

Mozambique peace process bulletin

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Election delay to May 2000?

National elections are still possible in late 1999, but talk is growing of a delay until next year because there simply is not enough time to do registration and an election before rains start in December.

At a press conference on 26 March, Prime Minister Pascoal Mocumbi said that "the political will exists to have elections this year" and the government still hopes to do so. But he admitted that preparations are already behind schedule and accepted the possibility of delay, even to next year. In fact, few believe elections this year are possible. (See page 3 for more details.)

Late March saw a sudden burst of action by government, parliament and political parties, but it was already too late. Members were only appointed to the National Election Commission (CNE, *Comissão Nacional de Eleições*) 19-26 March. The new director of the Technical Secretariat for Election Administration (STAE, *Secretariado Técnico de Administração Eleitoral*), António Carrasco, took up his post on 25 March.

A request for a delay must come from CNE, and might not be made until as late as September. A delay to next year would require a constitutional amendment, which might require the use of the same device as was used for local elections — announcement of an impossible date in the end of December to satisfy the need to set a date 90

days before the end of the year, followed by an amendment at the parliament session starting in October.

This will be Mozambique's second multi-party national elections. The first in 1994 were highly praised by international observers. These elections followed a peace accord in 1992 which ended more than a decade of war.

Everyone must register again

An entirely new electoral register will be compiled in a 2½ month national campaign during July to September.

Registration could determine the outcome and success of the elections. Some observers fear a low turnout for four reasons:

- The 1994 election marked the end of the war, and thus generated unusually high popular enthusiasm that cannot be repeated this year.
- Low turnout in local elections in Mozambique last year.
- Low registration for the second national elections this year in South Africa.
- Confusion will be caused by the fact that 7 million Mozambicans already have voters cards and need to be convinced that these will no longer be valid and they must re-register.

If one of the two main parties succeeds in registering a much larger portion of its supporters than the other, then this could shift the outcome of the election itself.

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Frelimo only won 129 of 250 parliamentary seats in 1994.

Holding a new registration requires an amendment to the old registration law, and this was expected to be presented to parliament in early April and be quickly approved. Then the CNE must approve the registration calendar and process.

Incoming CNE members arrived to find on their desks detailed plans for the registration campaign. This puts a new emphasis on the involvement of civil society — local associations such as sports groups and trades unions, traditional leaders, teachers and pastors, etc — to mobilise people to register.

In 1994 STAE staff tried to do much of the mobilisation and education itself. One STAE official commented: "In the past, civil society was really just a spectator. Now we want a more open, participative process." This time STAE proposes mainly to train other groups with greater outreach, and to provide them with posters, handbooks and other materials.

But STAE officials admit that their first task is to convince civil society of the importance of registration, and to motivate them to participate. The new decentralisation, with provincial and district STAEs and election commissions, means that those bodies will play

Election to cost \$41 million

Registration and the election will cost \$41 million, with the European Commission (EC) paying about \$23 mn, a UNDP fund \$9 mn, and the government \$9 mn.

All salaries and running costs will be paid by the government.

UNDP will pay for registration material (\$7 mn) and some technical support (\$1.9 mn), with up to 54 people, including United Nations Volunteers, in Mozambique at the time of the election. Pledges or money already available include: Norway (\$2.5 mn), Denmark (\$1.5 mn), EC (\$1.4 mn), Finland, Sweden, Switzerland (\$ 1 mn each), Canada (\$700,000) and Ireland (\$200,000).

Because UNDP can disburse money more quickly, it should be possible to start the tender process for registration materials in April to permit registration to start in July.

The EC will cover all of the rest of the costs, including voting materials (\$7.6 mn), computerisation (\$1.4 mn), transport (including helicopter and aircraft leasing plus 60 new cars, \$6.7 mn), and training and civic education (\$6.8 mn).

The largest block of civic education money (\$2 mn) is allocated to the registration campaign. The EU will allow STAE to hire non-government organisations "with a proven track record in Mozambique" to do some of the training and civic education.

