Mozambique

Introduction

Corruption around the financing of political parties represents one of the greatest threats to democratic and economic development in the world. Political parties and political candidates have always needed money to compete in elections and to carry out their day-to-day activities. The purpose of the work against corruption in the area of political finance is not to reduce the amount of money available to political parties, but rather to ensure that this money does not come from illegitimate and/or potentially corrupt sources. Moreover, it is intended that political parties should be accountable to the state supervisory bodies and to the public in general in respect of the funds at their disposal.

It is vital to avoid the risk of corruption in political financing and to eliminate the potential for corrupt exchanges between political parties and their donors. Such exchanges could possibly influence the decision-making process and open the way to favours or advantages of different kinds being granted. This can result in people becoming weary of the political process and losing trust in governments. The establishment of counteragents to the abuse by the ruling party of state resources (such as state-owned media, the misuse of state goods and services during elections) has likewise been shown to be crucial.

There are many tools that may be used for this purpose. For example, legislators can restrict private donations (local and foreign) to political parties by passing less permissive laws, and they can put a cap on spending on election campaigns by parties and candidates. Furthermore, legislators can pass legislation that is more stringent in terms of disclosure by political parties of funds received (detailed information on amounts and donors, etc) and expenditure (what was done with the funds donated).

Additionally, Parliament could create a department to deal with the financial activity of political parties in the terms set out above. It goes without saying that this department should be one that functions effectively and has the power to oversee all political parties, including the ruling party. In other words, it is suggested that such a department has powers similar to those of an ombudsman.

Thus, the Crinis Project or Nuru Project in this case, is driven by the idea that a healthy political contest requires financial resources, but that these should not pose a threat to democracy or to the country in general. There is general consensus that the absence of proper supervision of political and electoral financing represents: i) a threat to the principle of equality among citizens, allowing those who hold economic power to enjoy greater political influence; ii) possible unfair competition among political parties, giving the advantage to candidates with access to more resources; and iii) the encouragement of corruption in the sense that leaders elected on the basis of dirty money must use their power to repay the favours they have received instead of using it to promote the common good.

Abbreviations

NEC – National Elections Commission
FRELIMO – Frente de Libertação de Moçambique (Mozambique Liberation Front)
IESE – Instituto de Estudos Sociais e Económicos (Institute of Social and Economic Studies)
MDM – Movimento Democrático de Moçambique (Mozambique Democratic Movement)
STAE – Technical Secretariat for Election Management
STV – Soico Television
TA – Administrative Court
TVM – Mozambique Television
RENAMO – Resistência Nacional de Moçambicana (Mozambique National Resistance)

1. Background

David Held advances and discusses three principal models of democracy known to the world up to the present day, which are worth remembering here as a starting point for this study. The model of direct democracy (or participatory democracy) as practised in ancient Greece ; the model of liberal (representative) democracy, prevailing today in various parts of the world, and people's democracy as it is exercised in the socialist countries and in several countries of the so-called Third World. For Held, the differentiation among these lies mainly in the field of political theories of democracy, which distinguish between those that consider the essence of democracy to be contained in the logic of people's power and those that believe that democracy should be conceived of as a mechanism that facilitates the exercise of the popular vote to select a government.

On the basis of that classification, it may be noted that in the first 15 years after national independence in 1975, Mozambique had a system of people's democracy, founded on the Marxist-Leninist directives of the single party, FRELIMO. That system only came to an end in 1990, with the approval of the constitution that allowed for the establishment of a multi-party system. The General Peace accords signed in Rome in 1992 brought an end to 16 years of civil war (between FRELIMO and RENAMO) leading to the first multi-party elections in 1994, which opened the way to liberal/representative democracy. Consequently, when we speak in this study of the democratic process, we are referring to democracy in its liberal/representative form.

2. Political parties in Mozambique

Mozambique has been a multi-party democracy since 1990, which opened up space for the creation of political parties. The duties stipulated for political parties are the following: a) they must be national in scope; b) they must defend national interests; c) they must contribute to the formation of public opinion, particularly with regard to major national issues; d) they must strengthen the party spirit of citizens and the consolidation of the Mozambican nation.

Law 7/91 of 23 January establishes the legal framework for the creation of political parties and their activities. Under the provision of article 6(1) of that law, the creation of a political party is done through an application to the Ministry of Justice, with the following document attached: a) statute and programme; b) birth certificate, criminal record certificate and residence certificate of its leaders; c) list of the names of its members, giving age, place of birth and residence, identity card number and signature; and d) minutes of the constituent meeting.

Article 5 (1) of the same law establishes that the legal recognition of a political party requires it to have at least two thousand (2,000) proponents who are citizens resident in the country and who must have voting rights.

There are currently about 50 political parties registered at the Ministry of Justice in Mozambique. Two of them have historically a broader base of support than the others. These are the FRELIMO party and RENAMO, while this study also includes the MDM, a political party created in 2008 by former members of RENAMO that gained a lot of support in the last elections.

Despite the abundance of legislation regulating the activities and functioning of political parties in Mozambique, there is still little or no supervision. For example, there is no government institution or department that supervises and monitors the activity of political parties in Mozambique. Once they are registered, political parties are left to their own devices. There are no mechanisms, or instance to ensure that only parties that have held free and fair internal elections are allowed to put up candidates for election or receive State funds intended for support in elections. Persons of doubtful conduct, with no address at which to receive mail, present themselves as political leaders and make pronouncements on national political processes. For all these reasons, we believe that the institutional framework for the development of political parties in Mozambique is still very weak.

3. The electoral system and political financing in Mozambique

The first multi-party constitution in 1990 defined the majority system as the mechanism establishing the election results. However, at the negotiations in Rome leading to the General Peace Agreement, Renamo refused to accept the majority system and argued for a proportional system. Thus protocol III of the General Peace Agreement, in line b) of the chapter on election procedures, states that "for the election of deputies to the Assembly of the Republic, the electoral law shall establish an electoral system based on the principle of proportional representation". The protocols of the General Peace Agreement prompted a series of revisions of points in the Constitution of the Republic so as to accommodate the agreements reached. And to this day, the Constitution of the Republic and the subsequent election laws stipulate that, "the establishment of the results of elections obeys the system of proportional representation".

However, after three general elections, (1994, 1999 and 2004), the so-called small parties and a substantial part of civil society engaged in political activity have requested a review of the electoral system, attacking the 5% barrier in particular, because it was said to be a legal impediment to the smaller parties having candidates elected as deputies to the Assembly of the Republic. And so this first barrier was removed by the Assembly of the Republic in 2007. Under the current election law, 08/2007 of 26 February, there is no 5% barrier to the election of deputies, which is clearly not enough to make the Assembly of the Republic more proportional. Another stumbling block is said to be the d'Hondt method, which tends to favour the parties that receive more votes.

As regards the system of voting, chapter IV, article 161 of the election law establishes that: The deputies of the Assembly of the Republic are elected through lists of names in each voting district, and each voter has one vote for a list; and the lists are presented to the voters by the proponents during the election campaign.

The following two articles expand on the voting system. Article 162 on the organisation of the lists explains: 1. The lists of proposed candidates must indicate the same number of effective candidates as the number of seats allocated to the voting district to which they refer and substitute candidates numbering no less than three and no more than the number of effective candidates; and 2. The candidates in each list are deemed to be in the order in which they declared their candidacy. Then article 163 on the distribution of the lists explains: 1. The seats are allocated within the lists according to the order of preference shown in the list; 2. Any incompatibility between the occupation of the candidate and the performance of the duties of a deputy do not prevent the allocation of the seat; and 3. In the event of the death or the physical or mental incapacity of a candidate, the seat is allocated to the candidate immediately after in the said order of precedence.

4. Objectives of the study

The Nuru Project is an initiative of Transparency International and has a double purpose: to assess the legal framework and practices with respect to the transparency of political finance in a given country (Component 1). On the basis of these findings, to pursue activities that advocate reforms aimed at improving the law and practise (Component 2).

In this way, the objective of the project is to increase the transparency of election campaigns and of party activities in years when there are no elections. The Nuru project grew out of the conviction that transparency is the foundation for monitoring money in politics and ensuring that voters have proper information about the management of political parties. It is also an important vehicle for raising public trust in democracy and government policies.

The Nuru project borrows from the Crinis Project, which was devised by Transparency International and the Carter Center to promote transparency and accountability in political financing in Latin America.

5. Methodology

5.1. Data collection

The data used to measure the values under study came from four sources: A) analysis of the legal framework for political finance; B) investigation of practices in political finance; C) tests of accessibility to information on political finance by the general public; and D) professionals and specialists in political finance were interviewed.

5.2. Data collection methods

Different tools were used in collecting data and verifying practice in political finance. These included sending letters to political parties, state supervisory bodies and media organisations requesting information on political finance; testing the accessibility and receptiveness of these institutions in providing information on political finance to other civil society organisations involved in this area; testing the accessibility of information on political finance by groups of citizens (a group of citizens, students and journalists) in order to test in practice the level of difficulty in obtaining this type of information; interviews with key stakeholders: party accountants, auditors of state supervisory bodies and other relevant actors. The data were collected in six different steps and uploaded to the web-based questionnaires generated by TI–Berlin to calculate the scores on political finance. The six different steps in the data collection were as follows.

