

AFRICAN UNION



**REPORT OF THE AFRICAN UNION ELECTION OBSERVATION MISSION TO
THE 15 OCTOBER 2019 GENERAL ELECTIONS IN THE REPUBLIC OF
MOZAMBIQUE**

REPORT



JANUARY 2020

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ABBREVIATION

ACDEG	African Charter on Democracy, Elections and Governance
ACHPR	African Charter on Human and Peoples' Rights
ACHPR-PW	African Charter on Human & Peoples' Rights/Rights of Women in Africa
AMUSI	Action Party of the United Movement for Integral Salvation
APRM	African Peer Review Mechanism
AU	African Union
AUC	African Union Commission
AUEOM	African Union Election Observation Mission
CAD	Coalition for Democratic Alliance
CC	Constitutional Council
CNE	National Election Commission
CSCS	<i>Conselho Superior da Comunicação Social</i>
CSO	Civil Society Organization
EISA	Electoral Institute for Sustainable Democracy in Africa
EMB	Electoral Management Body
FRELIMO	Mozambican Liberation Front
INE	National Institute of Statistics
ICCPR	International Covenant on Civil and Political Rights
MDM	Democratic Movement of Mozambique
OAU	Organisation of African Unity
PAM	Pre-election Assessment Mission
PWD	Persons with Disabilities
RENAMO	National Resistance of Mozambique
STAE	Technical Secretariat for Election Administration
STO	Short Term Observer
UDHR	Universal Declaration on Human Rights

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The African Union Election Observation Mission (AUEOM) to the Republic of Mozambique expresses its appreciation to the various stakeholders and institutions whose support and cooperation contributed to the success of the Mission.

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EXECUTIVE SUMMARY

On 15 October 2019, Mozambicans went to the polls to elect a President and Members of the National and Provincial Assemblies. These were the sixth consecutive general elections and the second Provincial elections held since the introduction of multiparty democracy in the country in 1994. The incumbent President Filipe Nyusi and his party FRELIMO (*Frente de Libertação de Moçambique*) won overwhelmingly, though the main opposition party RENAMO (*Resistencia Nacional Mocambican*) contested the results.

The elections took place within the context of the signing of a Permanent Ceasefire Agreement between the Government and RENAMO (*Resistencia Nacional Mocambican*) on 1 August 2019 and which was important both for consolidation of democracy and peace.

The African Union (AU) participated in the elections following an invitation from the Government and the National Electoral Commission (CNE) by deploying a Short-Term African Union Election Observation Mission (AUEOM) from 10 to 22 October 2019. Before that, the AU deployed a Pre-election Assessment Mission (PAM) from 29 July to 2 August 2019 to consider the state of preparedness for the elections by all stakeholders and determine whether the necessary conditions and environment exist for the conduct of transparent and credible elections as enshrined in AU principles governing democratic elections. The purpose was to ensure the principles for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development are upheld.

Following its deployment, the AUEOM held consultations with key stakeholders and observed pre-election activities, Election Day operations and the tabulation of results. Based on its consultations and observation of the process, the AUEOM issued a statement on 17 October 2019 highlighting its preliminary findings and conclusions on the conduct of the elections. This report presents the AUEOM's overall and final assessment of the 15 October 2019 General Elections in Mozambique. It contains detailed findings, conclusions and recommendations for improvement in future elections.

Based on its observations and consultations with stakeholders in Mozambique, the AUEOM made the following findings:

- The Elections took place within the context of emerging insurgency in Cabo Delgado province, an ongoing peace process between the government and RENAMO and the outbreak of tropical cyclones which displaced thousands of people and also hampered electoral operations in the affected areas. The pre-election context was also characterized by political tension and incidents of violence, especially during the campaigns.

- Prior to the elections, Mozambique adopted significant legal reforms in lines with the outcomes of the political negotiations between the Government of Mozambique and the opposition RENAMO party. The reforms included a new decentralization arrangement in which Provincial Governors were elected for the first time. The AUEOM noted that the reforms brought Mozambique closer to its international and regional obligations. However, the reforms were in some cases *ad hoc* and were often initiated to address issues that arose during previous elections between FRELIMO and RENAMO.
- The AUEOM noted concerns presented by stakeholders, especially members of the opposition political parties and civil society organisations (CSOs) with regard to the accuracy of the voters' registration figures in Gaza and Zambezia provinces. The lack of clarity on this issue before polling affected confidence in the credibility of the voters' register.
- The CNE published the electoral calendar on time allowing stakeholders to plan for and scrutinize the implementation of the electoral process. Throughout the elections, the CNE provided regular updates and information to the public on its preparations for the elections, which further enhanced trust and confidence in the process.
- The right to vote was accorded to Mozambicans in the diaspora living in countries such as South Africa, Malawi, Zambia, Tanzania, Zimbabwe, Kenya, Swaziland, Portugal and Germany to exercise their right to vote. This was a laudable practice that ensured inclusivity in the electoral process.
- CSOs operated freely and were actively involved in the electoral process. However, administrative bottlenecks in the issuance of accreditation by CNE adversely affected the ability of some organisations to deploy observers on time. The killing of a civil society activist in Xai-Xai in Gaza on 7 October 2019 constituted a serious act of violence directed against electoral stakeholders.
- Election Day was calm and peaceful, with no reported cases of election-related violence or intimidation. However, voting procedures that included provision of voter education for each individual voter prior to voting in some cases delayed the polling process.
- The main opposition RENAMO party rejected the results of elections claiming there were numerous irregularities and fraud, particularly during the results management process. The AUEOM, however, could not independently ascertain these claims during its presence in the country.