One problem is that the EC budget is 21 million Euros, which was \$23 million when it was agreed in January but is now less than \$21 mn.

This election is less expensive than the one in 1994, when 17 donors provided nearly \$60 mn.

a big role in trying to motivate local leaders in their areas.

STAE wants to draw on some of the best experiences of 1994. "We want to keep it low tech and low cost — to stress that you don't need an expensive battery operated megaphone to talk to groups of people, and that music groups can work with home-made instruments," said another STAE official.

Parties must also carry a greater part of the burden.

STAE would begin its mobilisation campaign in May or June.

The era is gone when Mozambicans would do things simply because they were told the government wanted them to do it. The key to the campaign will be to convince people that it is in their own interests to obtain a new voters card.

New start after local election farce

The first ever local elections on 30 June 1998 were a fiasco, with a Renamo boycott, a low turnout of only 15%, and very poor organisation. (See BULLETIN 21)

This led to new attempts at cooperation between Frelimo and Renamo. Renamo demanded a new electoral registration and more political representations in STAE and CNE, and this was agreed. On 22 October the two sides submitted draft electoral laws which were very similar.

The Constitution gave supervision of the election to the Constitutional Council which made the role of a CNE unclear. Thus on 9 December parliament (AR, *Assembleia da República*) approved two constitutional amendments which allow parliament to set up an independent CNE to supervise registration and elections and only require the Constitutional Council to validate the results.

Election and CNE laws were approved on 22 December. (The CNE is discussed on page 4 and the election law is discussed in detail on page 5.) The CNE law abolished the old CNE, which under the old law should have administered this election, but which carried some of the blame for the local election fiasco.

The CNE law specifies that members are appointed by parties with seats in parliament. This would have allowed their appointment in January to allow the CNE to begin work. But the parliamentary benches objected (and the Frelimo bench actually rejected two nominations to CNE made by the Frelimo party headquarters) and insisted that the process be delayed until the new parliament session in March.

The new session first debated the National Anthem (*Hino Nacional*), President's Chissano's visit to Portugal, and other issues. Finally, on 23 March the AR approved two changes to the new CNE law.

One change specifies that CNE members are named by the parliamentary parties. The other says the first CNE under this law takes office immediately, and continues until the new AR takes office. This means the new parliament can appoint a new CNE. It also removes a problem caused by the normal procedure whereby the

CNE functions only during short periods near registration and election, which would have caused problems for this election when a full election system is not yet in place.

The poor organisation of local elections last year was largely blamed on STAE, and Minister of State Administration Alfredo Gamito promised a shake-up of STAE which never happened. Former director general Arménio Correia remained in post and in December preparations began for the new registration campaign. It was widely expected that an outsider would be named director general — someone who was not part of its institutional culture but who could motivate staff to make the best use of their extensive experience of two elections. But in March, Gamito promoted the head of civic education, António Carrasco, to be the new director general. He worked in STAE for the 1994 and 1998 elections, and has also been head of the government's Social Communications Institute (*Instituto de Comunicação Social*).

Can elections be held this year?

The delay in naming a new head of STAE and parliament's slow pace of work on electoral matters suggests that government, Frelimo and Renamo feel little urgency about the election.

It would take a different and much more rapid dynamic to hold elections this year.

The laws contain a number of fixed time periods, and there are minimum times required for tendering, ordering and printing registration and election material — which must be printed abroad by security printers and then delivered to provincial capitals.

For example, the CNE must approve the structure of the registration process (including the proposal to issue totally new voters cards and the plans to computerise the register), then approve the design of the registration forms themselves, and finally OK the tender for printing. After that, it will take 80 days before registration can actually start — because one month must be allowed for foreign companies to bid on the job, and the winner will need nearly two months to print and deliver the material.

It is estimated that 275 days (9 months) is the minimum time between approval of the design of registration material by the CNE and the actual date of elections — if STAE and CNE make decisions quickly. That required decisions in January if there were to be elections 25-27 October as previously announced by government, or in February for a late November election.

