



EISA ELECTION OBSERVER MISSION TO THE 2019 PRESIDENTIAL, LEGISLATIVE AND PROVINCIAL ELECTIONS IN THE REPUBLIC OF MOZAMBIQUE

PRELIMINARY STATEMENT

17 OCTOBER 2019

Introduction

This statement presents the preliminary findings, conclusions and recommendations of the Electoral Institute for Sustainable Democracy in Africa (EISA) Election Observer Mission (EOM) deployed to the 15 October 2019 presidential, legislative and provincial elections in the Republic of Mozambique. This statement is being issued while the results aggregation process is at the preliminary stages. The EISA EOM therefore presents the findings up to the close of the polls and the first day of district-level aggregation. EISA will issue a final report covering the entire electoral process, after the declaration of the final election results.

The EOM's assessment of the electoral process is based on the principles and obligations for democratic elections stipulated in the following international benchmarks: the African Union (AU) Declaration on the Principles Governing Democratic Elections; the African Charter on Democracy, Elections and Governance (ACDEG); the Principles for Election Management, Monitoring and Observation (PEMMO); and the legal framework for elections in Mozambique. EISA's observation methodology is guided by the Declaration of Principles for International Observation and its attendant code of conduct for observers.

EISA has deployed EOMs to elections in Mozambique since 1999 and has maintained a field office in the country since 2004. For the 2019 elections, the EISA EOM deployed 40 international observers comprised of 20 long term observers (LTOs) and 20 short term observers (STOs). The EISA EOM is led by His Excellency, John Dramani Mahama, former President of Ghana, deputised by Mr. Denis Kadima, EISA's Executive Director. The LTOs arrived in Mozambique on 26 August 2019 and were deployed in the 10 provinces and the City of Maputo. During their pre-election deployment, the LTOs visited 99 districts where they observed among other things, the electoral campaigns, the training of election officials, and the distribution of election materials. The LTOs also engaged key stakeholders in their areas of deployment, including the election management authorities at all levels, the police, the judiciary, political parties, citizen observers, and civil society organisations (CSOs). On election day, the full EOM visited 249 polling stations across 21 districts of the country. The LTOs will remain in the country until 30 October 2019 to cover the results aggregation and the complaints processes.

This report gives a summary of the situation regarding the electoral campaigns; the state of preparedness of the EMB; as well as the political and security environment up to and including the voting and counting operations on Election Day and the first day of district-level aggregation.

Preliminary findings

Political environment

The 2019 national elections mark another milestone in Mozambique's history as they are the sixth national elections since the adoption of multiparty democracy. The EISA EOM commends Mozambique for upholding its obligations to conduct regular elections. Similar to the 2014 national elections, the 2019 electoral process unfolded within the context of political negotiations. The recent negotiations culminated in the signing of the third Peace Agreement since the end of the civil war. The legal and institutional framework for elections in Mozambique has been largely shaped by political negotiations that were intensified after the 2009 elections. The 2019 Peace Deal addresses important aspects of the post-civil war political divergences such as decentralisation of governmental structures, demobilisation, disarmament and re-integration of former rebels. The 2019 national elections are the first national elections to be held since the death of Mr. Afonso Dhlakama, the late leader of the Renamo party.

While the pre-election context was devoid of widespread election-related violence, there were deep security concerns driven by the insurgency in some districts of Cabo Delgado Province. The security concerns were further deepened by the emergence of the Renamo Junta as a result of internal conflicts within the Renamo party after the emergence of Mr. Ossofu Momade as its new leader. The violence in Gorongosa district of Sofala Province in the lead up to the elections was attributed to the Renamo Junta. The EISA EOM noted with concern that the elections took place at a time when the demobilisation, disarmament and reintegration of 5,221 Renamo fighters was yet to be completed. There were isolated incidents that occurred during the campaigns, including clashes amongst party supporters, destruction of campaign materials, armed attacks on candidates, a stampede and traffic accidents.

The mission noted with concern the assassination of Mr. Anastácio Matavele, a senior civil society actor, a few days before the elections. The incident raised deep concerns because the perpetrators were reported to be members of the Special Operations Unit of the Riot Police.

The political context in Mozambique is very much characterised by deep mistrust of public institutions and processes, most especially, the electoral authorities. The lack of public trust has shaped the political negotiations and the decisions originating from that process. The context of the 2019 elections was no different as most stakeholders consulted by the EISA EOM expressed their lack of trust in the government, the police, the national electoral commission (CNE) and the Technical Secretariat for Election Administration (STAE).

Legal framework

The legal framework for the conduct of elections in Mozambique is provided by the Constitution, the Presidential and Parliamentary Elections Law, the Law on Election of Provincial Assemblies and Governors, the Voter Registration Law, the National Elections Commission Law, the Political Party Law, the Media Law and other relevant legislations.