The AUEOM offers the following key recommendations for the improvement of future elections in Mozambique:

- All contesting parties should strive to ensure a level playing field during electoral campaigns that is devoid of intimidation, harassment and violence against opponents.
- The NEC and STAE should take steps to instill confidence in the electoral process by ensuring transparency and accuracy in creating and maintaining the voters' register. An accurate voters' register not only ensure the right to vote is extended to all eligible citizens, it also prevents the potential for multiple voting and fraud.
- The Government and NEC should accelerate efforts at enforcing the laws that limit the misuse of public resources (especially state vehicles and employees) in support of a particular political party or candidate during electoral campaigns.
- The Government should consider undertaking comprehensive electoral reforms that go beyond addressing just the issues of disagreement between FRELIMO and RENAMO.
- The CNE should simplify the accreditation process for CSOs interested in observing elections.

In view of its findings and overall assessment, the AUEOM concludes that the 15 October 2019 General Elections in Mozambique were largely peaceful, inclusive and competitive. The legal framework generally provides an adequate basis for conducting democratic elections. However, the lack of clarity on the disputed registration figures in Gaza province and other shortcomings impacted citizens' confidence and trust in the overall credibility of the electoral process.

I. INTRODUCTION

Following an invitation from the Government and National Electoral Commission (CNE) of the Republic of Mozambique, and based on the African U's mandate of promoting good governance and democratic elections in Africa, the Chairperson of the African Union Commission (AUC), His Excellency Moussa Faki Mahamat, approved the deployment of a short-term African Union Election Observation Mission (AUEOM) to Mozambique from 10 – 22 October 2019. The Mission was led by His Excellency Goodluck Ebele Jonathan, former President of the Federal Republic of Nigeria, and comprised 9-member core team based in the capital, Maputo and 27 short-term observers (STOs) drawn from 23 AU member states.¹

The main objectives of the AUEOM were to provide an accurate, impartial and objective assessment of the preparations and conduct of the elections and offer recommendations for improvement of future electoral processes in the country. In view of its objectives, the Mission assessed the compliance of the electoral process with AU commitments enshrined in relevant instruments such as the 2000 Constitutive Act of the Union, the 2007 African Charter on Democracy, Elections and Governance (ACDEG), the 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa, and the African Peer Review Mechanism (APRM). The AUEOM also assessed the compliance of the electoral process against other regional and international obligation and standards for democratic elections, as well as South Africa's national legal framework for elections.

Pursuant to its objectives, the AUEOM held series of consultations with several stakeholders, including the President and other government officials, the Constitutional Court (CC), the Police, the Chairperson and members of the CNE and STAE, representatives of political parties, civil society organisations, and other international observer groups to get an understanding of the preparations and political context of the elections. It undertook a review of the legal framework, and direct observation of some pre-and post-election activities, including campaign rallies, preparation of voting stations and tabulation of results. It also held a 3-day briefing and orientation sessions with its observers on AU observation methodology and the general context of the elections, including the country's political history and legal framework. On Election Day, the Mission deployed observers in teams of two to observe voting, closing and counting processes in 9 of the 11 provinces across the country.²

This report presents the AUEOM's overall and final assessment of the conduct of the 15 October 2019 General Elections in Mozambique based on consultations held with

¹ Nigeria, Malawi, Ethiopia, Angola, Comoros, Swaziland, Kenya, Burundi, Uganda, Egypt, Sudan, South Africa, Senegal, Rwanda, Lesotho, Namibia, Liberia, Ghana, Benin, Algeria, Sahara Republik, Sierra Leone, and Zimbabwe.

² Maputo City, Maputo, Gaza, Nampula, Cabo Delgado, Sofala, Inhambane, Tete, and Zambezia.

key stakeholders, review of the legal and regulatory framework, and direct observation of key aspects of the electoral processes.

II. PRE-ELECTION FINDINGS

a. Background and Political Context

The 15 October 2019 General and Provincial Assembly elections were sixth consecutive presidential and legislative elections and second provincial election held since the introduction of multiparty democracy in the country in 1994. The incumbent President Filipe Nyusi and his party FRELIMO (*Frente de Libertação de Moçambique*) won overwhelmingly, though the main opposition RENAMO (*Resistencia Nacional Mocambican*) contested the results.

The Elections took place in a generally challenging political and security environment characterized by an ongoing peace process that resulted in the signing of a Permanent Ceasefire Agreement between the Government and RENAMO (*Resistencia Nacional Mocambican*) party on 1 August 2019 – the latter’s armed forces have been battling Government forces since the 1970s; an emerging Islamic-inspired insurgency in Cabo Delgado province in the North; and devastation caused by the outbreak of one of tropical cyclones, which displaced thousands of people and hampered electoral operations in the affected areas.

