in a polling station (Lei n.º 7/2007, artigo 46), but the provincial assembly law (Lei n.º 10/2007, artigo 52) specifically says there can only

be one table per polling station. In fact there has never been more than one table per polling station, which led most commentators, including the Bulletin, to use mesa and assembleia interchangeably.

The proposal for the harmonization of the two laws says there can be more than one table in a polling station. A table could have only one register book and would be completely autonomous, doing its own count at the end of the day and posting its results, as is done now. But this would allow a school classroom to be a polling station, as now, but allow more than one table in the classroom and allow a register book of 1000 people to be split between the two tables.

The other key change is to increase the size of the "table", from five people to seven. But this will not help without changes in procedures and training (see below).

Two proposed changes provide important clarifications.

- Non-party citizens groups (grupos de cidadãos eleitores) can be provincial or national, and can propose candidates for president and provincial assembly, but not the national parliament (AR).

- The state will provide campaign finance for parties and for citizens groups.

The proposed law gives the National Election Commission (CNE) the right to issue formal regulations to the election laws. For other legislation, it is ministries or the Council of Ministers which issues regulations. If the CNE is to remain independent of government, it and not the Council of Ministers should issue regulations, and the proposal seems simply to confirm current practice. But the proposal has raised some concerns about increasing the power of the CNE.

The allocation of seats to constituencies (province for the AR, district for the provincial assemblies) is based on the number of registered voters. Since a last registration is done relatively close to the election to catch people who have just turned 18 or have moved, it has proved impossible for the CNE to tell the parties how many candidates they must have – creating a problem for the parties. The proposed law allows the CNE to publish provisional numbers and correct them later, if necessary, when final registration figures are available – a sensible solution. But the actual procedure for allocating seats is mathematically incorrect, and this is not resolved (see below).

The proposed law strengthens the requirement that privately owned spaces be made available for election meetings. Proprietors of halls and other public spaces must give the CNE, 20 days before the start of the campaign, a list of when they are available. And if enough such spaces are not made available, the CNE is given the right to requisition them. This is already in 10/2007 (provincial elections, art 31) but not in 7/2007. Law 10/2007 allows owners to charge for the use of their space, but requires the price and conditions be the same for all parties, and this is not changed. Both laws already require that publically owned meeting halls be available

Following confusion about changes to the Renamo Beira assembly list in October last year, the proposed law makes clearer that when the CNE accepts a party list, then the only changes are to substitute candidates who are ineligible (mainly because they fail to present the required documents).

Not all problems resolved

The proposed law solves some of the problems and confusion in the electoral law. But some remain.

The new law underlines that all candidates must satisfy bureaucratic procedures which most countries consider unnecessary and which are difficult in rural Mozambique. Each candidate must present five documents: identification details, a copy of their voters card, a certificate of no criminal record, agreement to be a candidate, and a

statement that they satisfy the conditions to be a candidate. Three of these documents must be signed in the presence of a notary which is difficult for candidates in some remote districts and surely is unnecessary.

The mathematical error in assigning seats of electoral constituencies remains. To assign seats to provinces in the AR, the law says to simply assign the seats in the same proportion as voters in the provinces as a proportion of total voters (7/2007 art 159). But this sometimes gives an error, assigning one too few or one too many seats. It is for this reason that votes are assigned according to the complex d'Hondt method – which should also be used for calculating seats.

Finally, nothing has been done to simplify the complaints procedure. Complaints must be made at the lowest level possible, but one of the biggest complaints has been refusal of polling staff to accept complaints, and there seems no way to formally protest about the conduct of polling station staff.

CNE must reduce tasks of president

The increase of the size of the “table” from five to seven people may be useful, but it will not help without changes to voting procedures as determined by the CNE. The laws (7/2007 art 74 and 10/2007 art 80) only require that the president takes the voters card and hands over the ballot papers, and specifies no other tasks. However the procedures as set out in the manual for polling station staff give a set of extra tasks to the president, including checking for indelible ink on the index finger to ensure the person has not voted before, reading out the name of the voter, and explaining to each elector how to vote. These extra tasks slowed down the voting process, and where polling stations worked efficiently, it was usually because a president has technically violated the rules by spreading around these tasks, or by giving the explanation of how to vote to several people at the same time. Thus procedures need to be revised in the manual and in the training.

The other change which the CNE could make would be to increase the number of voting booths, where the voter marks their ballot paper. The polling station kit contains two, made of cardboard, but in some places staff used boxes to create a third booth. Three booths should be included in the kit.

The CNE will need to also think about training for district election commissions, which will have significant extra tasks this year. In particular, the requalification of invalid votes (nullos) will be done at district level instead of national level. Requalification is necessary because polling station staff are often too rigid, rejecting ballot papers where the X or fingerprint is not precisely in the right square. But the law says that a vote is valid if the intention of the

voter is clear, and some nullos are always accepted at higher level. District election commissions will need clear training on this, and it is also an area where training of polling station staff could be improved.

Finally, with the recognition by both the CNE and the Constitutional Council that in a few places ballot papers had been illegally nullified by polling station staff, two changes will be needed to identify such ballot papers. First, nullos from different mesas will need be kept separate and not grouped together with other mesas, as in the past, and second district election commissioners will need to be shown how to look for groups of ballot papers which have been fraudulently nullified.