Step 1
General information on the system of political finance in the country was sent so that the questionnaires could be adapted to the local conditions.

Step 2
Information on the legal framework of the system of political finance in the country was sent. The documents used were laws, regulations and data supplied by professionals and specialists in political finance.

Step 3
Testing the availability of data on political finance. The testing included:

- Analysis of documents and other types of information on disclosure of finance for parties and candidates, assessment of the performance of civil society organisations and state supervisory bodies in this regard, and whether the penalties provided for in the legislation are duly applied;
- Letters to state supervisory bodies, political party members and media organisations requesting information on political finance so as to assess the openness of these organisations to respond to civil society organisations with respect to political finance in the country;
- Access to information on political finance by a group of citizens (total 10), students (5) and journalists (5) in order to test the level of difficulty in obtaining this information in practice.

Step 4
Questionnaires on political finance were administered to key stakeholders in different groups. These were:

- Party accountants (2) for each party, three parties, giving a total of six;
- Auditors (1) and directors (2) in each state supervisory body;
- Representatives of election monitoring organisations (3), academics (5) and journalists (5), all with experience of political finance.

The reason for having separate groups was to evaluate how political finance functions in practice, according to the analysis and knowledge of these stakeholders.

Step 5
Data validation – after the data collection was complete, the results were subject to three different types of quality control:

a)Review of the data submitted by the coordinator of the TI secretariat;
b)Review of the local research (procedures and findings) conducted by a local expert hired for this purpose; and
c)Sharing of the findings in a workshop, with the participation of local specialists. The research team presented the findings of the study and documented the reactions and any amendments suggested with regard to the three types of quality control.

Step 6
Connect the components of the Nuru Project. The Nuru Project is composed of two main components:

a)Data collection by the research team; and
b)Planning and implementation of actions aimed at the reform of the political finance system, which is the responsibility of the research team.

In short, the study data were collected from November 2009 to May 2010; letters to stakeholders requesting information were sent in March 2009; questionnaires were given to respondents in the last week of March to assess access to information for citizens, students and journalists; and interviews with stakeholders were conducted in April and May 2010.

Table 1 summarises the information presented above, classifying the data according to the types of information and the sources used, and identifying the data collection methods.

Types of information	Sources of information	Data collection method
Legal framework	Documents about laws and regulations	Law review
Practice by parties	Party reports, official records and public information	Research team analysis, with interviews of party accountants and experts
Practice by parties	Testing availability of information through letters sent to different players	Written request for information by the research team.
Practice (disclosure of information by parties)	Testing availability of information through demand by citizens	Access to public information by the research team, citizens, students and journalists
Practice by parties	Parties and auditors	Interviews with party accountants and auditors of state oversight bodies
Practice by all stakeholders	Testing practise by academics, journalists and activists	Interviews with academics, journalists and activists

Table 1 Types and sources of information

6. Scope of study

The study relates to the non-election year of 2008 (annual finance) and to the presidential and legislative elections of 28 October 2009 (for election finance). The issue of political finance is still a relatively controversial subject in Mozambique. Even though the legislation that has been in force since 1991-1994 provides for the forms of financing to political parties, the process is still hampered by the absence of efficient mechanisms that make the procedures clear. For example, because the political parties do not have a spokesperson qualified to talk on this subject, we had no access to any donors, which meant that the questionnaire was not submitted, since not even the journalists had this information. Another question in relation to the methodology that needs to be highlighted is that the questionnaire intended for members of parliament was also not submitted, since members of parliament are not accountable as individuals because they run as part of closed party lists. The study thus focused on the laws and regulations applied in 2008 and to the elections in 2009, on the assessments of the research team, citizens, students, journalists and academics and on the interviews and correspondence with stakeholders.

Three political parties were selected to meet the purposes of this study based on the results of the last elections, since these are the three parties that won seats in parliament. The parties selected were the Mozambique Liberation Front (FRELIMO), the Mozambique National Resistance (RENAMO) and the Mozambique Democratic Movement (MDM). The presidential candidates were Armando Guebuza (FRELIMO), Afonso Dlakhama (RENAMO) and Davis Simango (MDM).

Two state oversight bodies were also chosen, namely the Administrative Court (TA) for annual finance and the National Elections Commission for election finance. From civil society we had the Institute for Social and Economic Studies (IESE) and the Electoral Observatory (OE).

7. Method of assessment of the level of transparency and accountability of political finance

This Nuru study in Mozambique recognises three types of political finance:

a) Non-electoral finance, which is the funds the parties receive annually by virtue of their represen tation in parliament;
b) Finance for political party candidate in the 2009 legislative elections; and
c) Finance for the candidates in the 2009 presidential elections.

Nuru methodology allows examining the regulatory framework to compare it to internationally recognized principles on political financing and also compares what happens in practice, by testing access to information, party by party, and candidate by candidate. By providing thorough diagnosis of the legal framework and the practice, it provides strong empirical evidence which allows all stakeholders to get a clear picture of areas, in which reforms are most needed.

The level of transparency of political finance activity has been quantified taking into consideration the following ten dimensions (Table 2).

No.	Dimension	Sample questions for building indicators
1	**Internal book-keeping of parties (they have books to record accounts)**	Is internal book-keeping of parties mandatory? How professional are parties in practice?
2	**Reporting to state control agency**	Do parties, presidential candidates, service providers and media render accounts by law on their role in political finance? When and in what format?
3	**Comprehensiveness or scope of reporting**	Do reports include public and private sources? Do they include revenue and expenditure? Do they cover monetary contributions, in-kind contributions, discounts, etc.?
4	**Depth of information**	By law, do reports include information on individual donations? Do they include the value and date of each donation? Do they have to identify clearly the donor and all his donations?
5	**Reliability of reporting**	Do the different players disclose all their resources in reports? According to the experts, how accurate are the reports?
6	**Disclosure to the public**	Is it mandatory for state agencies/parties/presidential candidates to disclose information on political finance? In practice, how accessible is this information for experts, journalists and citizens?
7	**Preventive measures**	Are donations channelled exclusively through official bank accounts? Are there any loopholes for anonymous donations?
8	**Sanctions**	According to the law, whet civil, criminal and political sanctions exist? Are the existing laws strictly enforced in practice?
9	**State Oversight**	Do specialists consider state supervision bodies to be independent? Do they judge them to be efficient? From the point of view of self-assessment, do they have enough human resources? Are these human resources trained?
10	**Civil society Oversight**	Are there civil society organisations that monitor political finance? In which areas of political finance do they carry out their activity? Do the specialists consider the work of these institutions to be independent?

Table 2: Ten dimensions of transparency in political financing

The Nuru methodology allows quantification of the level of transparency of political finance activity, using the ten dimensions presented above: these are split into three groups, **(1) internal party book-keeping** – examines the way in which political parties internally manage their resources; **(2) reporting to the state election supervision bodies** – assesses how well the reports of parties and presidential candidates are observed by the state supervisory bodies; **(3) comprehensiveness or scope of reporting** – verifies the level of public access to reports on political finance. In the second group we find, **(4) depth of reporting**, **(5) reliability of reporting** and **(6) disclosure to the public** – this group focuses on the nature of the data provided in the financial reports and helps to determine the quality of the data submitted to the state supervisory bodies. It allows all the important forms of financing to be examined, including cash and in-kind contributions and other transactions. They evaluate information on the identity of donors, the credibility of the information presented and the perception of the credibility of the reports submitted. The third group of dimensions focuses on **(7) preventive measures**; **(8) sanctions**; **(9) state Oversight**; and **(10) civil society Oversight** – concentrating on monitoring compliance with established rules and regulations. These include preventive measures to facilitate efficient supervision, the existence of sanctions that can be imposed and the institutions and figures responsible for the performance of the functions of supervision.

Ten dimensions were used to measure the transparency of the financing of the elections in Mozambique and the annual management of the parties: the quantitative index was calculated by averaging all ten dimensions, each of which was given the same weight in the calculation. A weighted average based on three types of financing was made to calculate a total.

The information uncovered through the involvement of a broad spectrum of sources and a variety of different research methods makes it possible to bring together more than 140 evaluation indicators. The scale for each indicator ranges from 0 to 10, where 10 indicates that a country fulfils all criteria expected in terms of transparency and accountability and 0 indicates no fulfilment of criteria. Scores between 0 and 10 are grouped into three evaluation categories: insufficient (0 to 3.3), regular (3.4 to 6.7) and satisfactory (6.8 to 10). For an explanation of the calculation of Crinis Scores, see Annex 1.

8. Challenges faced

When the period of the research was over, the research team shared a mixture of experiences with the key stakeholders, in the course of which it was possible to understand that political parties in Mozambique still feel severely constrained in talking about and disclosing information on the system of political finance for their parties, which was shown by the reluctance of the political parties to meet us and talk about these matters. Similar results were found with citizens, students and journalists. This impression was confirmed in the interviews with academics, who believe that this is an area in need of improvement, since there is no official information or even political will to disclose any information that might exist.

With this closed position taken by the political parties, it was impossible to have access to information on private funds in the parties, which prevented us from finding out the names of donors and the amounts and types of donations. As a general rule, the public has no access to information on donors and their donations. In the run up to elections, it is common for fund-raising dinners to be held for the ruling party (FRELIMO) in which articles are auctioned, although accurate information on who donated and how much is still inaccessible. There was no information on donations to the other parties, because, they said, donors are afraid to have their names published in case of reprisals from the ruling party.

