

2014 National Elections

Mozambique political process bulletin

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Also in this issue:

At half way point, only one-third registered

Comment

Introducing Frelimo candidate violated law and constitution

By introducing the Frelimo candidate for president and not those of the other parties at a meeting as part of the Open Presidency, President Armando Guebuza was violating the Constitution as well as the recent Public Probity Law (Lei da Probitade Pública, Lei no 16/2012) and the older law 4/1990 which remains in force, according to legal advice received by this newsletter.

Last week President Armando Guebuza presented Frelimo candidate Filipe Nyusi as the person who will replace him as head of state. This triggered a wave of criticism. He was forced to defend himself on Thursday at a press conference in Maua, Niassa, to say that he was only exercising his own right to free speech, and not doing political campaigning.

Notícias Friday (21 March, right) in the main article on the front page reported that President Guebuza said at the press conference "I have an obligation to explain, clearly, who will substitute me as head of state."

The issue here is if the President of the Republic, in a public meeting called by the state and funded by the government, can introduce a preferred candidate for president.



Harsh restrictions are imposed on the President by Article 149 of the Constitution: "The President of the Republic may not, except as expressly provided in the Constitution, hold any other public office and, in any circumstances, perform any private functions."

It could be argued that this means that the President of the Republic cannot even have an official post in the party of which he is a member. But even if being president of Frelimo is considered an acceptable "private function," he surely cannot do so when acting publicly as President of the Republic.

The recent Public Probity Law is explicit. Article 27, headed "Prohibitions during working time," has a specific ban on "promoting party, political or religious activities." Article 7 bans any discrimination on basis of "colour, race, ethnic origin, religion, political or ideological affiliation, education, economic situation or social condition." Various other articles say that a public servant cannot use public property or buildings or use subordinate staff for private ends.

Finally, law 4/1990 is still in force and article 2 says that "high officials of the state ... cannot use their influence or power for personal advantage or to benefit third parties."

Thus it seems clear that President Armando Guebuza cannot use the Open Presidency and other government-organised functions to introduce and promote a particular presidential candidate.

And the Public Probity Law and Law 4/1990 apply to other senior Frelimo figures, such as ministers, mayors, and district administrators. In an electoral democracy it is obviously correct that the governing party will campaign to be re-elected. But Mozambique has passed a series of laws to limit the ability of the governing party to have an unfair advantage. And the debate has already begun as to the extent that Frelimo can use its position as governing party to promote its re-election.

Joseph Hanlon

Further Note

Campaign and the law

In *National Elections Bulletin 7* on Wednesday we discussed a Electoral Law 8/2013 which establishes an official "election campaign" which starts 45 days before the election and ends 48 hours before the voting begins. This campaign period gives parties extra rights, and imposes limits on publicly owned media and a ban on opinion polls. It also bans "electoral propaganda" in the 48 hours before voting. But there are no other prohibitions on campaigning or electoral propaganda. That means parties and candidates can begin the campaign now and can distribute campaign material now. There is no ban on campaigning before the official 45 days campaign period.

We did, however, make one mistake in *Bulletin 7*. The prohibition on the use of state resources in law 8/2013 applies only during that 45 day campaign period, and not more broadly, as we suggested. However, as we note above, the Public Probity Law is a much broader prohibition of the use of state resources and facilities for party purposes. *jh*

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After 5 weeks of registration, 31% of potential voters have cards

With 6 weeks to go, 2,820,390 would-be voters have registered, which is a 31% of the 9,143,923 seen as potential voters by STAE.

Totals for the 11 provinces are:

Cidade de Maputo: 26%
Provincia de Maputo: 26%
Gaza: 33%
Inhambane: 38%
Sofala: 30%
Manica: 39%
Tete: 22%
Zambézia: 23%
Nampula: 24%
Niassa: 27%
Cabo Delgado: 54%

Turnout is always lower in the first half of the registration period, and STAE spokesman Lucas José points out that rain and floods in the centre and north (and last week in the south) have made access difficult, not just for voters, but also for STAE technical assistance teams. Electricity and equipment failures remain problems. Lucas José confirmed that from 17 March solar panels were being distributed, to provide alternative energy sources in most places.

Rain and lack of security mean 1/3 of Sofala brigades never started

At least 15 of the 45 registration brigades in Sofala province have still not started work, our correspondents report. According to Manuel Maraire José, Sofala STAE head of organization, these brigades are in Dondo, Beira, Cheringoma, Machanga, Chibabava, Nhamatanda and Gorongozo districts. They have not started partly because of a lack of security in some areas due to continued fighting between Renamo and the government. In other places, access roads have been disrupted by the rains, so the teams are only working near the district towns. There have also been widespread problems with equipment, both breakdowns and inadequate training of registration teams.