The Constitution of the Republic of Mozambique creates an independent electoral management body (EMB), the National Elections Commission (CNE), which is supported by a secretariat called the Technical Secretariat for Electoral Administration (STAE). It enshrines the principle of political pluralism, the doctrine separation of powers and provides a bill of rights. As such, the Mission finds that, the Constitution is consistent with the values in the African Charter for Democracy, Elections and Governance (ACDEG). The Charter, indeed, enjoins state parties, of which Mozambique is one, to ensure that they provide for the civil and political rights that enable citizens space to exercise their democratic rights, while also creating robust electoral institutions that enable citizens to express their political will.

The political negotiations since the 2014 elections led to constitutional amendments ahead of the 2019 national elections. Most notable among the reforms are: further decentralisation of the governmental structure through the introduction of elected provincial governors; further improvement of the decentralised complaints process to remove the requirement for prior complaint at the polling station level before appealing to the district courts and the Constitutional Council; and the provision for disputed ballots to be resolved at the District Electoral Commissions rather than the National Commission. The EISA EOM is pleased to note that its recommendations in 2018 for the removal of the requirement for prior complaints principle was adopted.

The electoral justice system in Mozambique requires complainants to present complaints within a specified time limit for specific stages of the electoral process.¹ The EISA EOM considers this system as limiting access to electoral justice. The principle of fair hearing should be available at any point in the electoral process.

The EISA EOM notes that, while the electoral framework provides a sufficient basis for the conduct of competitive elections, the frequent and regular amendment of the Electoral Law in every electoral cycle in response to the demands of political stakeholder, maintains an ad hoc approach to legal reforms. This ad hoc approach should be reconsidered as it only addresses the issues arising during a given electoral process without a holistic view of the legal framework, thus leaving out wider constitutional issues that have bearing on the elections.

Electoral system

Mozambicans elected provincial governors for the first time in the 2019 elections. The provincial governors are elected through the head of list system in which the head of the winning list in the provincial assembly election will emerge as the provincial governor. The

¹ For instance, complaints about voter registration must be raised during the timeframe for registration.

members of the provincial assembly and governors are elected through a single ballot. Some stakeholders consulted by the EISA EOM raised concerns about the lack of clarity for the voter to make two choices for the two offices through a single ballot. The EISA EOM wishes to emphasise that clarity of choice for voters is an important aspect of the integrity and transparency of an electoral process.

The electoral management body

The Constitution of Mozambique provides for the establishment of election management authorities. The institutional model for election management in Mozambique is peculiar and responds to the context and history of the country. Having observed elections in Mozambique since 1999, EISA notes that the institutional framework for election management has evolved over time and continues to be indicative of the broader contextual challenge of lack of trust between Frelimo and Renamo.

The EISA EOM wishes to reiterate its previous observation that, while the political party model of election administration may be considered inclusive, the representation of political parties within the technical structures of the election management body compromises the technical competence, independence and professionalism required of the institution at the technical level. After 15 years of working in Mozambique, the EISA EOM is of the opinion that the partisan model of election management needs to be reconsidered for a more independent model.

The decentralised structure of election management adopted in Mozambique is expected to make administration more effective across the country, however the expected efficiency has not been achieved because the provincial and district commissions and STAE offices are appointed as autonomous structures that are not accountable to the CNE. The EISA EOM reiterates its previous observation on the gaps in the reporting chain from the district to the provincial and on to the national structures of the electoral commission. EISA observers in their interactions with the district and provincial commissions noted the lack of clarity in lines of communication and accountability between the lower levels and the national level. Similar observations were made in 2013, 2014 and 2018. These gaps should be addressed to make the lower levels accountable to the CNE by empowering the CNE to appoint and oversee the lower levels of its structures.

Voter registration

The constitution of Mozambique provides for universal suffrage. In this regard, citizens who have attained the age of 18 are eligible to vote. The registration of voters for the 2018 municipal elections that was conducted in 53 municipalities early in 2018 remained valid for the 2019 national elections. The CNE conducted further voter registration from 15 April to 30 May 2019 to capture voters who were not registered in 2018 and replace lost cards from 2018. Operational aspects of the registration process were also affected by the cyclones that impacted on infrastructure and led to the displacement of the population in parts of Sofala and Zambezia provinces. This necessitated the extension of the registration period by 15 days. The EISA EOM is pleased to note that its recommendation in 2013, calling on the CNE

to provide gender disaggregated voter registration statistics was implemented. Based on the disaggregated data published by the CNE, women constituted 53.09% of the registered voters for the 2019 elections.