The state supervisory bodies, for their part, are completely inactive in relation to what political parties are doing and passively observe the lack of information on political finance to the public and totally ignore questions on the supervision of limits and the disclosure of private sources of funding.

9. Legal framework of political finance in Mozambique

Article 53 (1) of the Mozambican Constitution of 2004 establishes that all citizens enjoy the freedom to set up or to join political parties. Paragraph 2 of the same article states that joining a political party is voluntary and derives from the freedom of citizens to form associations around the same political ideals.

9.1. Non-electoral or annual finance

Law 7/91 of 23 January sets out the legal framework for the formation and activity of political parties. The article on basic rules lays down all the foundations for non-electoral political finance. It establishes that

> "Political parties shall observe and apply the following basic rules in their formation, structure and functioning: a) to be national in scope; b) to defend national interests; c) to contribute to the exercise of the political rights of citizens through participation in elections; d) to contribute to the formation of public opinion, in particular on national and international issue; e) to strengthen the patriotic spirit of citizens and the consolidation of the Mozambican nation; f) to contribute to peace and stability in the country through political and civic education of citizens; h) not to be of a separatist, discriminatory or anti-democratic nature nor to be based on regional, ethnic, tribal, racial or religious groups; and i) to contribute to the development of political and state institutions."

In Chapter III of the law, dealing with rights and duties, article 14 on the rights of political parties establishes that

> "political parties are recognised as having the following rights: a) to pursue, freely and publicly, the objectives for which they were constituted; b) to compete in elections within the conditions set by the election law; c) to define their plans for government; d) to issue opinions on acts by the government and the administration; e) to disseminate their policies freely and publicly through the mass media and by other means permitted by law; f) to acquire, free of charge or for consideration, immoveable and other property indispensible to the pursuit of their ends; and g) to join freely international political associations or bodies that do not pursue ends contrary to the established political and social order in the country".

Under the provision of article 15, which deals with exemption, political parties also enjoy the following exemptions:

> "a) customs duty on the goods necessary for their own functioning; b) stamp tax; c) inheritance tax and gift tax; d) property transfer tax on the acquisition of buildings necessary for setting its head office, branch offices, representatives and services; and e) property tax on taxable income from urban property or part thereof, which it owns and where its head office, branch offices, representatives and services are housed."

However, the article also states that the exemptions mentioned "do not cover economic activities of a business nature".

As regards duties, article 16 of the law states that the duties of political parties include:

> "a) Respect for the constitution and the law; b) notification of the competent state body for the registration of parties of changes to its statute and programme, as well as any dissolution, merger, split or coalition; c) publish its accounts annually."

In Chapter IV, dealing with financial arrangements, article 17 sets out the mechanisms for financing political parties. These are:

> "a) Payment of subscriptions by the members; b) gifts and bequests; c) amounts included in the general state budget and d) other forms of finance."
>
> Article 18 (gifts and bequests) clarifies that gifts and bequests must be declared to the state body responsible for registering political parties, indicating who has made them, what they are and how much they are worth.

Article 19 on the financial system stipulates that the income and the expenses of political parties must be specified in annual reports that indicate the source of the income and the purpose of expenditure. This article also requires the annual accounts of political parties to be published in the official gazette and in one of the newspapers with the largest circulation. Moreover, it prohibits state bodies, corporate persons governed by public law and public utilities governed by private law to finance or subsidise political parties, except for the amounts contained in the state budget for this purpose.

With regard to the donations from the state budget, article 20 of the law establishes that these are "allocated to the parties in proportion to the number of deputies elected to the Assembly of the Republic". Furthermore, the rules on rendering accounts for these sums are identical to those for the public administration.
Finally, article 21, on accounts and inventory, lays down that all political parties must keep organised accounts and an inventory of their immoveable and moveable assets and have at least one bank account.

Since the law on political parties does not specify who is responsible for the annual supervision of political parties and article 20 simply states that the rules for rendering accounts in relation to the amounts allocated in the state budget are the same as those applying to the public administration, we have based some of our analysis on the following instruments.

Article 230 of the constitution sets out the powers of the Administrative Court (TA). These include hearing actions on disputes arising from legal and administrative relations, hearing judicial appeals against decisions of state bodies, their heads and representatives and analysing the state accounts.
According to Law 5/92, the Organic Law on the Administrative Court, the TA has a core role in analysing the general state account, which is the final document on the execution of the general state budget. Article 30 of that law states that in the context of supervising public expenditure, "the TA has the responsibility for analysing the state accounts and scrutinising the accounts of the bodies, services and entities under the jurisdiction of the court".
Law 13/97 establishes the legal framework for prior inspection of public expenditure. Article 2 of that law, on the subjective scope of prior inspection, specifies that

> "the state and other public entities, namely the services and bodies that exist within the public administration at central, provincial and local level levels, including those endowed with administrative and or financial autonomy and legal personality, are subject to prior inspection by the TA".

9.2. Financing election campaigns

As regards the financing of election campaigns, we have based our analysis on law 7/2004 of 26 February on the election of the president of the republic and of the deputies to the assembly of the republic. Article 26 of that law, dealing with the use of public places and public buildings, establishes that:

> "1. the use of public buildings for electoral purposes is shared equitably among the various candidates, in the terms of regulations to be prepared by the National Elections Commission (NEC), without prejudice to the internal regulations of those institutions; 2. The local state bodies and the municipal authorities must ensure that public buildings and grounds belonging to the state and other public persons governed by public law are lent for the purposes of electoral campaigns for the use of the various candidates in the terms referred to in the preceding paragraph. Article 29 of that law, which deals with the right to airtime on the broadcast media, stipulates that "presidential candidates, political parties and party coalitions contesting the election have the right to use the public radio and television broadcasting services during the election campaign, in the terms set out in the NEC regulations . As regards sharing or swapping airtime, Article 33 of this law states that "candidates may agree among themselves to share or swap airtime or publicity spots that belong to them".

The law also makes provision for the duties of print media in the public sector. To quote from article 32, "Print media belonging to the public sector must insert electoral material in their publications"; and any such material "must be governed by criteria of absolute impartiality and honesty, avoiding any distortion of the matters to be published and any discrimination among the various candidates".

Chapter III of the law covers election finance and article 35 relates in particular the finance for election campaigns, specifying the sources of funds. These are listed firstly as "(a) contributions from the candidates themselves and from political parties or coalitions of parties; (b) voluntary contributions from Mozambican and foreign citizens, (c) proceeds from the activities of election campaigns, (d) contributions from friendly Mozambican and foreign parties, (e) contributions from non-government and foreign organisations". Then article 35 mentions the state budget, which "must provide for an amount to finance the election campaign". However, it also mentions prohibitions in relation to finance for election campaigns. "Foreign governments, government institutions or organisations and Mozambican public companies are prohibited from financing the election campaigns of candidates and of parties or coalitions of parties". Nevertheless, while not being allowed to contribute directly to election campaigns, the entities referred to in the prohibition can "contribute to finance or to enhance the amount in the state budget allocated to the election campaign".

Another prohibition is found in article 40, this one against the use of public assets in election campaigns: "political parties or coalitions of political parties and other candidates in election campaigns are expressly prohibited from using property belonging to the state, local governments, autonomous institutes, state and public companies and companies in which the capital is exclusively or mainly public". The public assets referred to in articles 26 and 29 of this law are excepted from the prohibition mentioned in article 40.

As regards state financing, article 36 gives the NEC the responsibility for setting "the criteria for the distribution of funds from the state finance for presidential and legislative elections, and in the latter case it must take account of parliamentary representation and the proportion of candidates standing in relation to the seats to be filled .

Accounting for income and expenditure is the subject of article 37, which determines that "election candidates must make detailed accounting entries for all income received and expenditure made in an election campaign and submit these to the NEC within a maximum time limit of 60 days after the official announcement of the election results". In addition, all the state funds referred to in article 36 of this law that are not used for the purposes laid down in the law, must be returned to the NEC.

Concerning responsibility for the accounts, article 38 specifies that "the candidates, the political parties or party coalitions, as the case may be, are responsible for submitting the accounts of candidates and election campaigns".

Scrutiny of the accounts is the responsibility of the NEC. According to article 39, "the NEC shall examine the integrity of the income and expenditure within a time limit of 60 days and publish its conclusions in one of the largest circulation newspapers and in the Official Gazette". If any irregularities are found in the accounts, "The NEC notifies the party, coalition of parties or candidate to rectify them within 15 days". Failure to submit the relevant accounts to the NEC or make required corrections within the time limits set or if there is believed to be any infringement of the provisions of article 37, cited above, the NEC must pass the matter on the public prosecutor to be dealt with in the terms of the law.

Sanctions

This law also contains provisions covering infringements relating to election campaigns. Article 195, which is in Section III of Title VII of the law, covers "abusive use of airtime". Falling into this category are "calls for disorder or insurrection and incitement to hate, violence or war" while "exercising the right to airtime for election publicity on radio and television". Any political party or coalition of parties or their members commit such infractions "shall be immediately suspended from the exercise of that right for a period ranging from one day to the number of days left for the campaign to run, depending on the gravity of the offence and how often it is repeated, without prejudice to civil or criminal liability". The suspension includes the exercise of the right to airtime on all radio stations and television channels, even if the act that gave rise to the suspension was done only on one of them.