But the CNE was not even named until late March, and will take some time to get settled in. It still needs to choose its president. It must agree its own standing orders (internal regulations), which could be contentious, because Renamo had proposed that the CNE work only by consensus (as in 1994) while Frelimo wanted majority voting (as in 1998), and this is not specified in the law setting up the new CNE. So mid-April is the earliest possible date for decisions on the pile of work on incoming CNE desks.

New register to be computerised

One reason for the confusion last year and the need for a new registration was the refusal of donors to pay for computerisation of the 1994 register. Now the European Commission has agreed to pay the estimated \$1.5 million cost.

Optical scanning will be used, following a system already implemented in Ghana and Malawi.

Registration forms are numbered and will have three sections: one is the normal handwritten form, the second is a form which can be scanned directly into a computer (on which the registration team uses a special pencil to fill in blobs for letters and numbers), and the third section is the basis for the photo ID card which is issued on the spot.

In addition, the registration teams will fill in a registration book, as was used in the 1994 and 1998 elections, and the registration number assigned will be the one in that book.

Scanning of forms can begin during the registration period, and it is estimated that a register could be compiled in as little as five weeks.

For this election, polling stations will use computer-printed registers, but they will have the handwritten register book as backup — both to check in case of error, and in case the computer-printed lists are not ready.

Registration will involve 1930 teams of 5 people. A team will take 8 minutes to register each voter. An estimated 8 million people are eligible to register. This means a registration period of at least 11 weeks.

Cutting the campaign period from 45 to 30 days and the registration period from 2½ months to 2 months would save 30 days, which means it is still theoretically possible to have an election in mid-December.

But the rains may have started by then, and heavy rains and widespread flooding this year have reminded people that it is impossible to hold national activities during the rainy season.

Furthermore, past experience suggests that the process will take more, not less, time than forecast in official plans. Many predict that registration will be extended rather than shortened as the CNE attempts to raise registration numbers.

Donors have promised money, but the CNE still has to agree the formal request to the European Commission, which itself does not have a record for rapid disbursement of money and which is preoccupied with an aid corruption scandal in Brussels.

And the CNE is likely to work slowly in an effort to maintain consensus.

This makes a postponement to 2000 almost inevitable. Campaigning cannot start until the end of the rains, which means late March or early April. Thus mid-May 2000 is the earliest possible election date.

More political election commission named

Administration of the next election will be closer to that of 1994 than 1998.

The National Election Commission (CNE, *Comissão Nacional de Eleições*) has 17 members, 15 appointed by parliamentary parties in proportion to their seats (in this case 8 Frelimo, 6 Renamo and 1 UD) plus 2 appointed by government.

Frelimo had proposed 13 and Renamo 21; the 1994 CNE had 21 and the 1998 CNE had only 9.

The CNE's president is chosen from this group. Following a Renamo suggestion, if CNE members can agree they choose the president; if not, they give a list of four candidates to the President of the Republic (presently Joaquim Chissano) to select one.

This CNE exists only until a new parliament takes office, and will be in permanent session until then. This removes a contradiction in the various laws, which have the CNE functioning only part time but require it to take actions when it is not actually sitting.

There will be provincial CNEs with 6 members designated by parties in proportion to their seats in parliament and 1 by government, and district CNEs with 4 members designated by parties and 1 by government. These function from 15 days before registration starts until the end, and from 15 days before polling day until the proclamation of results. They can choose their own presidents if they agree, and if not submit 3 (2 for district) names to President Chissano.

The actual work is carried out by a permanent Technical Secretariat for Election Administration (STAE, *Secretariado Técnico de Administração Eleitoral*), which is normally part of the Ministry of State Administration (MAE, *Ministério da Administração Estatal*), but is subordinate to the CNE when it is in operation.

There are STAE's with similar structures at provincial and district levels. In election and registration periods, when STAEs must take on additional staff, they are expected to hire people indicated by the parties with seats in parliament, in proportion to their representation there. This is similar to the 1994 requirement.

During election and registration period, the two largest parties in parliament name deputy director generals to

STAE, both nationally and locally.

António Carrasco took office as the new director general of STAE on 25 March. He now must appoint two of the three directors: training & civic education (his old post) and operations.