The 2019 elections were held while a case questioning the credibility of the voter register was pending before the Attorney General. All the stakeholders consulted by the EISA EOM raised concerns about the credibility of the 2019 voter register. Considering that the voter register statistics forms the basis for allocation of parliamentary seats, this issue attracted significant attention and commentary. The EISA EOM as well, notes the discrepancies between the registration figures and the national population census figures in Gaza and Zambezia provinces. The net effect was a reduction of four seats in Zambezia province and an increase of eight seats in Gaza province.

The EISA EOM notes that a credible voter register is the foundation of a credible electoral process. It is therefore regrettable that the concerns about the voter register were not resolved before the elections. The EISA EOM is of the opinion that the allocation of seats on the basis of voter registration figures rather than population census figures entrenches the practice of politicising voter registration statistics. Furthermore, the absence of a credible civil register creates a gap in the authentication of voter registration statistics.

The electoral campaigns

EISA LTOs were in the field throughout the 45 days of electoral campaigns from 31 August to 12 October 2019. During this period, EISA observers followed the campaigns in 99 districts across the 10 provinces and Maputo City.

In line with international principles, public funding is provided for campaigns in Mozambique. For the 2019 elections 180,000,000 meticaís was allocated as public funds for political campaigns. Parties consulted by the EISA EOM mentioned the late disbursement of funds. The funds were released on 30 August 2019, a day before the start of the campaign period, and it took time for the parties to further disburse the funds within their structures across the country. Smaller parties were the most affected by the delayed disbursement of party campaign funds, as their campaigns largely depended on public funds.

The EISA EOM however notes that the legal provisions on party and campaign finance does not regulate private funding of campaigns. Specifically, there are no ceilings on private donations to campaigns. This gap leaves the electoral process open to the undue influence of private donors and illicit funds.

The campaign period was devoid of widespread violence, but there were incidents that led to loss of lives during the campaigns, such as car accidents and a stampede. The EISA EOM also observed a trend of political intolerance demonstrated by confrontations between party supporters and destruction of rival party campaign materials. EISA LTOs witnessed some acts of intolerance during the campaign phase. For instance, in Angonia District of Tete province, traditional leaders reportedly barred opposition parties from campaigning in their areas of jurisdiction. The EISA EOM also observed some cases of attacks on candidates in

some provinces like Zambezia and Maputo during the campaign period. The EISA EOM condemns such acts of intolerance and intimidation.

The EISA EOM also observed the use of state resources by all parties in their areas of influence. Government vehicles were seen at campaigns with number plates covered with campaign materials.

Some of the opposition parties consulted by the EISA EOM expressed dissatisfaction about the unfair media coverage of their campaigns by the State-owned media.

Gender, youth and persons with disabilities

The Constitution provides for equality before the law. Mozambique is party to the Southern African Development Community Protocol on Gender and Development, and embraces the principle of gender equality. The mission notes the participation of women in the pre-election period was evident, particularly in the campaign process. However, there is a continuing demand from stakeholders that political parties must enhance the participation of women, as there is no gender parity with respect to positions of responsibility. Similar complaints are made with respect to the youth that are the bedrock of campaign activities, as observed during the campaign phase. The EOM notes that the legal framework permits persons with disability to be assisted by persons of their choice.

However, at the level of women's representation in elective positions, the numbers are much lower. The outgoing parliament had 39% women represented. In the 2019 elections, there were no female presidential candidates, and out of the 36 provincial governorship candidates, only five were women.

Role of security agencies

It is the role of the Police to ensure peaceful elections. During the observation process, the Mission noted that some of the critical stakeholders in the Mozambican electoral process lacked confidence in the security agencies of the State, who they alleged to be biased in favour of the ruling party. While there were no incidents of open use of force by the police during the campaigns and on election day, there were some incidents that took place during the campaign phase that pointed towards police bias as seen in the unequal security coverage of party campaigns. The murder of Mr. Anastacio Matavele, a civil society leader, in Xai-Xai in Gaza by men identified as members of the special unit of the riot police also pointed towards covert violence.

Preparedness of the electoral management body

Based on its observations of the pre-election period, especially the preparations by the CNE-STAE such as the set up of over 20,000 polling stations across the country, training of personnel and distribution of materials, the EOM observed that the CNE-STAE was satisfactorily ready to conduct elections on 15 October 2019.

The EOM commends the authorities for the efforts taken to ensure that Mozambicans living abroad and individuals who are on election day duties are able to vote. These measures contributed to making the process more inclusive.

The CNE-STAE were guided by the electoral calendar in its preparations for the elections. Overall, the CNE-STAE largely complied with the timetable. The training of electoral staff was done largely on schedule.

Stakeholders consulted by the EOM expressed distrust in the CNE-STAE. The EISA EOM also observed that the CNE-STAE does not have a formal platform for stakeholder engagement. Such platforms provide a forum for open consultation and could bridge the gap between the CNE-STAE and key stakeholders.