For its part, article 196 relates to the misuse of public goods. It states that "political parties or coalitions of parties and other candidates who breach the provision of article 40 of this law on the use in election campaigns of goods belonging to the state, local governments, autonomous institutes, state companies, public companies and companies in which the capital is exclusively or mainly public shall be punished with a prison term of up to one year and a fine of ten to twenty times the national minimum wage".

On the other hand, the subject of article 206 is the failure to render accounts, provided for in article 39. It says that anyone who contravenes article 39 "shall be punished with a fine of from 25 to 50 times the national minimum wage and is prohibited from standing in the next election". Moreover, "the members of the central bodies of the parties, coalitions, list nominees, delegates or representatives are jointly liable for the payment of fines".

Electoral corruption is dealt with in article 215, which states that "anyone who offers, promises or provides public or private employment or other item or benefit to one or more voters or by agreement with them to a third party to persuade them to vote or not to vote for a given list, even where the thing or benefit used, promised or received is disguised as monetary compensation given to a voter for travel or accommodation expenses or payment for food or drink or on the pretext of expenses with the election campaign shall be punished with a prison term of up to one year and a fine of six to 12 times the national minimum wage".

10. Research findings

10.1. Crinis index in Mozambique

According to the NURU methodology, Mozambique's mean score is 3.3 (termed as insufficient) (table 3 and figure 1). Among the dimensions, we can see that six of them have mean scores above Mozambique's mean, that is scores higher than 3.3, Civil society supervision (3.5); Reporting to the state supervisory bodies (3.6); Depth of reporting (3.8); State supervision (3.9); Scope of reporting (4.5) and Public disclosure (5). The remaining four dimensions made scores of below the mean, most notably the dimension on Sanctions, with a score of (0.7); Reliability of reporting (2.1); Preventive measures (2.4); and Book-keeping (2.6).

Dimension	Mozambique
Total	**3**
1. Internal book-keeping	2.6
2. Reporting to the state supervisory bodies	2.1
3. Scope (comprehensiveness) of reporting	4.2
4. Depth of reporting	3.7
5. Reliability of reporting	1.3
6. Public disclosure	5
7. Preventive measures	2.4
8. Sanctions	0.7
9. State Oversight	3.9
10.Civil society Oversight	3.2

Table 3 NURU index for Mozambique

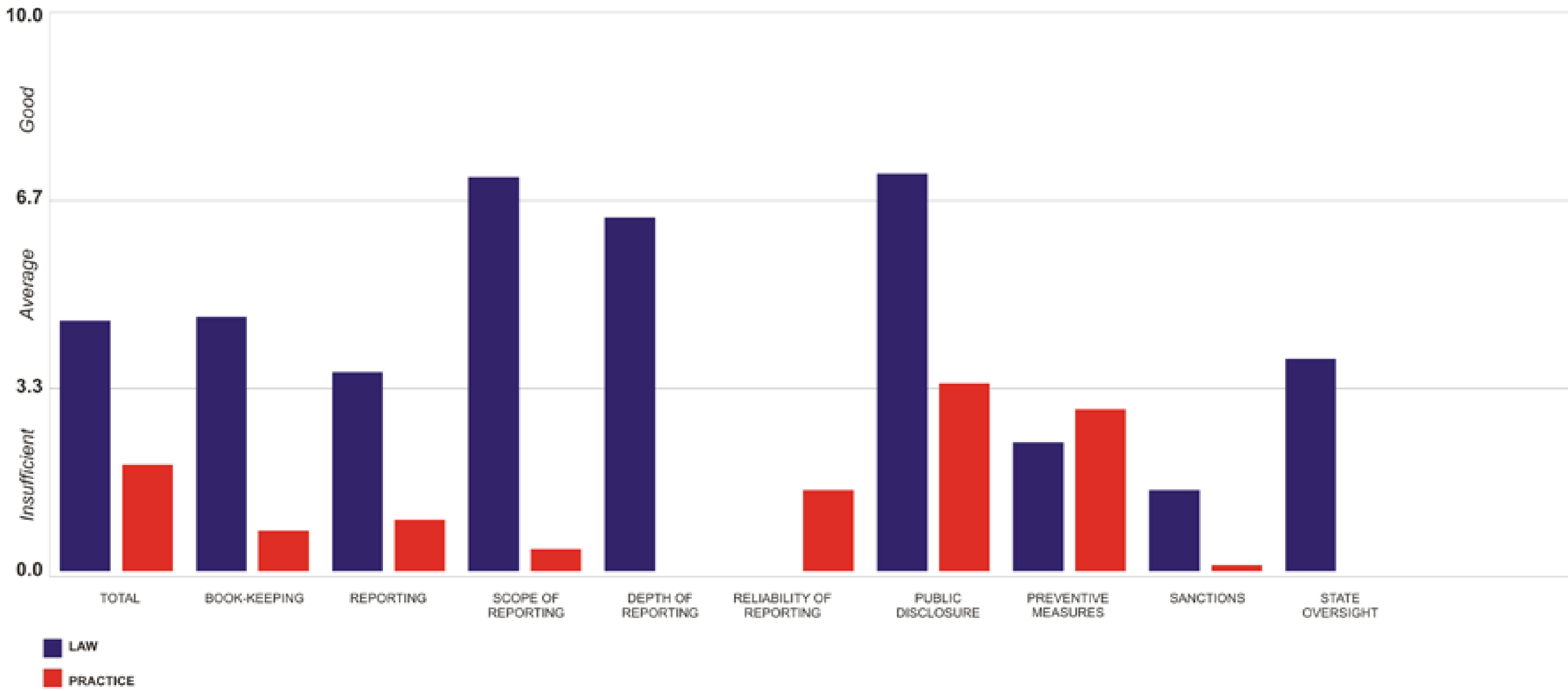
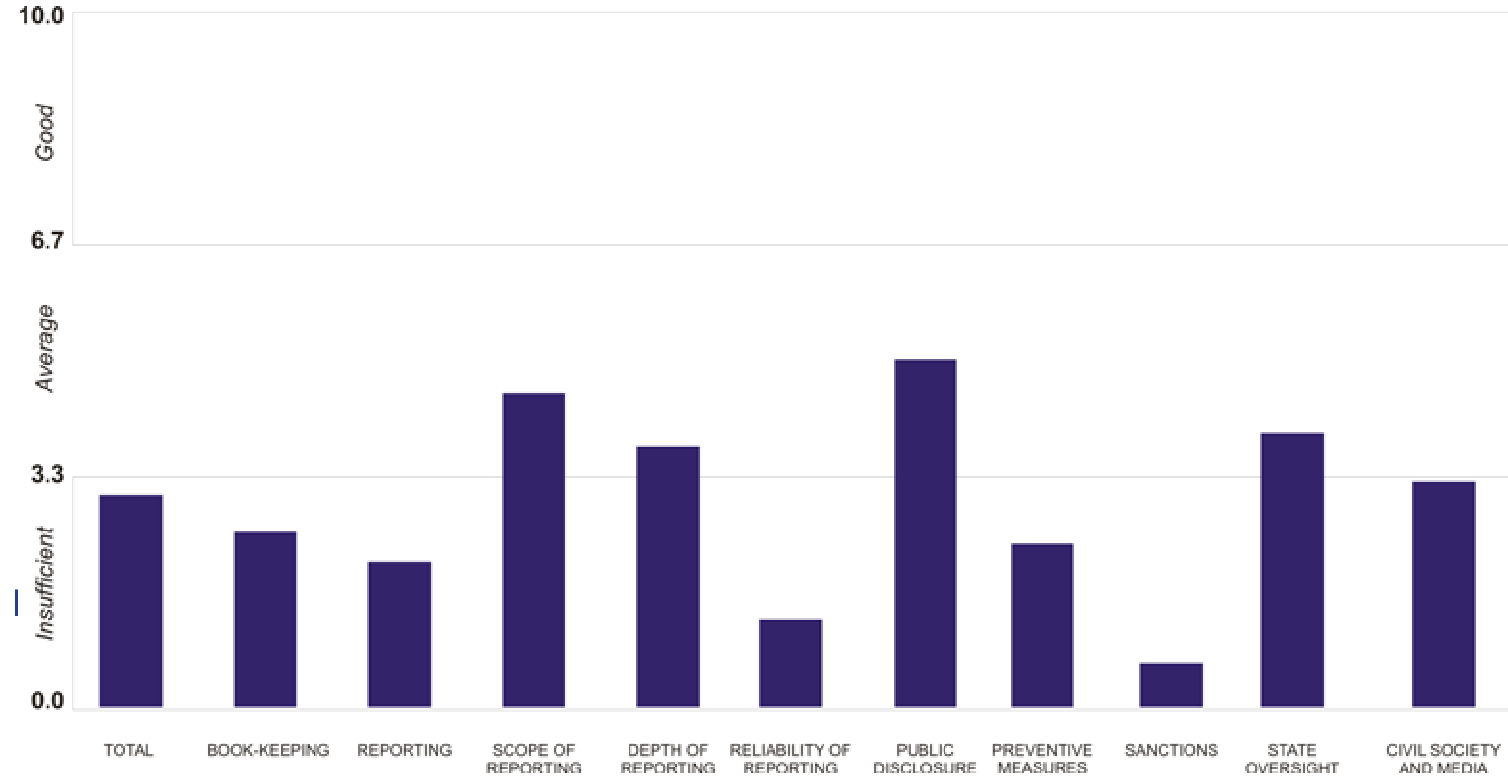


Figure 1: NURU Index in Mozambique.