New CNE members

The new CNE formally took office on 26 March. As part of a growing openness, full CVs have been published for the party nominees. This list gives age, province of origin, occupation and/or job, and role in previous CNEs.

The 8 Frelimo members are:

Alcinda Abreu, 45, Sofala, doctor, former social welfare minister, CNE 98.

António Muacoricu, 45, Nampula, economist, president of Mosagrus.

Carlos Morgado, 53, Tete, electrical engineer, deputy director general of LAM.

Jamisse Taimo, 43, Methodist pastor, rector of the Higher Foreign Relations Institute (*Instituto Superior de Relações Internacionais*)

Machatine Paulo Munguambwe, 48, Gaza, lawyer, director of law faculty of Eduardo Mondlane University.

Maria Angélica Salomão, 48, Inhambane, doctor, director of Regional Health Development Centre (*Centro Regional de Desenvolvimento Sanitário*), CNE 98.

Percina Rosa Siteie, 48, Maputo, administrator, head of the department of studies and fiscal planning in the Ministry of Planning and Finance.

Rufino Nombora, 42, Maputo, lawyer, CNE 94 & 98.

The 6 Renamo members are:

Francisco Xavier Marcelino (formerly José de Castro), 55, Nampula, former secretary general of Renamo, CNE 94 (vice-president) & 98.

Maria Joaquina Inácio, 43, Zambézia, former district judge, Sofala provincial chief of (Renamo) Mozambican Women's League (*Liga da Mulher Moçambicana*).

Viana da Silva, 29, Zambézia, linguist and journalist, head of Renamo's Tete Provincial Political Commission.

Maria Joaquina Macuácuá, 45, Gaza, administrator.

Fernando Tomé, 34, Cabo Delgado, treasurer and pastor, Renamo political representative in Cabo Delgado.

António Timóteo Mthini, 46, Tete, teacher at Pedagogic University (*Universidade Pedagógica*) in Beira, *chefe do gabinete* of Renamo Sofala office.

The 1 UD (*União Democrática*) member is **Sebastião Ribeiro Manhiça**, 58, Maputo, legal technician.

The 2 government nominees are:

Fernando Macamo, lawyer, deputy national director of local government, CNE 98.

Carlos Manuel, lawyer, official in Ministry of State Administration (MAE), CNE 98 (press spokesman).

Who will pay the parties?

Parties must raise much of their own finance, and funding rules are largely as in 1994. Again, the state will set up a fund for parties. The CNE will approve criteria for distribution of that money, "taking into account parliamentary representation and the proportion of seats for which parties have candidates."

As in 1994, local and foreign political parties and non-government organisations may also contribute to individual parties. But "foreign governments, government institutions and organisations, and state companies" cannot; they can contribute by putting money into the government fund for parties. (Election law articles 33,34) The United States, Netherlands and Sweden may put \$2.5 million into the party fund.

Similar to 1994, but faster & clearer

National elections will be very similar to those in 1994, and to local elections last year. There have been some simplifications and clarifications, and substantial decentralisation. Many of the criticisms of earlier laws have been taken into account.

The new law retains the two factors which made the 1994 election so free of misconduct and allowed the discovery of misconduct in local elections last year. First is the very high degree of transparency which ensures that all aspects of the process can be observed by parties and press. Second is counting in individual polling stations which means that ballot boxes are never moved, and thus never leave the sight of observers.

The election will be over two days, with a possibility of extending to a third day. Voters will get two ballot papers, one for President and the other for parliament. Ballot papers will have pictures and party symbols; illiterate voters can vote with a fingerprint. Voters will dip their index fingers in indelible ink to prevent repeat voting. (Articles 5,52,67,69 of the election law)

Voters must be registered, have the plastic-coated registration card with their photograph and registration number, and must vote at a specific "polling station". Each "polling station" corresponds to a register of up to 1000 voters – normally at the same place that the voter registered. Polling stations are grouped into "polling centres"; schools will be used wherever possible, with a different polling station in each classroom. (art 9,38,39,55,67)