Although the signing of the peace agreement for a permanent ceasefire generated a sense of optimism among electoral stakeholders because of the potential to create a conducive environment, the rejection of the agreement by RENAMO’s military wing and its refusal to be disarmed, and the continuing insurgency in the resourced-rich Cabo Delgado province created uncertainty in the run up to the elections. The tenuous relationship between the ruling FRELIMO government and opposition parties, which sometimes lead to violent clashes during campaigns contributed to an uneasy political environment in pre-election period. Whereas historical and structural factors may have partly accounted for the mistrust, concerns about the credibility of the voters’ registration exercise, specifically in Gaza and Zambezia provinces, which did not receive a conclusive response from CNE, escalated the suspicion between the parties and electoral authorities.³

As a sign of the escalating tension and violence that characterized the pre-election period, a prominent civil society activist, Dr. Anastacio Matavele, who led a local election observer group from the Forum of Civil Society in Gaza (FONGZA) was killed by unidentified armed group on 7 October 2019 in Xai-Xai, Gaza. The incident was viewed as an attempt to prevent CSOs from monitoring the elections in light of claims of over-registration in Gaza and possible ghost voters during the 2019 elections.

Despite these challenges, the country remained largely calm and peaceful during the vote itself.

³ Opposition parties and some civil society organisations remained concerned about the origin of an extra 300,000 voters registered in Gaza province, which is contrary to the projected figures provided by the National Institute of Statistics (INE) to CNE, based on the 2017 national census.

b. Legal Framework

Mozambique is a party to key international and regional human rights instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the African Charter of Human and Peoples' Rights (ACHPR). The Constitution of the country allows for the interpretation and integration of fundamental rights and freedoms that are consistent with obligations under UDHR and ACHPR⁴. The Constitution also provides for international and regional instruments ratified by Mozambique to become part of the country's legal framework upon their publication in the Official Gazette. Mozambique is therefore bound by the standards of free and fair elections enshrined in the African Union Declaration on the Principles Governing Democratic Elections in Africa and the African Charter on Democracy, Elections and Governance (ACDEG).⁵

The legal framework of the 2019 elections include Law no. 8/2013 as amended, establishing the Legal Framework for the Election of the President of the Republic and the Members of the Assembly of the Republic; Law no. 3/2019 establishing the Legal Framework for the Election of the Members of the Provincial Assemblies and Provincial Governors; the Law no. 5/2013 as amended by Law 8/2014 on voter registration; Law no. 6/2013 as amended by Law no. 9/2014 on establishing the structure, composition, powers, roles and responsibilities of the Election Management and Administration Bodies as amended; and other guidelines issued by the CNE.

The AUEOM observed that Mozambique embarked on legal reforms by enacting legislation in line with its international and regional obligations. Ahead of the Elections, several amendments were made to the Constitution and elections laws to reflect the outcomes of the negotiations between the Government of Mozambique and the opposition RENAMO, in a bid to streamline the electoral process and address shortcomings identified in past elections. Approximately 41 articles of Law no. 8/2013 were amended by Law no 2/2019 including Article 17 (1) allowing candidates to directly or indirectly through their respective political parties to assign party agents to represent them at all stages of the electoral process. This amendment removes previous restrictions imposed on party agents with regard to participation in specific stages of the electoral process. Other legal reforms included prohibition of using state offices, provincial, district or municipal bodies for political propaganda or campaigning; changes to the state funding and campaign financing rules; and most importantly amendments in the electoral dispute resolution mechanism.

⁴ Article 43 of the Constitution of Mozambique

⁵ ACDEG aims at promoting adherence, by each State Party, to the universal values and principles of democracy and respect for human rights.

The Government of Mozambique and RENAMO successfully negotiated and agreed upon new decentralization arrangements whereby the Constitution and election laws were amended to allow for the election of provincial governors. The winning party list for the provincial, district and municipal assemblies would automatically become the Provincial Governor, District Administrator and Mayor respectively, whether or not the winning party secures a 50%+1 majority vote.⁶ Stakeholders including political parties welcomed the changes noting that they offered the electorate power to decide the occupants of those key political positions.⁷

While AUEOM recognized Mozambique's electoral reform efforts as a positive development, the Mission noted that the reforms were ad hoc, often initiated to address specific issues that arose in the past elections between FRELIMO and RENAMO. The current legal framework also kept the same partisan composition and structure of the CNE and polling station staff. Although this model had worked relatively well in the context of the 2014 elections, its effectiveness is currently being questioned by stakeholders in favor of an independent, professional and non-partisan election management body.

c. Election Administration

The CNE is established by law, with a six-year mandate for its Commissioners. It is responsible for supervising the conduct of the elections, including registration of voters, nomination of candidates and accreditation of observers. The mandate of the CNE was extended by the Parliament to end on the 30 April 2020 to allow it with its to administer the 15 October 2019 Elections. Below the CNE is the Technical Secretariat for Election Administration (STAE), which is a public service body responsible for the implementation of all technical and administrative aspects of the electoral process.