10.2 Comparison between the law and practice

As regards legislation, it was found that Mozambique showed a mean score that may be regarded as regular, with (4.4), where the following dimensions were notable for being positive: Scope of reporting and Public disclosure, with a score of (6.9), Depth of reporting (6.3), Political parties internal book-keeping (4.5), State supervision (3.8), Civil society supervision (3.5) and reporting to state supervision bodies (3.4); and for being negative, with scores at the insufficient level: Reliability of reporting and Preventive measures, with (2.1),and in last place with (1.4) we find sanctions. However, the pattern is not the same with regard to practice, which showed a total mean score that is insufficient (2.2), where only three dimension had scores above the mean: State supervision (4.1), Reporting to state supervisory bodies (3.8) and Civil society supervision (3.5). The remainder had scores below the mean: Public disclosure (3.1), Preventive measures (2.7), Reliability of reporting (1.8), Political party internal book-keeping (0.6), Scope of reporting (0.4), Sanctions (0.1) and Depth of reporting (0).



Next we will explain Mozambique's performance in each of the dimensions:

10.3. Dimension 1: Political parties' internal book-keeping

Mozambican legislation in respect of the internal book-keeping of political parties contains some very important features , establishing that political parties must have organised accounts and an inventory of its moveable and immoveable assets, as well as at least one bank account. This may be verified in the three types of finance examined here, in relation to which the legislation has features regarded as regular (4.5), in relation to data records for internal book-keeping. However, the score relating to practice is very low, owing to the fact that we were unable to gain access to the political parties and the candidates, which hampered our access to the information.

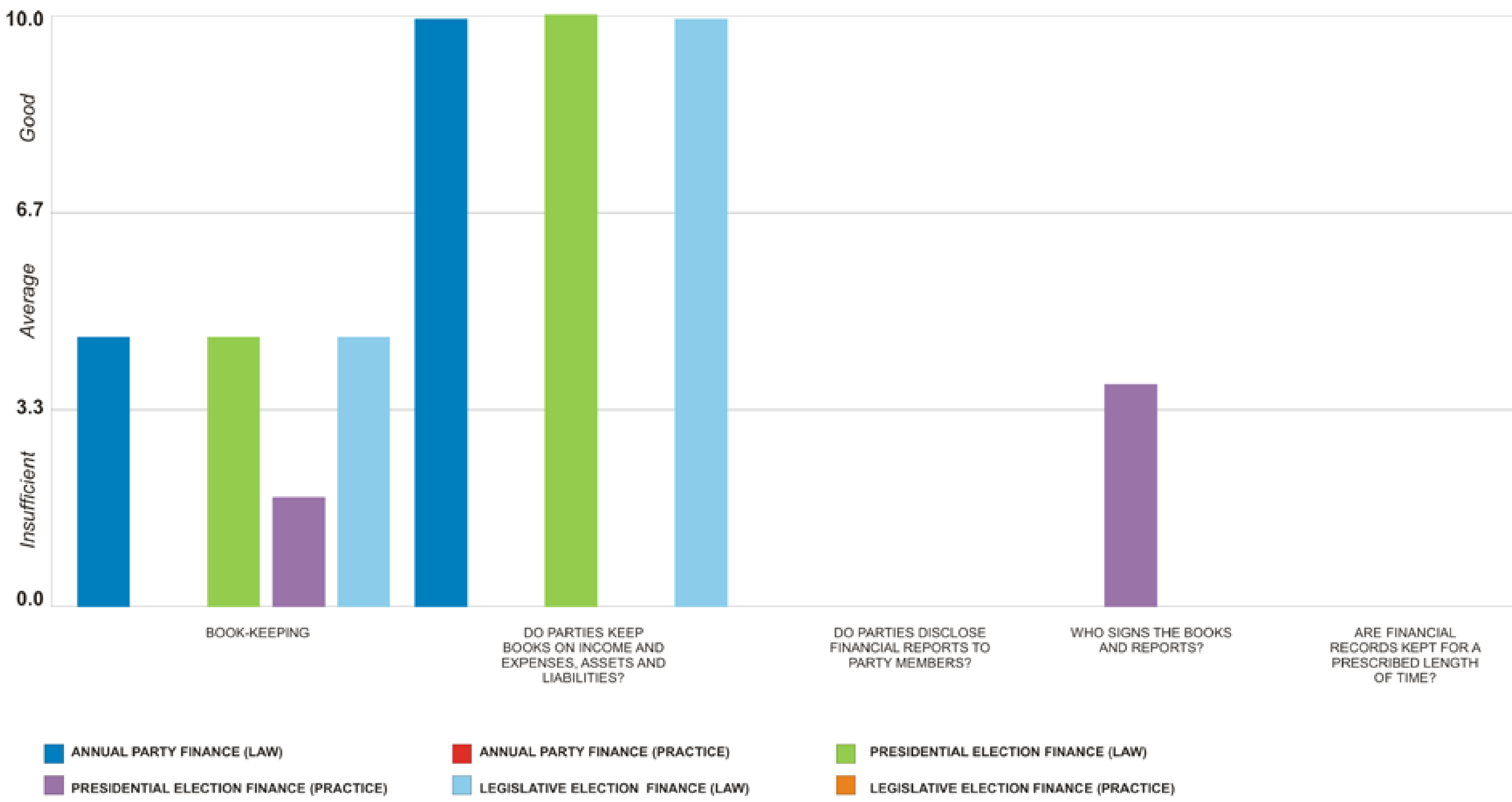


Figure 3: Internal book-keeping of political parties

10.4. Dimension 2: Reporting to the state supervisory bodies

Mozambican legislation in this dimension contains some very strong features, indicating for all forms of financing that accounts must be rendered to the state supervisory bodies, namely the Administrative Court (TA) for annual finance and the NEC for electoral finance. However, it fails to stipulate that donors, service providers and media organisations must render accounts on matters relating to political finance.

In relation to practice, we found that the political parties do not submit accounts on annual finance to the TA but to the National Directorate of Public Accounts. As to the accounts regarding elections, they submit evidence of payments made from public funds to the NEC, but not reports.