Each polling station acts independently and has its own staff of five people (hired by provincial and district election commissions, with advice from parties). (art 43)

At the end of voting, the initial count is done separately in each polling station; the results are immediately posted on the outside of the polling station. (art 76,83)

Each party and independent presidential candidate can have an observer in the polling station during the entire process. (art 47)

The press can be present inside polling stations. But journalists and TV cannot take pictures close to the ballot boxes, disturb the voting, compromise the secrecy of the vote, nor talk to voters within 500 metres of the polling station. (art 63,75)

Great stress is placed on ensuring that the vote is genuinely secret. It is even illegal to tell someone how you voted within 500 metres of a polling station. (art 56)

The election is overseen by an independent National Election Commission (CNE) and actually run by a technical secretariat (STAE), both of which have provincial and district offices during the election period. It is assumed that independent non-party observers will be permitted, but CNE must define the rules. (art 6,8)

The election date is proposed by the CNE and must be set by the President at least 90 days in advance. There is a 43 day election campaign (followed by a two day break before polling). During this period a whole series of additional rights are granted. Candidates have time off work, parties have equal access to public buildings and state-run media, etc. (art 5,12-30)

The new election law was approved by parliament on 22 December and was based on very similar proposals submitted by Frelimo and Renamo in October. In the few areas where the proposals differed, the final election law seems to take more of Frelimo's views, while the CNE law takes on more of Renamo's.

Limits on small parties and independents

Local elections last year gave more space for small parties and independent candidates than 1994, but these national elections are even more restrictive than 1994. Only nationally registered parties are allowed to put up lists for election; independent citizens lists, which won seats in several city elections, are not permitted. (art 146)

Parties need not contest every province, but where they stand their list must have at least three more candidates than there are seats. This will require more than 50 candidates in the largest provinces. This was not a requirement in 1994 but was introduced last year; this made it difficult for small parties (notably the UD) who did not expect to win many seats but still needed to fill an entire list and had trouble doing so. (Frelimo backed this; Renamo was opposed.) (art 140)

The 5% national threshold is continued (both parties backed this). (art 143) That means parties with less than 5% of the national vote are excluded before the allocation of seats. In 1994, only one small party passed this barrier; the UD gained 5.15% of the vote which gave it 9 parliamentary seats. Paul Fauvet of AIM (Mozambique Information Agency) did a recalculation of the 1994 results and found the 5% barrier made a difference in only one province, Nampula, where 3 small parties would have gained one seat each (with Frelimo losing 1 seat and Renamo 2).

New role for maths professors

A special National Counting Assembly (*Assembleia de Apuramento Nacional*) is called for to rule on the presidential election (but not the parliamentary election), starting with the 2004 election. It must verify the work of the CNE before submitting results to the Constitutional Council to be proclaimed. This assembly consists of the President of the Constitutional Council, two judges from the Constitutional Council (chosen by lot) and three professors of mathematics (chosen by the Council of University Rectors). (art 124,125,208)

An unexpected change, proposed by Frelimo, makes it virtually impossible for independent and small party candidates to stand for President. As in 1994, each presidential candidate must obtain 10,000 signatures; independents are permitted to stand. This time, however, the signatures must be notarised, which will be too complex and expensive for any independent candidate or small party. (art 113,115)

Seats and candidates

Parliament will have 250 members, all but two elected by party lists from the 10 provinces and Maputo city. The number of seats will be in proportion to the number of people who register in each province this year (but see the box, right). In addition, there is 1 seat for Mozambicans living in Africa (Renamo wanted 2) and 1 seat for Mozambicans living elsewhere in the world.

The President must obtain a majority of votes, and if no candidate obtains a majority, there must be a second round between the two highest candidates.