The principles of election management require that elections should be managed by an independent and impartial body as an important means of ensuring the integrity of the electoral process, in the case of Mozambique the electoral commission has a partisan composition. This model seemed satisfactory given the extensive polarization in society and lack of trust between the two major parties – FRELIMO and RENAMO. However, interactions with some stakeholders indicated that the model has over the years failed to build trust and confidence amongst various stakeholders.

Mozambique's partisan model is an arrangement between the main political parties, RENAMO and FRELIMO – where political parties have access to all stages of the electoral process. This implies that at polling station level, 3 out of the 7 polling staff members are seconded by the three (3) major political parties, that is, one for each political party. Although this is envisioned as a confidence and trust building

⁶ Text of the amendments to the constitution of 2004 as amended in 2007 - Law revising the Constitution no.2/2018 <https://clubofmozambique.com/wp-content/uploads/2018/02/Proposta-CRM-revisao-2018.pdf>

⁷ Karl Kossler, 2018. "Conflict and decentralization in Mozambique: The challenges of implementation." IDEA International <http://constitutionnet.org/news/conflict-and-decentralization-mozambique-challenges-implementation>.

mechanism, there were reports of political parties seconding polling staff who do not have the requisite knowledge and capacity in management of electoral processes. There were operational challenges too in terms of decision-making due to the inherent partisan divisions at all levels of the CNE.

The AUEOM noted with satisfaction the timely release of the 2019 electoral calendar by CNE, about fifteen (15) months before the elections. This allowed sufficient time for stakeholders to plan for and scrutinize the implementation of electoral activities. In addition, the CNE provided regular updates and information to the public on preparations for the elections, which, to an extent contributed to trust and confidence in the electoral process.

The AUEOM was informed that the Government of Mozambique provided adequate funding and resources to CNE and STAE to enable them implement key activities of the electoral process on time.

On Election Day, key-polling procedures at polling stations, which the AUEOM visited, were duly followed in accordance with the law. However, concerns were noted regarding the seemingly partisan conduct of some CNE commissioners and staff who were observed receiving and welcoming the FRELIMO presidential candidate, Filipe Nyusi to cast his vote at one of the polling stations in Maputo. Such conduct could undermine the independence of the CNE, especially considering that a similar treatment was not extended to the other presidential candidates.

d. Voter Registration

Ahead of the 15 October 2019 general elections, a new voters' register was compiled. The registration took place in two phases – the first phase was done for the municipal elections held in 2017; and the second phase took place between 15 April and 31 May 2019. In line with good practice for inclusive electoral process, voter registration for the diaspora population in nine (9) countries was undertaken during the same period⁸.

The AUEOM did not witness or observe the voter registration process. However, it was briefed on the challenges encountered, particularly the adverse effects of cyclones *Idai* and *Kenneth*, that left thousands of people displaced and caused power interruptions in the affected areas which impacted on the voter registration process in the affected areas. Despite notable challenges, the CNE successfully registered a high number of voters – which was approximately 90% of eligible voters.

The AUEOM noted the concerns raised by stakeholders, especially opposition political parties and CSOs with regard to the accuracy of the voters' registration figures in Gaza province, where the CNE was allegedly reported to have registered an excess of about 300,000 voters of the targeted projection. Calls by these stakeholders for the CNE to

⁸ South Africa, Malawi, Zambia, Tanzania, Zimbabwe, Kenya, Swaziland, Portugal and Germany.

undertake an independent audit to verify the accuracy of the voters' register were not honoured. A petition made by RENAMO representatives to the Attorney General on the issue of over-registration in Gaza province was reportedly not decided on a timely manner. The Mission observed that the lack clarity on the issue of the accuracy of the voter register, particularly in Gaza province, impacted the trust and confidence of these stakeholders on the credibility of the registration process.

e. Party and Candidate Registration and Nomination

Thirty-nine (39) political parties and coalitions take part in the 15 October 2019 elections. Of these, only three – FRELIMO, RENAMO and MDM – dominated the political scene, including representation in parliament. The Constitution of Mozambique and the Electoral Law guarantee the right of registered political parties and individual citizens to run for elective offices in the country.

Ahead of the general election, major political parties conducted extensive internal consultations or elections to identify their respective candidates for various elective positions. FRELIMO and RENAMO fielded candidates for all elective positions. Four (4) candidates, including the incumbent President Filipe Nyusi of FRELIMO, Ossufo Momade of RENAMO, David Simango of MDM and Mario Albino of the Action Party of the United Movement for Integral Salvation (AMUSI) were officially approved by the Constitutional Court (CC) to contest the presidential election. Two other candidates, including Alice Mabota of the Coalition for Democratic Alliance (CAD), the only female candidate to have ever run for president in Mozambique, were disqualified for their inability to fulfill the required notarized signatures of voters.

There were twenty-six (26) approved political formations that competed for the parliamentary and provincial elections but only FRELIMO, RENAMO and MDM presented full candidates.