Mobile brigades

Mobile registration brigades are already closing on one place and moving on to others. At Escola Primária Completa de Zualo, in Golo, Homoíne district, Inhambane, registration ended on 15 March as the brigade moved to Escola Primária Completa de Chitata. On 15 April it will move again to Escola Primária de Ussapa.

Only 1/4 in Nampula

So far 478,889 have registered in Nampula province, just 24% of the 1,993,788 expected. Jacinto António Manuel, STAE head of organization and operations, blames consistent equipment breakdowns. Highest registration so far is in Moma district with 42,193. Low registration includes Ilha de Moçambique, with 2,314 and Lalaua, with 9,901.

MECONTA: There has been an increase in turnout in the past two weeks. At the registration post at the Namialo-sede primary school, the number registering has increased from 30 a day at the start to 100 per day now. Luis Muteli of STAE says this is common throughout the district.

RIBAUÉ: Two registration brigades in Mupe and Cinquenta administrative posts in Iapala had to stop work on Monday (17). Célio Mussolo of STAE said the generators had been removed for servicing, and hoped they would be returned by today (23). In the first 30 days, STAE in Ribaué reports 20,883 registrations by 58 teams, which is only 22% of the potential 93,000 voting age adults.

ERÁTI: Although 31,273 people have registered in the district, this is only 21% of the estimated 155,406 voting age people.

Elsewhere

XAI-XAI, Gaza: In municipalities most people registered last year to vote in the November local elections. In Xai-Xai STAE expects to register 4,491 new voters and in the first 30 days 2,977 were registered, 66% of those expected. The biggest problem has been rains.

CHIBUTO, Gaza: Only 29% of expected voters have registered, with brigades in Changane, Changanine and Chaimite administrative posts and Makeze locality paralysed due to roads destroyed by rains, lack of fuel for generators, and constant breakdowns of registration computers.

BARUÉ, Manica: Residents continue to complain about the poor quality of the photos on the voter's card. STAE Barué spokesman Rui Sora recognises the problem, but blames the registration staff and the rains.

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Incorporating Renamo into election commissions

The changes in the electoral law give two extra seats to Renamo on the National Elections Commission (CNE) and the party has now taken up its four seats. The new members are:

Fernando Mazanga who was national spokesperson of Renamo,

Latinho Ligonha, a member of the CNE in 2009,

Celestino Xavier who had been chair of the municipal assembly in Nacala from 2003 to 2008, and

Meque Bras Dacambane, a member of the Renamo team in the dialogue with the government.

Paulo Cuinica has been named as new CNE spokesperson. He has been a civil society nominee to the CNE since 2007. He replaces Joao Beirao, who was a judge appointed to the CNE and whose post which is removed by the recently changed legislation.

Before the changes, the CNE had 13 members: 5 Frelimo, 2 Renamo (never named), 1 MDM, 3 civil society, and 2 legal figures, a judge nominated by Conselho Superior da Magistratura Judicial a public prosecutor nominated by the Conselho Superior da Magistratura do Ministério Público. The new CNE has 17 members, 5 Frelimo and 1 MDM (unchanged), 4 Renamo (up from 2), and 7 civil society (up from 3). The two legal figures are dropped; except for that, all existing member remain. As part of an informal deal, Moslem cleric Sheik Abdul Carimo remains president. There will also be two new deputy presidents, one Frelimo and one Renamo, but not MDM.

At provincial and district levels, elections commissions now have 11 members: 3 Frelimo, 2 Renamo, 1 MDM and 5 civil society. A further 4 civil society members will be added, bringing the total to 9 and the commission membership to 15.

On Friday parliament (Assembleia da República) established an ad hoc commission which over the next two weeks will create a list of civil society nominations.

The revised electoral law make dramatic changes to politicise STAE (Electoral Administration Technical Secretariat). National STAE has a director-general and three department directors - organisation, training, and administration & finance. There will now be 26 additional political appointments: two deputy-director generals (1 Frelimo, 1 Renamo, no MDM), six deputy department directors (3 Frelimo, 2 Renamo, 1 MDM) and 18 other politically appointed staff (9 Frelimo, 8 Renamo, 1 MDM).

At province, district and city there will be the same 8 high figures - 2 deputy directors and 6 deputy department heads, and 6 further politically appointed staff (3 Frelimo, 2 Renamo, 1 MDM). AIM estimates at total of 2,312 political appointees in STAE.

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