Simpler registration

Following bitter complaints that a chase for 6 documents made it impossible for many candidates to stand in local elections, the new system is much simpler. For each candidate on its list, a party must present only one formal document — a certificate of no criminal record (which has proved difficult to obtain) — plus the identification of the candidate (no longer notarised) and their election registration number, with a signed statement saying they are eligible to stand and agree to stand. (art 151)

In another unexpected change, party lists for parliament are submitted to the CNE, but Presidential candidates present their documents to the Constitutional Council (presently the Supreme Court). (art 114,115,152)

Rules on party observers have also been simplified. Parties and coalitions must submit lists of their observers at least 20 days before the election. But they only need

Staff vote restricted

People can only vote at the polling station where they are registered — there are no transfers. Polling station staff and party observers cannot vote unless they are accidentally assigned to the same polling station (or at least polling centre) where they registered. (art 55,66)

In 1994 they were allowed to vote at the polling station to which they were assigned, and this does not affect the outcome of the vote so long as they are within the same province as they are registered.

In the local elections, they were only allowed to vote at the polling station where they were registered. This caused discontent, and in some places staff left their posts to go and vote at their own polling stations.

Up to 50,000 people might lose their right to vote in the national election because of this change in rule.

Arithmetic error in seat assignment

The mathematics professors should have been called in earlier, because the election law contains an arithmetic error in the assignment of parliamentary seats to provinces.

There are 248 seats for the provinces (and 2 for outside Mozambique), so article 137 says that the number of registered voters inside the country should be divided by 248 to give a number of voters per seat. Then the number of voters in each province should be divided by this number, with remainders greater than one-half rounded up to a full number, to give the number of seats. (Thus 25.3 gives 25 seats, while 25.6 gives 26 seats).

The problem is that this need not add up to 248 seats in the end.

Consider a very simple example with 10 seats, 3 provinces, and 1000 voters. If they are equally distributed as 333 voters in each province, then each quotient is 3.33 which means 3 seats per province, so only 9 seats are assigned. If there are 360, 360, and 280 voters in the three provinces, then the quotients are 3.6, 3.6, and 2.8 which gives 4 seats in two provinces and 3 in the other, a total of 11.

It is to resolve precisely this problem that more complex methods are used in assigning seats to parties after the election (Mozambique uses the d'Hondt method).

The electoral law needs to be clarified to ensure a consistent assignment of seats to provinces.

give the name of the observer and the polling station to which they will be assigned. Credentials are issued at provincial and district level (rather than at national level, as in local elections.) (art 48)

Previous rules permitted one party observer and one alternate for each Presidential candidate and each party or coalition, which led to needless duplication in 1994; this year the law simply allows one party observer (*delegado de candidatura*) and one alternate for each party or coalition participating and each independent Presidential candidate. (art 47)

Local elections also saw complaints about polling stations having been moved without voters being told. As in 1994, the new law requires that 30 days before the election, the CNE post at provincial and district level the lists of the locations of polling stations. (art 38)

Faster results

Quicker results and increased transparency come from an important decentralisation. Votes are counted in each polling station, but in the past the results were compiled by CNE at national level, and it was unclear when they could be announced.

Now, each provincial election commission must compile a provisional total and post it and announce it to the press within 7 days of the end of voting. (art 94) Thus

the approximate outcome will be known within a week. These results remain provisional because the national election commission (CNE) is required to consider all protests and all ballots ruled invalid (null, *nulo*) by the polling station staff. (art 85, 98) In 1994 there were more than 600,000 of these, and the CNE accepted two-thirds as being valid. Clearer instructions to polling stations, such as those in local elections, would reduce this number, but the CNE must expect to reconsider more than 200,000 ballot papers. This could cause minor shifts

in the preliminary provincial totals.

A ballot paper is considered invalid if the person has voted for more than one candidate or written anything on it. But if the fingerprint or cross is misplaced, the vote is still valid "if it shows clearly the will of the voter". (art 81)

The CNE is then required to post its results and give them to the press within 15 days of the election. (art 100)

The results of the presidential election must be validated and formally proclaimed by the Constitutional Council (or until it is created, the Supreme Court). (art 126)

Discussion deferred on new constitution

The proposed new constitution may be debated by a special session of parliament in May or June. If agreed, it would probably come into force at the same time the new President and parliament takes power, after the next elections. But there now seems to be less interest in major constitutional changes, so neither of these is sure.