The AUEOM noted that Mozambique's legal framework complies with international and regional standards for establishment and functioning of political parties and candidates during the electoral process. For instance, the legal framework provides for political pluralism and genuine choice of candidates, and the candidacy requirements for president, parliament and governor upheld freedom of association. The rights of freedom of association and effective remedy for candidates, which are particularly important in the context of candidacy were protected.

f. Electoral Campaign

Electoral campaigns lasted for 45 days – from 31 August - 12 October 2019. While the AUEOM was not present at the beginning of the campaign period, it received reports from stakeholders that it was largely characterised by violence and intimidation. All the major parties were reported to have violated campaign rules through the destruction

of posters, harassment, intimidation and restriction of freedom of movement of political opponents, thus creating a tense political environment throughout.

The abuse of public resources during the campaign was also a major problem reported by stakeholders. The ruling FRELIMO was particularly accused of using state cars and pressuring public employees to support its electoral campaign. News adverts or coverage of electoral campaigns of political parties by the public broadcaster was also reported to have been dominated by FRELIMO. The AUEOM could not independently verify these claims in view of its deployment schedule. However, it notes that the misuse of state resources in support of a particular party or candidate undermines the fundamental principles of democratic elections.⁹

g. Campaign Finance

A balanced and transparent system for political party financing is important for the prevention of corruption in the context of elections, particularly during campaigning. Therefore, states are obliged under international obligations to regulate campaign financing.¹⁰ Consistent with its international commitment, Mozambique's legal framework provides both for public and private funding of political parties and electoral campaigns.¹¹

The three political parties represented in Parliament receive public funding on a monthly basis to finance their activities. Parties with no representation in Parliament only receive state funds during the electoral period for campaign purposes. The CNE distributed the funds and determined the criteria for allocating it.¹²

The AUEOM was informed that in the run up to campaign period the Government of Mozambique released nearly three million US dollars to fund the campaign activities of all parties. However, opposition parties reported that the CNE did not disburse money to them on time – a situation they recounted occurs in each electoral cycle, which affected their campaigns but benefited the ruling FRELIMO party.¹³ The Mission notes that delay in disbursement of public funds to political parties makes it difficult for smaller parties who depend largely on state funds to campaign effectively.

h. Participation of Women, Youth and Persons with Disabilities

Active participation of women, youth, civil society organizations, and people with disabilities in the electoral process is critical for the deepening of democracy and enjoyment of human rights. The AUEOM observed that a significant number of women participated in the 15 October 2019 electoral process as voters, election agents,

⁹ AU ACDEG, Art.17.

¹⁰ AU ACDEG, Art.33; UNCAC, Art.7.

¹¹ Law 2/2019.

¹² The allocation criteria set by the CNE were based, as a rule, on parliamentary representation and the proportion of nominations submitted, according to the places to be filled.

¹³ The law states that funds are to be distributed 21 days before the official campaign starts.

polling officers and citizen observers. The Mission noted that 57% of the polling staff in all polling stations visited across Mozambique were women. Furthermore, 38% of the party agents and 60% of citizen observers were female.

Although Mozambique has ratified the UN Convention on Rights of Persons with Disabilities, there were inadequate infrastructure or special measures in place to aid, for instance, Persons with Disabilities (PWDs) to effectively participate in the electoral process. This implies that blind persons could only vote through the assistance of other persons.

Despite an enabling legal framework that guarantees equal rights of men and women in political, social and economic life, women remained under-represented as candidates in the 15 October 2019 elections. All the four (4) presidential candidates were men, although some parties made efforts to meet the 30% women quota in the parliamentary candidates' lists.

According to Mozambique's National Institute for Statistics (INE), the youth make up around a third of the country's 30 million population. There were varied efforts by political parties, the government and civil society organizations to ensure that youth participate meaningfully in the 15 October elections. Youth notably participated as polling officials, political party monitors, citizen' observers as well as political candidates.

i. Media

Media in Mozambique is regulated under the Press Law 8/1991, which establishes the rights and obligations of the media as well as the responsibilities of the Supreme Mass Media Council (*Conselho Superior da Comunicação Social, CSCS*) – the regulatory body. The CSCS is mandated to ensure the independence and freedom of the media and the right of access to information.

The AUEOM observed that both public and private media outlets operated freely and enjoyed relative confidence and trust of stakeholders during the electoral period. Despite this, media coverage of political issues remains largely polarized in favour of either the ruling or opposition parties. Some stakeholders noted the high prevalence of 'fake' news and misinformation by privately-owned, "opposition-aligned" media outlets. Others reports that news adverts and coverage of political campaigns by the public broadcaster was largely in favour of FRELIMO.

j. Civic and Voter Education

Civic and voter education is critical in ensuring that voters know their rights and duties and make informed choices with respect to an electoral process. To be sufficiently inclusive, voter education should be tailored to suit different categories of voters, such as women, youths, the elderly, and people with disabilities regardless of who is providing it. Importantly, voter education should be complemented by civic education

efforts to ensure that the electorate appreciates the relevance of elections in broader governance issues.