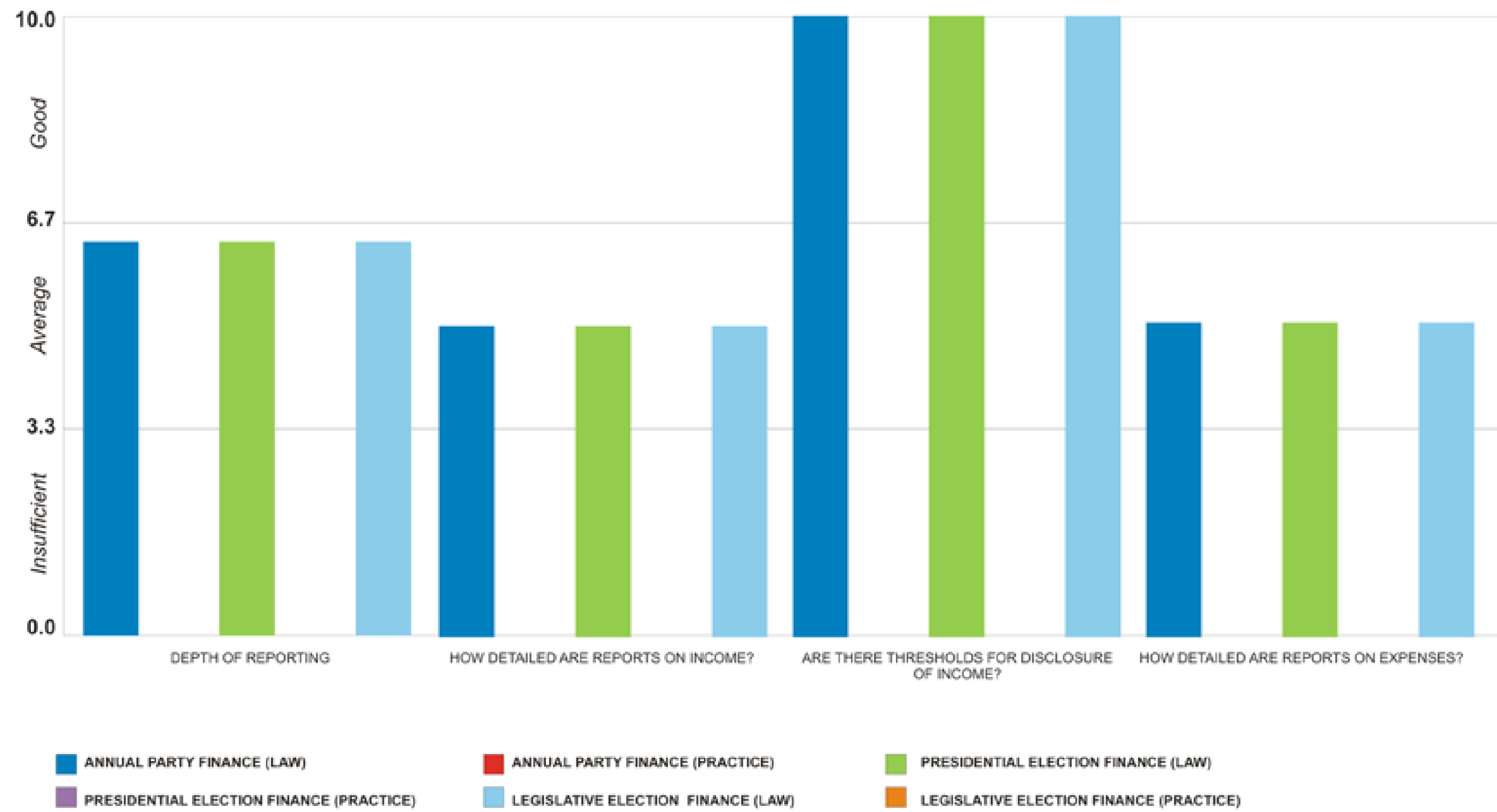


Figure 4: Reporting to the state supervisory bodies

10.5. Dimension 3: Scope of reporting

As regards the scope of the information to be submitted in reports, the Mozambican legislation is ambiguous, and for that reason, the political parties render accounts only in relation to public funds and completely ignore the fact that their reports should also mention funds from private finance. What happens then, as the graph shows, is that the current Mozambican legal framework does not specify which sources of finance to include in the accounting reports of political parties, simply stating that they must render accounts on all their income and expenditure. However, despite the fact that the law contains provision for this, what we find is that at the time of elections, the parties are obliged to report on the use of public funds, which means that in reality there is little or no information on practice.

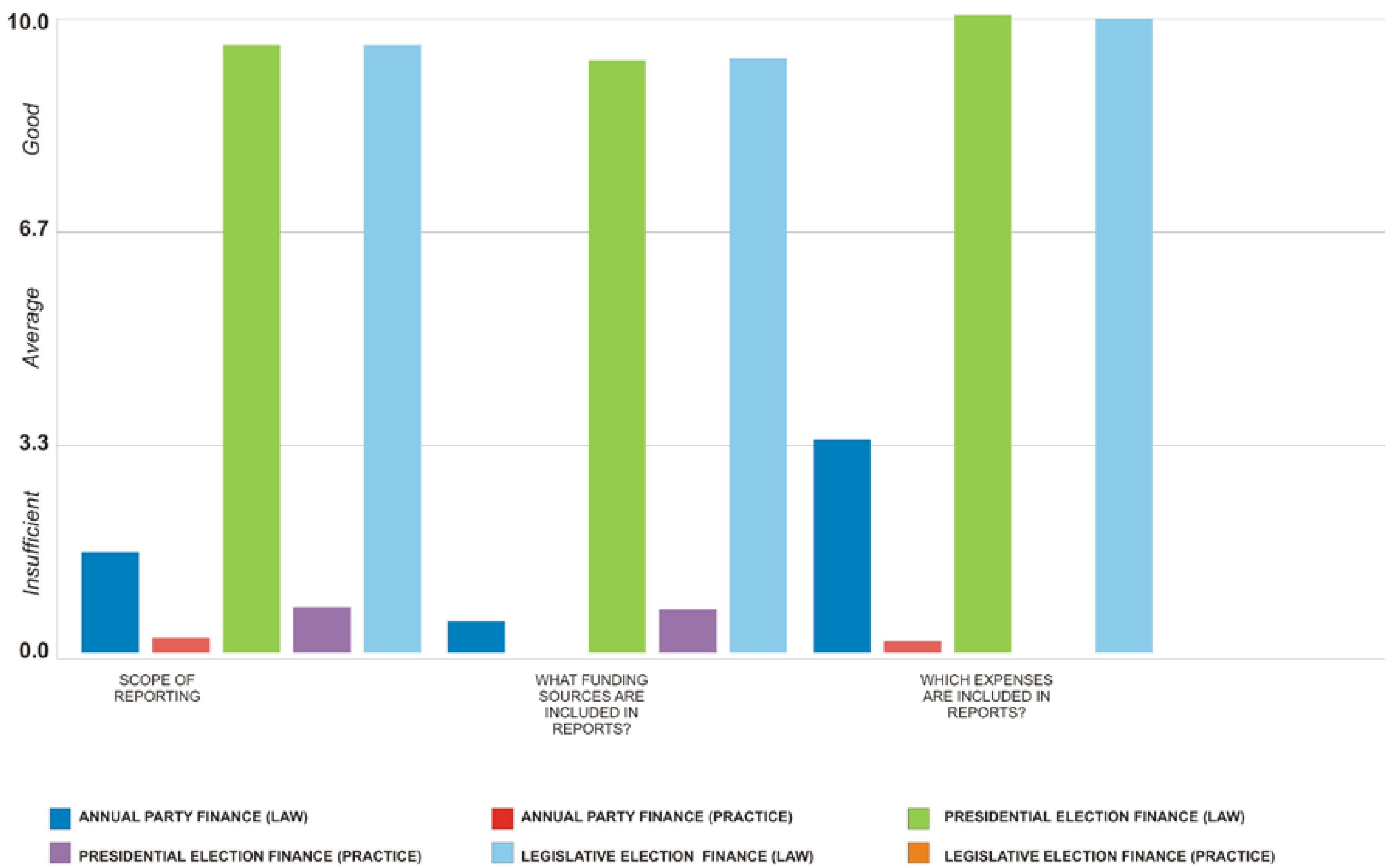


Figure 5: Scope of reporting

10.6. Dimension 4: Depth of reporting

As far as the depth of reporting is concerned, it was found that in general the legislation advances a set of rules that leads us to classify this dimension as regular, with a means score of (3.8). But once again, the bottleneck as far as performance goes in Mozambique lies in the practice, since it is impossible to have access to the reports of political parties, and thus there is no hope of being able to gauge how rigorous, detailed or thorough they are.

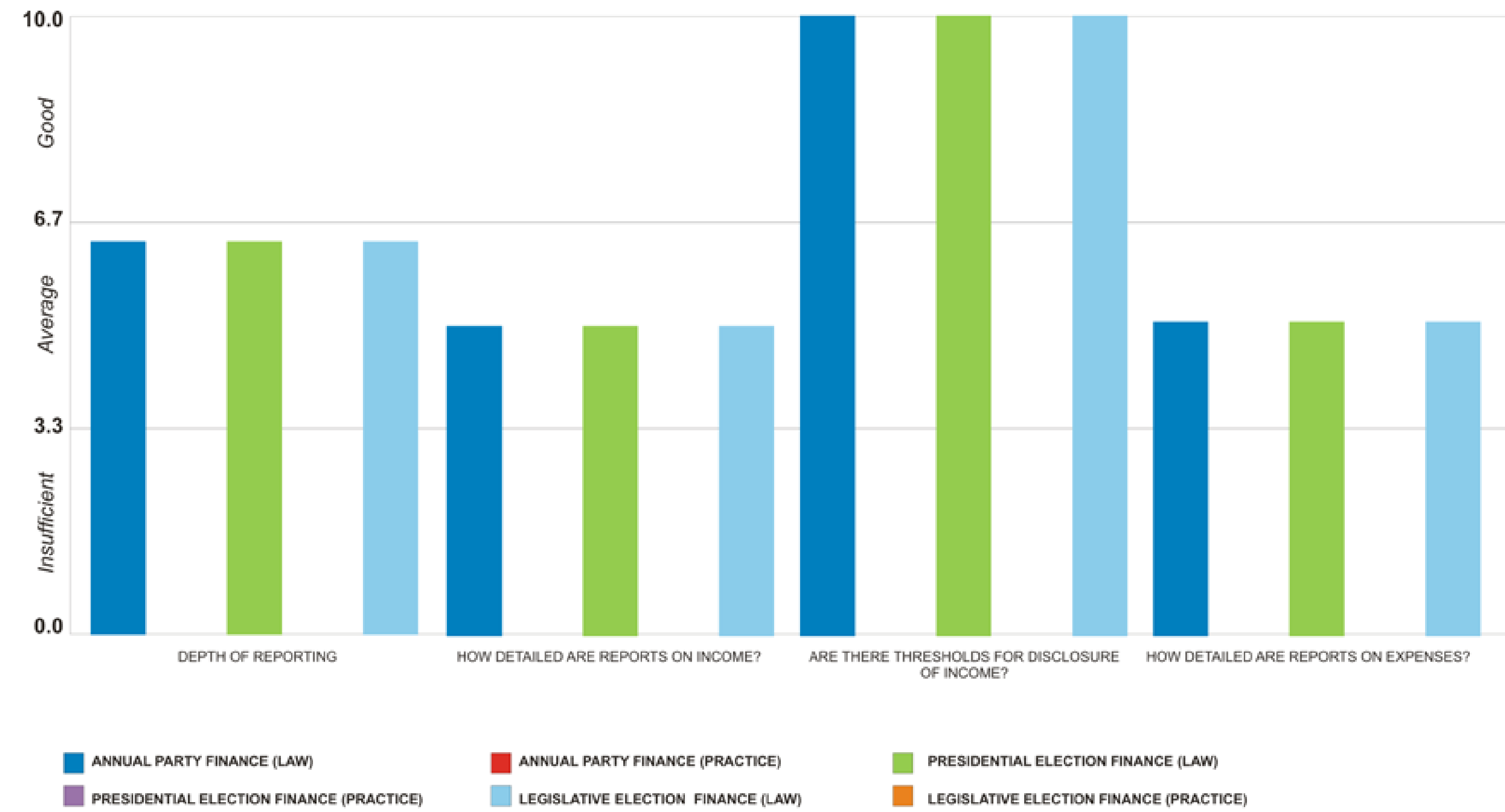


Figure 6: Depth of reporting

10.7. Dimension 5: Reliability of reporting

What we sought to discover in relation to this dimension was the degree of accuracy of the reports. In other words, how confident can we be in the contents of the reports? However, since it was impossible to have access to the reports, we were unable to judge the degree of accuracy and were limited to the data we collected in the interviews with the auditors of the state supervisory bodies.