The draft revised constitution was agreed last year by an all-party ad hoc commission of parliament, and it has been put into circulation. A good guide to the changes, *Guião de Apresentação do ante-projecto de revisão da constituição*, was written by the ad hoc commission and published last year by parliament.

The main change from the 1990 constitution is the shift from a US model with its sharp division of powers to a more European unitary state. The post of President is retained, but substantial power is shifted to parliament.

The "government" is defined as being the Council of Ministers, headed by a Prime Minister who is appointed by the President after consultation with the parties in parliament. The Prime Minister then selects other ministers. The Prime Minister and government are responsible both to parliament and the President.

The government can be replaced by the President. The government falls if it loses a vote of confidence or if parliament fails to approve its programme.

Under the proposed draft, the President is no longer head of government, but remains commander in chief of the military, remains responsible for foreign policy, and heads a new Council of State (*Conselho de Estado*). Under limited circumstances, the President can dissolve parliament and call new elections.

This new Council of State is purely advisory, but must be consulted by the President when he names the Prime Minister, dissolves government or parliament, or declares war. The Council is composed of the speaker of parliament, past Presidents of Mozambique and past speakers of parliament, the leader of the opposition (the first time this position will exist officially), the Prime Minister, the ombudsman, 7 eminent people selected by parliament and 4 eminent people selected by the President.

Legal changes

The new constitution would make a number of changes to the legal process, most notably the involvement of more people without formal legal training.

The draft constitution proposes the introduction of jury trials for serious crimes. Juries would decide on matters

of fact, while judges would continue to rule on matters of law. The draft also proposes a new set of "social judges", effectively magistrates, who would deal with minor cases, children's cases, and public health violations.

An ombudsperson (*provedor de justiça*) would be named by parliament and investigate administrative errors and violations of rights by government.

The new constitution would also formalise an existing system, under which the Council of Ministers can pass "decree laws" which are then subject to ratification at the next parliament session.

The constitutional council, which is called for in the present constitution but was never set up, would be replaced by a constitutional court, with three functions: to rule on the constitutionality of laws or proposals for laws, to declare that a President is dead or incapacitated, and to be the highest election authority.

A system of separate administrative courts overseeing the operation of the state and civil service is maintained.

As part of creating a more unitary system, both the chief justice and attorney general are appointed by the President, but must report annually to parliament.

Market and government

The draft constitution retains the present economic perspective. The parliamentary ad hoc commission notes that the new constitution "is against pure economic liberalism. Although based on the market economy, the state has a major role as an intervenor in the economy and society" to reduce both social and regional inequalities.

Land and natural resources are property of the state. Parliament would have to approve new foreign loans.

Rights

The broad set of rights in the 1990 constitution is retained and amplified. The constitution says that internationally agreed rights take precedence over Mozambican law, and specifically cites the Universal Declaration of Human Rights and the African Charter of Human Rights.

Citizens remain free to practice **or not practice** a religion.

Freedom of expression includes a right to information, and the requirement that state-controlled media publish diverse opinions. Parties in parliament, trade unions, professional bodies, and economic interests have the right to airtime on publicly owned radio and TV.

As now, people are free to form political parties, but these cannot be regional or religious (thus there could not be a Christian Democratic party).

Associations can be formed, and the new constitution creates a new "right of popular action" (*direito de acção popular*) to protect the environment, cultural monuments, public property, and consumer rights.

The constitution retains both the right to strike and the prohibition of lock-outs.

In addition to the present ban on capital punishment, the draft constitution also bans the sentence of life in prison and indeterminate prison sentences. No one can be extradited to a country to stand trial if the sentence can be death or life in prison (which could, for example, limit extradition to the United States for some crimes).

Restrictions are imposed on computer data bases of personal information.

The constitution also defines responsibilities of citizens, including serving the country, working, paying taxes, and protecting the environment.

The draft constitution promotes "decentralisation", shifting power and competence to lower levels.

The draft would specifically permit dual nationality.