The electoral legal framework of Mozambique gave the CNE the primary responsibility for conducting civic and voter education, with the support of political parties and civil society organisations (CSOs), including media. However, the law restricts all entities from providing civic and voter education during the campaign period.

The AUEOM notes that the CNE and STAE carried out extensive civic and voter education programs mainly through the use of voter educators in the field, flyers and the media to educate voters on voting procedures, maintaining peace and security. To ensure wide outreach, the CNE and STAE displayed posters with voting instructions and hired personnel to deliver civic and voter education messages in local dialects. The CNE also made commendable effort by including PWDs in civic and voter education. Their efforts were also complemented by CSOs, political parties and media.

The AUEOM views the restriction of voter education to the period before the start of campaigns as unreasonable given the long period that campaign lasts and the country's high illiteracy rate. The Mission observers noted that, on Election Day, some voters were evaluated as not adequately familiar with voting procedures. Hence, they observed that polling staff spent quite some time to educate voters before casting their ballots, which delayed the voting process in some polling stations.

k. Role of Civil Society and Domestic Observers

Civil Society Organisations (CSOs) played a significant role in the electoral process through provision of civic and voter education, advocacy for electoral reform, training and election observation. While the state recognizes the role of CSOs in Mozambique, the AUEOM noted the encumbrances some organisations faced.

Despite recognition by the state and an enabling legal framework, the AUEOM observed that CSOs faced series of challenges during the 2019 elections. For instance, the Mission received reports of serious delays in the accreditation of some local observer groups, especially in Nampula, Zambezia, Tete and Gaza. The CNE, however, attributed the delays to incomplete and late submissions of the accreditation application forms. In a sign of the challenging environment that CSOs operated in, a prominent civil society activist, Dr. Anastacio Matavele, who led a local election observer group from the Forum of Civil Society in Gaza (FONGZA) was killed by an unidentified armed group on 7 October 2019 in Xai-Xai, Gaza. The incident was widely viewed as an attempt to prevent CSOs from monitoring the elections in light of claims of over-registration in Gaza province and possible ghost voters during the 2019 elections. The motive for his killing is yet to be officially established by the Police.

I. Diaspora Voting

The Constitution of Mozambique provides for voting by all citizens who reside out of the country. Article 4(2) on the Right of Suffrage in the Mozambican Electoral Law also provides for the registration of eligible citizens as a pre-condition to exercise the right to vote.

Diaspora voting came into effect a decade after the promulgation of the enabling law when all was set to administer the process. To date, Mozambique has opened diaspora voting to its citizens in nine countries, namely: Germany, South Africa, Malawi, Portugal, Zambia, Swaziland, Tanzania, Zimbabwe, Kenya, and to exercise their right to vote. A total of 20,570 Mozambicans in the diaspora were registered to vote in the 15 October 2019 elections.

Despite the number being comparatively small, it is commendable that Mozambique afforded its citizens the right to vote, which ensured inclusivity in the electoral process, in line with international good practice for democratic elections.

III. ELECTION DAY OBSERVATIONS

The AUEOM observed opening, closing and counting procedures in 12 polling stations and voting in 117 polling stations across nine (9) Provinces.¹⁴ In the stations observed, the environment was calm and peaceful, and the process was transparent and accessible. Generally, the implementation of voting procedures guaranteed the enjoyment of electoral rights of eligible voters without any unreasonable restriction.

a. Opening Process

All the voting stations visited opened on time. Opening procedures were followed and the entire process was carried out in a transparent manner. There were sufficient resources, human and material, at each voting station. AU observers noted the presence of party agents and local and international observers in all stations observed during the opening.

b. Voting Process

Voting was conducted in a generally calm and peaceful environment throughout the day. The process was carried out without any unreasonable restrictions and in a manner that facilitated broad participation. Where voters were restricted or turned away, it was either due to lack of proper identification documents or their names not found in the register for that particular voting station.

Poll workers diligently followed the voting procedures. While compliance with the procedures is critical to ensuring a transparent and credible process, AU observers noted that, in some cases, it contributed to slowing the voting process. For instance, it was observed that poll workers insisted on demonstrating the voting steps even though this was not needed by some voters. On average, a voter takes about 3 minutes to complete the voting process.

Over ninety-five percent of voting stations observed were situated in public places that were largely accessible to voters with disabilities. A few were, however, placed in multiple-storey buildings or elevated grounds.

Secrecy of the vote was ensured in most of the voting stations observed, mainly due to the layout of the premises, which also allowed for easy flow of voters and prevented overcrowding.

Ballot boxes were placed in public view of voters, party agents and observers, which contributed to the transparency of the process.

¹⁴ *Inhambane, Gaza, Sofala, Nampula, Tete, Zambezia, Cabo Delgado, Maputo and Maputo city.*

Assistance was provided to voters unable to vote independently: this was largely impartial. The categories of voters assisted include the visually impaired, elderly persons with infirmities, and those who demonstrated ignorance of the voting procedures. In all cases observed, the assistance provided was seen to protect the right to secrecy of the vote.

Voting priority was given to the elderly, pregnant women, nursing mothers and disabled voters. This special measure facilitated broader participation in electoral process.