Civil society

The EISA EOM regrets the delays in the accreditation of citizen observers. Based on its consultation with civil society groups, it noted that the main platform for citizen observers received timely accreditation for only half of its observers. The EISA EOM notes that there were similar complaints during previous elections. The EISA EOM calls on the Mozambican authorities to spare no efforts in creating a conducive environment for both citizen and international observers, as mandated in article 22 of the ACDEG.

Election day findings

Election Day operations were conducted in a calm atmosphere throughout the day. Judging from the queues at most polling stations at opening time, Mozambicans showed an eagerness to exercise their right to vote. The process was overall well organised, though there were isolated irregularities reported by EISA observers. The EISA EOM noted that due to the volatile situation in Cabo Delgado, seven polling stations did not open on election day.

The majority of the polling stations visited (94%) opened at the stipulated opening time of 07.00 hours, while the few that opened later were within 15 minutes of the official opening time. The stipulated procedures for opening and voting were followed to a large extent in all the polling stations visited.

The participation of women as election officials, party agents and observers was noted, as 51% of election officials, 28% of party agents and 38% of citizen observers encountered by EISA observers on election day, were women. The EISA EOM also noted that young people participated in the process significantly in the same roles.

Security officials were visible at all polling stations in a manner that was considered unobtrusive. Most of the polling stations visited (79%) were accessible to persons with disability. The inaccessible stations were either located upstairs or in facilities with very rough surfaces. Priority was given to persons with disability, the elderly, nursing mothers and other persons requiring assistance.

Party agents were present at all polling stations visited and they were allowed to discharge their mandate without hindrance, the predominant parties being Frelimo, Renamo and MDM. Some smaller political parties did not delegate agents to watch the process on their behalf.

EISA observers in Chokwe, Gaza Province were advised of the arrest of 9 party agents from the Nova Democracia party on allegations of using fake accreditation documents.

At 15 out of 215 polling stations visited, observers noted disruptions to the process and in 10 of these cases, the voting process was stopped to resolve various issues. The observer team in Nacala Port witnessed an incident where two electoral officials were arrested after they were caught with pre-marked ballot papers.

EISA observers were present at 20 polling stations for the close of the polls. The process was peaceful and orderly. However, there were instances where there were discrepancies between the number of ballot papers in the different ballot boxes. Considering that all voters received the same number of ballots, the discrepancies could not be easily explained. Observers also noted the slow pace of the ballot reconciliation and the counting processes that went late into the night. The procedure was tedious and time consuming. This is linked to the high percentage of excess ballots provided at the stations and the process of cancelling unused ballot papers. The EISA EOM is of the view that these processes could be further streamlined.

The aggregation process

All EISA observers remained in the field to observe the aggregation process at district levels. All EISA observers except the teams in Chokwe District in Gaza province and in Tete City, were granted access to the district aggregations centres in their areas of deployment. It was however noted that the district level aggregation was yet to commence in most of the centres visited. Observers were informed that the aggregation will commence on 17 October 2019.

The STAE Director in Chokwe, Gaza Province initially refused to advise where aggregation will take place, or to provide any information on the process. In Tete, EISA observers were advised that only STAE technical personnel were permitted in the aggregation process.

EISA LTOs will continue to observe the district and provincial level aggregation process over the course of the next week.

Recommendations

Based on its observations so far, the EISA EOM offers the following recommendations:

- The parliament should consider a more inclusive and wholistic legislative review that ensures the codification of Mozambican Electoral Law.

- The parliament should consider further reforms to strengthen the institutional framework for election administration to make provincial and district structures accountable to the CNE. Further reforms should also be considered to harmonise the policy and technical arm of the election management body, preferably into one single independent body.
- The CNE-STAE should stick to the statutory timelines for the disbursement of campaign funds to political parties.
- The CNE-STAE should review the accreditation procedures for citizen observers to ensure timely, user-friendly and efficient consideration of accreditation requests.
- The CNE-STAE should establish a platform for stakeholder engagement to provide space for open consultation and promote the transparency of the electoral process.
- The CNE should take steps to simplify and speed up the ballot reconciliation and counting process.
- Political parties should take more deliberate steps to adopt affirmative actions to promote the participation of women, youth and persons with disability.
- The EOM recommends that the Police continue to build the levels of stakeholder trust through enhanced professionalisation.
- There must be greater transparency in future voter registration exercises

Preliminary Conclusion

The EISA EOM commends Mozambique for upholding democratic norms through the conduct of regular elections and the country's commitment to sustainable peace.

Cognisant of the fact that the process is yet to be completed, the EISA EOM notes that election day procedures were carried out in a satisfactory manner.

However, key aspects of the process such as the security challenges, the voter registration, the campaigns and selective accreditation of citizen observers posed challenges to the integrity of the elections.