Book Reviews

- *Mozambique National Human Development Report ; Moçambique Relatório Nacional do Desenvolvimento Humano*, UNDP, Maputo, Dec 1998.

A first attempt at producing a national human development report provides a strong challenge to policy-makers. "The social cost of adjustment has been excessively high," the report says, and "per capita household consumption may have fallen."

The state must intervene actively in the economy, particularly in agriculture, reversing the present trend. Mozambique should "explore the range of possibilities rather than slavishly surrendering to the seductive elegance of the free market model. ... The insistence on 'market friendly' policy is irrelevant where the real focus should be on production and processing friendly policies."

The report is highly critical of "overvalued real interest rates" which discourage investment and a "dangerously" high exchange rate which discourages exports, and the state must intervene to lower both.

It calls on Mozambique to reject World Bank advice and to follow a policy of "diversifying vertically from primary products to derived, processed commodities" even if this means temporary inefficiencies.

One-tenth of the entire text is devoted to the best case study I have seen of the cashew controversy, which criticises the World Bank for imposing a destructive policy and the government "for not taking a leading role on this issue". Mozambique should support the cashew industry in the same way India does, the report argues.

The book is also a useful source of data, but many of the tables are confusingly labelled.

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- *War and Peace in Mozambique*, Stephen Chan & Moisés Venâncio, Macmillan (UK) & St Martin's Press (US), 1998.
- *Mozambique: UN Peacekeeping in Action 1992-94*, Richard Synge, US Institute of Peace Press, 1997.

As the historians look at Mozambique's war and its peace process, they seem to be trying to justify the old divisions which have always characterised the literature. Was this a cold war battlefield or was this a civil war? Were both sides equally nasty and brutal, or was Renamo waging a particularly cruel terrorist war?

Chan and Venâncio are hostile to Frelimo. "By the late 1970s and early 1980s ... Frelimo's actions, as much as any conscious act by [Renamo's] foreign backers, provided the movement with a new political momentum". With no footnotes and no evidence other than "diplomatic sources", they claim that in the late 1970s under Frelimo "People began to disappear in large numbers" and in the 1980s "Government soldiers disguised as Renamo guerrillas would perpetrate attacks on civilians".

Yet in the same book, Sam Barnes cites evidence of Renamo brutality and quotes a famous speech by Roy Stacey, US Deputy Under Secretary for African Affairs, calling Renamo's war against civilians "genocidal".

Synge, too, has the starting point that the two sides were equal. Both sets of research were funded by the United States Institute for Peace. Thus Chan and Venâncio as well as Synge tend to accept United States views and US cable traffic in the period as neutral and objective, rather than as material from one side in the cold war. But it is the winners who write the history.

Synge had access to United Nations documents, and he makes good use of them. He documents well the failures of the humanitarian operation, UNOHAC, and particularly its year-long delay of mine clearance — and shows clearly how this was rooted in UN infighting and interagency rivalry.

Both books praise the UN, but two of Synge's conclusions are salutary: "In Mozambique, the UN role was made considerably simpler by the genuine desire on both sides to halt the fighting" and "By the time it was withdrawn, ONUMOZ had come to be seen as by many as a sledgehammer employed to crack a relatively small nut [and] by the end of 1995 [there was a] tangible sense of relief in Mozambique that ONUMOZ had departed."

Land issues

- *Contested Lands in Southern and Eastern Africa: A Literature Survey*, by Robin Palmer, Oxfam UK, 1997, £12.95.
- "The Land Question: Democratising Land Tenure in Tanzania", special issues of *Change*, 1st quarter 1997, PO Box 3005, Dar es Salaam.
- *Report of the Presidential Inquiry Into Land Matters*, Scandinavian Institute of African Studies, Uppsala, Sweden.
- *Declaration of NGOs and Interested Persons on Land*, National Land Forum, POBox 75885, Dar es Salaam.

The discussion of the land law in Mozambique has pointed to a much larger literature of debate in neighbouring countries. Palmer's book covers the whole range of literature well. The debate on land law has been going on in Tanzania for some time, and the other three publications summarise the issues there, with many pointers for Mozambique.