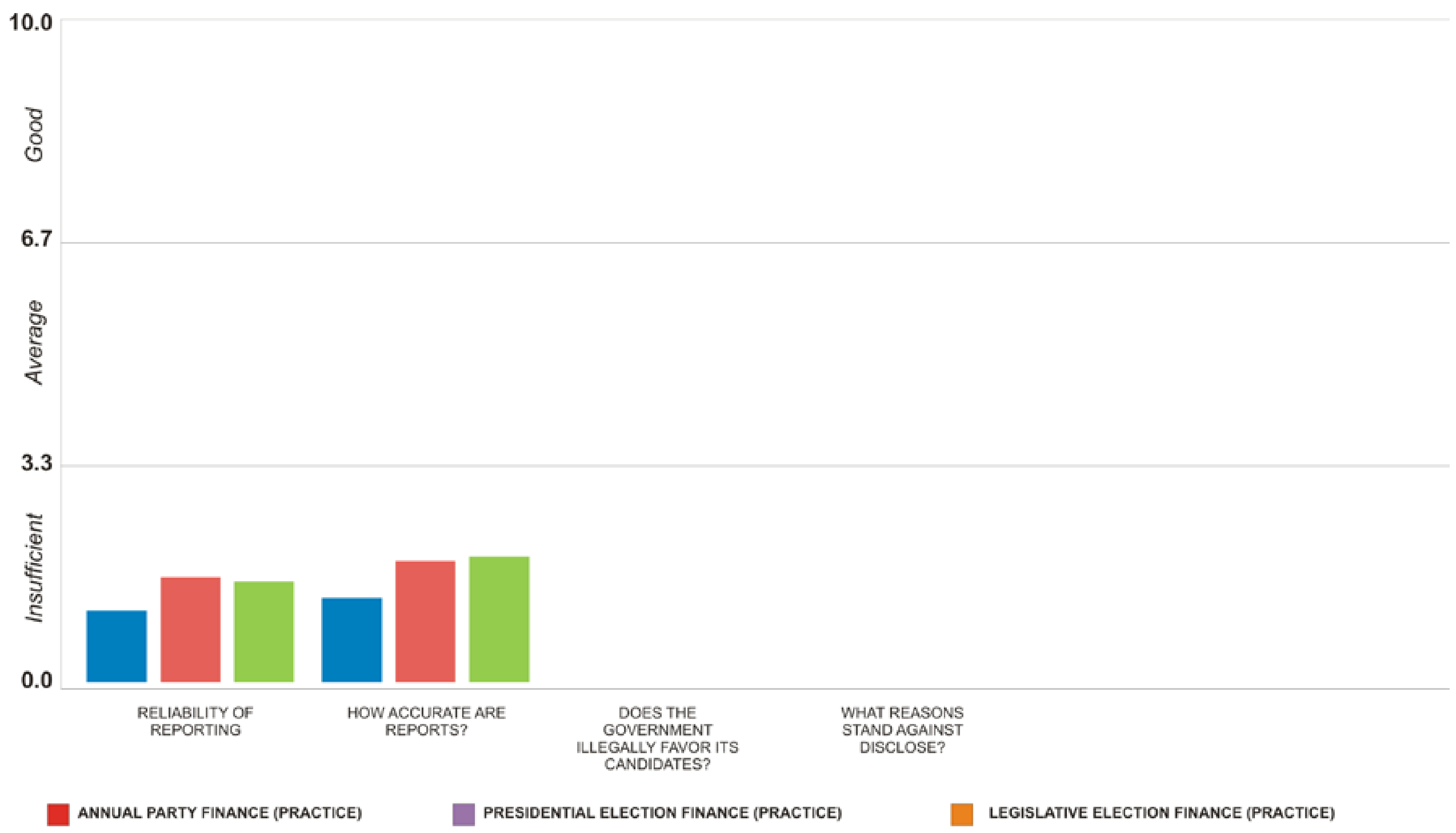


Figure 7: Reliability of reporting

10.8. Dimension 6: Public disclosure

With regard to this dimension, we sought to evaluate the level of disclosure of relevant information on public political finance in general. Mozambican legislation is very clear in requiring parties and candidates to publish their accounts in the Official Gazette and one of the largest circulation newspapers in the country. But once again, this does not happen and so far no political party or candidate has deigned to do so.

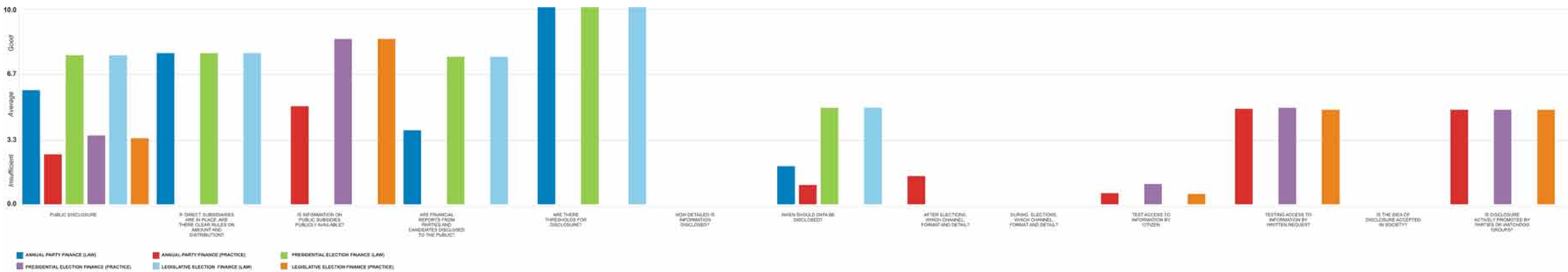


Figure 8: Public disclosure

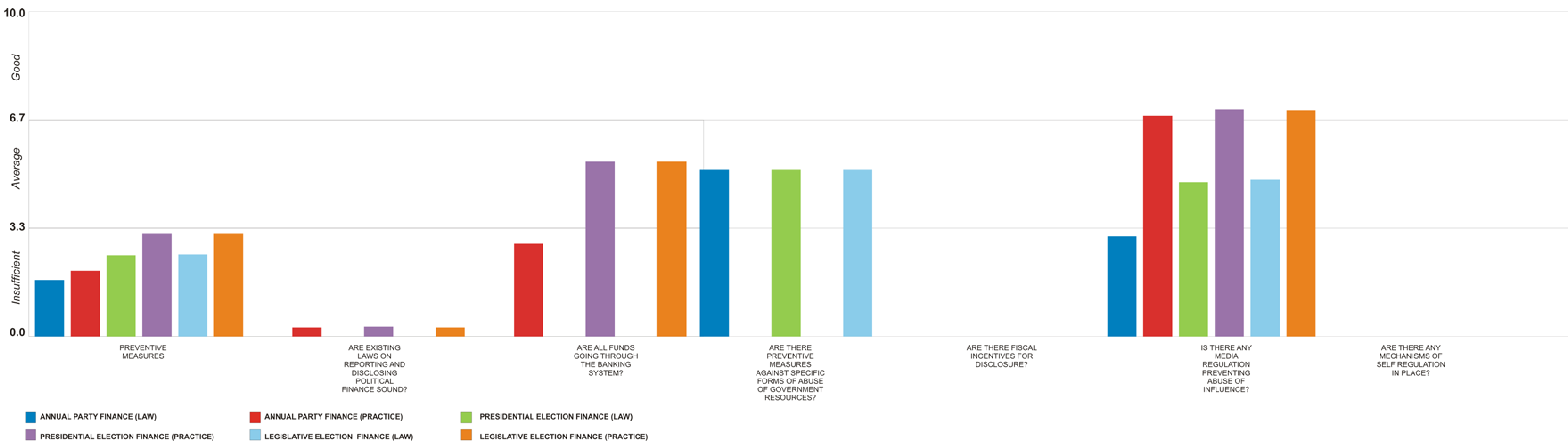


Figure 9: Preventive measures

10.9. Dimension 7: Preventive measures

As far as preventive measures are concerned, the legislation provides a set of instruments aimed at preventing bad practices, which are considered insufficient (2.4) for the purposes of this study, since they fail by being ambiguous and allow divergent interpretations. At the same time, although practice (as gauged by interviews with NEC auditors) shows that transactions are made through banks, the legislation in force does not make this mandatory, which leads us to the conclusion that much needs to be done in his area in the future so that the law can guard against certain practices.