Party agents and local and international observers were present in over 95 percent of voting stations observed and were able to follow all stages of voting without interference or restrictions, which contributed to the transparency of the process. Only agents from FRELIMO and RENAMO were found in all polling stations observed.

c. Closing and Counting Process

All voting stations observed closed on time at 6:00 PM, although in the majority of cases, voters who were still in the queue, but this was in accordance with the law and stipulated procedures. Counting was commenced immediately after the last voter had casted ballot.

Closing and counting procedures were largely followed in all voting stations observed. Discrepancies were however observed in four stations, but the polling staff had difficulties in properly reconciling the figures.¹⁵

Party agents and local and international observers were present during the counting and closing process, which increased the transparency of the process. In all stations observed, party agents were given copies of the results protocol, which were also posted for public scrutiny, except in one station in Nampula province where this procedure was not followed.

Security personnel were visibly present throughout the opening, voting and closing and counting processes. AU observers noted that their conduct was professional and non-intrusive. Their presence contributed to a peaceful, secure and conducive environment, which enabled voters to exercise their democratic rights without hindrance.

¹⁵.These were EPC 7 de Abril in Nampula, Casa Prov. Cultura in Pemba district, Nampula Province, Josina Machel Primary School in Tete City, Tete province and Escola Primaria Completa De Namuinho, in Quelimane District, and Zambezia province.

IV. POST-ELECTION DEVELOPMENTS

a. Transmission and Tabulation of Results

Transmission of results of the 15 October 2019 elections began immediately after close of the polls. The tabulation process was done at three levels: district, provincial and national levels, with each level having a specified timeline to complete the process as follows: 16-18 October for the district level; 19-21 October for the provincial level; and 22 October for the national level.

Due to the short-term nature of its deployment, the AUEOM only observed the tabulation process at Maputo province and at the national level. The tabulation process in these places was assessed as transparent and accurate and done according to laid down procedures. While party agents were present in the two tabulation centres where the AU core team members observed, there were media reports of misconduct and denial of access to party agents and observers in other tabulation centres across the country. Some opposition candidates also lodged complaints at the district and provincial level against certain polling station results. The AUEOM could not independently verify this information prior to its departure on 22 October.

b. Announcement of Results

Although provisional results were announced after completion of the aggregation process at district and provincial level, the official results of the 15 October 2019 elections were only announced by the National Electoral Commission (CNE) on 27 October 2019. According to the results published by CNE the incumbent President Filipe Jacinto Nyusi of FRELIMO party scored 4,507,422 votes – representing 73% of the valid votes cast (6,174,237) and was declared winner of the presidential election. His closest rivals, Ossufo Momade of RENAMO party garnered 1,351,142 votes – representing 21.88% of valid votes cast, while David Mbengo Simango of MDM party got 270,413 votes – representing 4.38% of the votes. The overall turnout of the registered voters was 50.74%.

The published results of the parliamentary and provincial elections saw a similar win for FRELIMO. The party won 184 of the 250 National Assembly seats – representing over two-third majority, while RENAMO and MDM had 60 and 6 seats, respectively. In the provincial assembly elections, FRELIMO also won a majority in all 10 provinces of Mozambique, thus holding the governorship positions in these provinces. The appointment of governors by the majority party in each province rather than the government was a key demand of RENAMO during peace talks. Thus, the provincial poll outcome is seen as central to the survival of the peace agreement, as RENAMO had wanted to win control of a number of provinces to achieve its long ambition for influence.

The announcement of the official election results by CNE was not without challenges. Eight (8) of the seventeen (17) members of the CNE – mostly opposition members – voted against approving the results, alleging it did not “faithfully reflect popular will”. The split reflect the politicised nature of the election management bodies in Mozambique. While the results published by the CNE were official, they remained provisional until their validation by the Constitution Court on 23 December 2019.

c. Electoral Dispute Resolution

Even before the official announcement of results, several complaints were lodged at the district electoral courts mostly by opposition parties. The complaints included allegation of fraud and bias committed by polling staff, expulsion of opposition party delegates from polling and tabulation centres, ballot stuffing, intimidation and complicity by polling staff and security officials. Most of these complaints were dismissed either for lack of sufficient evidence or were not lodged within the legal deadline or falls under the criminal laws of the State, which cannot therefore be dealt with as electoral offenses by the district tribunals and Constitutional Court.

One notable case was the official complaint submitted by RENAMO to the CNE and Constitutional Court in which it requested the annulment of the election results due to “massive electoral fraud” and other misconduct that took place during the elections. The Constitutional Court however ruled that not enough evidence was submitted to justify annulling the election results. However, two Judges of the Constitutional Court were reported to have dissented the majority ruling, claiming that the counting and tabulation of votes was fraught with irregularities, which puts the transparency of the electoral process into question.

d. Political Developments

In the immediate aftermath of the 15 October 2019 polls, there were media reports of protests and disturbances in a number of polling stations in some districts and provinces. But these were quickly quelled by security forces and did not pose any significant security threat. However, on 21 October 2019, before the announcement of official results, RENAMO publicly rejected the results, calling on all Mozambicans to refuse the outcome. It rejected the results on the basis of a number of alleged wrongdoings, including discrepancies during the voter registration process, the violence perpetuated by the incumbent in complicity with security forces during the election campaign, the barring of its delegates and election observers on election day, ballot stuffing and the politicization of security forces during the elections, all of which it considered as contravening the ‘spirit’ of the August peace agreement.

While the country remains largely calm and peaceful, RENAMO’s rejection of the election results created an uneasy situation, not least because of its negative implications to the ongoing peace process. Even before the elections, the party’s military wing had rejected the August 2019 peace agreement signed by its political wing and the government and had refused to be disarmed.

VI. RECOMMENDATIONS AND CONCLUSION

a. Recommendations

The following recommendations are offered for consideration about Mozambican stakeholders for improvement of future elections in the country:

The Government of Mozambique:

- Continue on the path of reforms to make the electoral legal framework fully align with international and regional standards for democratic elections. In particular, undertake a comprehensive review of the electoral legal framework that goes beyond the current ad hoc approach and depoliticize the electoral institutions;
- Consider expanding diaspora voting to Mozambicans living in other countries;
- Promote a level playing field by ensuring that campaign finance regulations and laws related to the misuse of state resources in support of a particular party or candidate during electoral campaigns are enforced;
- Ensure speedy conclusion of the investigation surrounding the death of Anastacio Matavele and ensure that justice is served;
- Strengthen national mechanisms that redress election-related disputes in a fair and timely manner; and
- Strive to promote a peaceful and enabling political environment that is devoid of intimidation, harassment and violence against political opponents.

The Election Management Body (CNE/STAE):

- Take concrete steps to instill confidence in all stages of the electoral process. In particular, consider putting in place mechanisms such as independent audit to instill confidence in the accuracy of the voters' register;
- Simplify the accreditation process for civil society organisations interested in observing elections;
- Ensure that the core values and principles of independence, neutrality and impartiality of the institution are upheld by staff and Commissioners at all times.
- Promote a level playing field among electoral contestants and ensure credibility in the electoral process, CNE/STAE staff must not be seen to favour one party or candidate in any form or shape;
- Work with the Government and relevant stakeholders to ensure laws related to misuse of state resources are enforced;
- Enhance transparency of the results management process by ensuring that agents of candidates and observers are given unfettered access to every stage of the tabulation process;
- Improve civic and voter education and consider lifting the prohibition of voter education by civil society organisations during electoral campaigns; and
- Improve training of polling staff on voter instruction and reconciliation procedures.

Political Parties

- Collaborate with the government, CNE and CSOs to reform electoral management in Mozambique, in particular, electoral dispute resolution and other aspects of the electoral process;
- Adopt measures aimed at increasing the role and participation of women and youth within political parties;
- Utilize the dialogue space created by the CNE as a forum for discussion, prevention and resolution of electoral challenges in a peaceful and consensual manner;
- Respect the outcome of electoral processes or seek redress through established legal means. Refrain from any act which may undermine the peace and stability of the country;
- Ensure a peaceful and enabling environment that is devoid of intimidation, harassment and violence against political opponents during electoral campaign;
- Fully comply with campaign finance regulations and laws on the misuse of state resources; and
- Strengthen capacity of political party agents through robust training on electoral procedures and monitoring.

The Media

- Continue investing in equitable, investigative, responsible and balanced reporting of the electoral processes to contribute to a peaceful atmosphere before, during and after the elections.

Civil Society Organisations

- Continue with advocacy initiatives on electoral reforms, particularly promoting women, youth, minority groups and persons with disabilities' political participation;
- Adopt a collaborative approach with the CNE and STAE to strengthen electoral processes in Mozambique; and
- Ensure timely submission of application for accreditation.

Security Agencies

- Remain professional and impartial in providing security services to election stakeholders throughout the electoral period, including upholding human rights during security operations; and
- Ensure speedy conclusion of the investigation surrounding death of Anastacio Matavele and ensure that justice is served.

b. CONCLUSION

In view of its findings and overall assessment, the AUEOM notes that the 15 October 2019 general elections in Mozambique were generally peaceful, inclusive and competitive. The Mission observed improvements in the legal framework and general management of the electoral process, which conform to regional and international standards for democratic elections. However, the escalating violence during the campaign period, the lack of clarity on the accuracy of the voters' register, administrative encumbrances in the issuance of accreditation to civil society organisations, and restriction of party agents' access to some tabulation centres negatively impacted the trust and confidence of some stakeholders on the overall credibility of the electoral process.

The AUEOM highly commends the various stakeholders for their invaluable contribution to achieving this outcome. In this regard, it would like to recognize specifically the Government and people of Mozambique, the CNE and STAE, political parties, security agencies, civil society, and the media for their steadfast commitment to building a democratic and just society.

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Democracy, Elections & Constitutionalism

Election Observation Mission (AUEOM)

10/15/2019

Report of the African Union Election Observation Mission to the 15 October 2019 General Elections in the Republic of Mozambique.

African Union Election Observation Mission

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