10.10. Dimension 8: Sanctions

This is the dimension in which the country had the lowest score for performance (0.7). The reason for this was partly that the existing legislation makes no provisions for sanctions against political parties that fail to report annual accounts, although the electoral legislation does cover some poor practices. The sanctions are not strong enough, since they do not provide for criminal liability or for sanctions against donors or the media, which are both important players in this process. As for practice, the general public is largely ignorant on this topic and none of the political actors involved in the study were aware of any punishments in this regard.

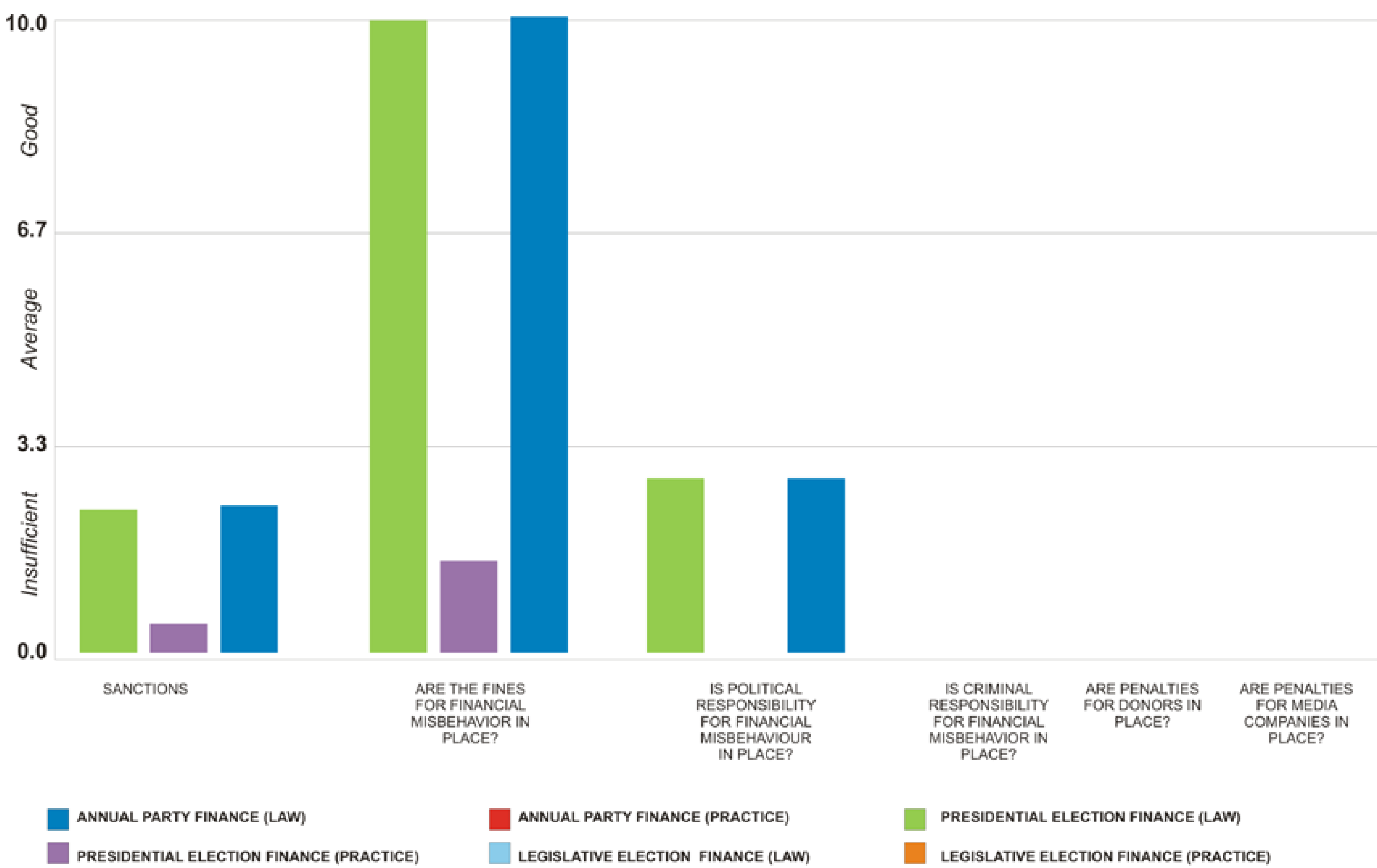


Figure 10: Sanctions

10.11. Dimension 9: State supervision

Mozambican legislation establishes mechanisms that more or less ensure the independence of the state supervisory bodies, although we do not consider these to be sufficient. For example, the presiding judge of the Administrative Court is appointed by the President of the Republic and the criteria for the election of members of civil society to the NEC are not clear. Likewise, with regard to their legal powers, these bodies are limited since they do not have clear powers to carry out audits of party accounts and are restricted to analysis of the files of the accounts of public funds.

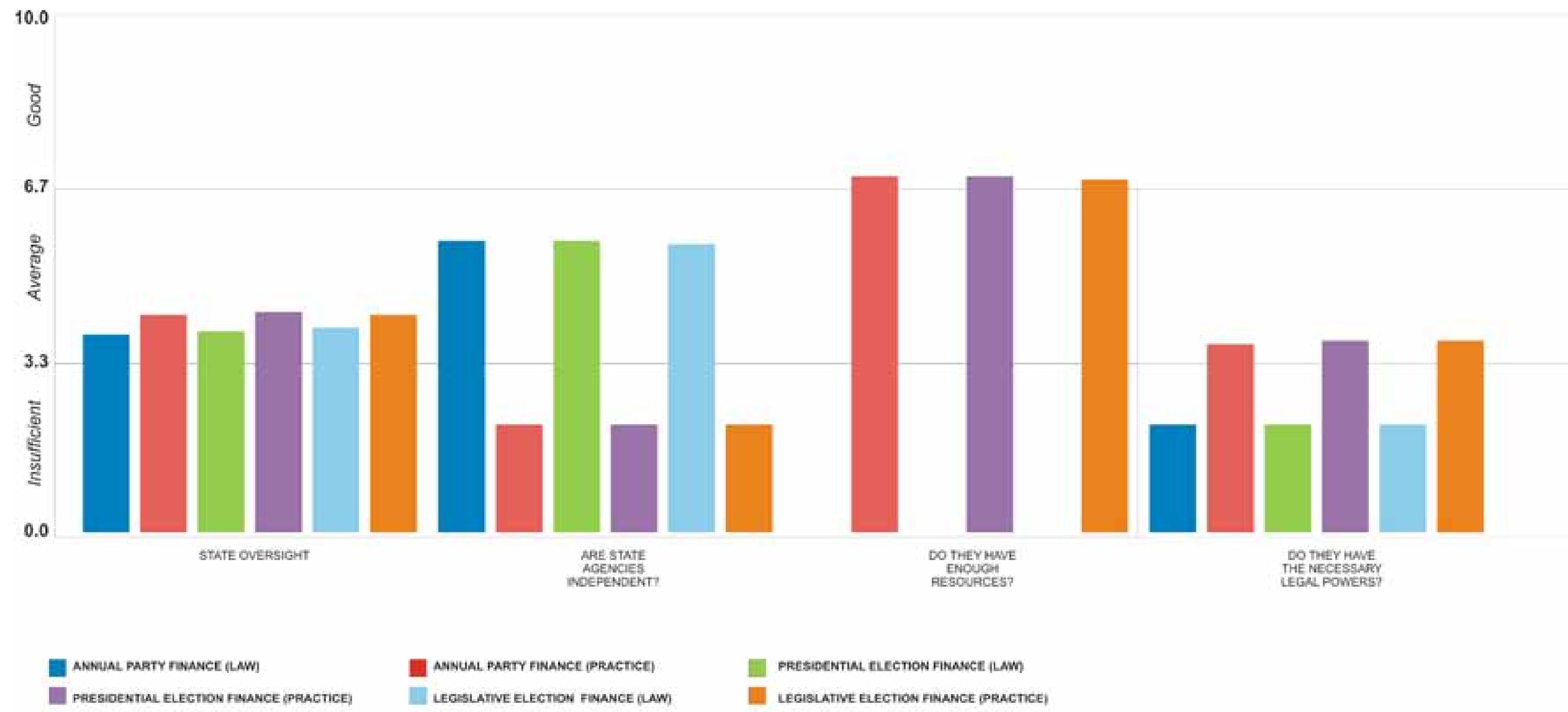


Figure 11: State supervision

10.12. Dimension 10: Civil society supervision

Civil society organisations have done very little work in connection with subject. They have been more focused on analysing the electoral processes in general and paid little attention to the financing aspects. The media have also not shown much interest in problems relating to finance, but have just had some public debate about this subject on television in the run up to elections.

However, in the cases where political finance has been subject to some scrutiny, the research findings have been very critical of the situation and have pointed out clear breaches. The same thing has happened on television debates around election times, which clearly shows that there is some perception of the problem. What is lacking is the political courage to take measures aimed at improving the situation.

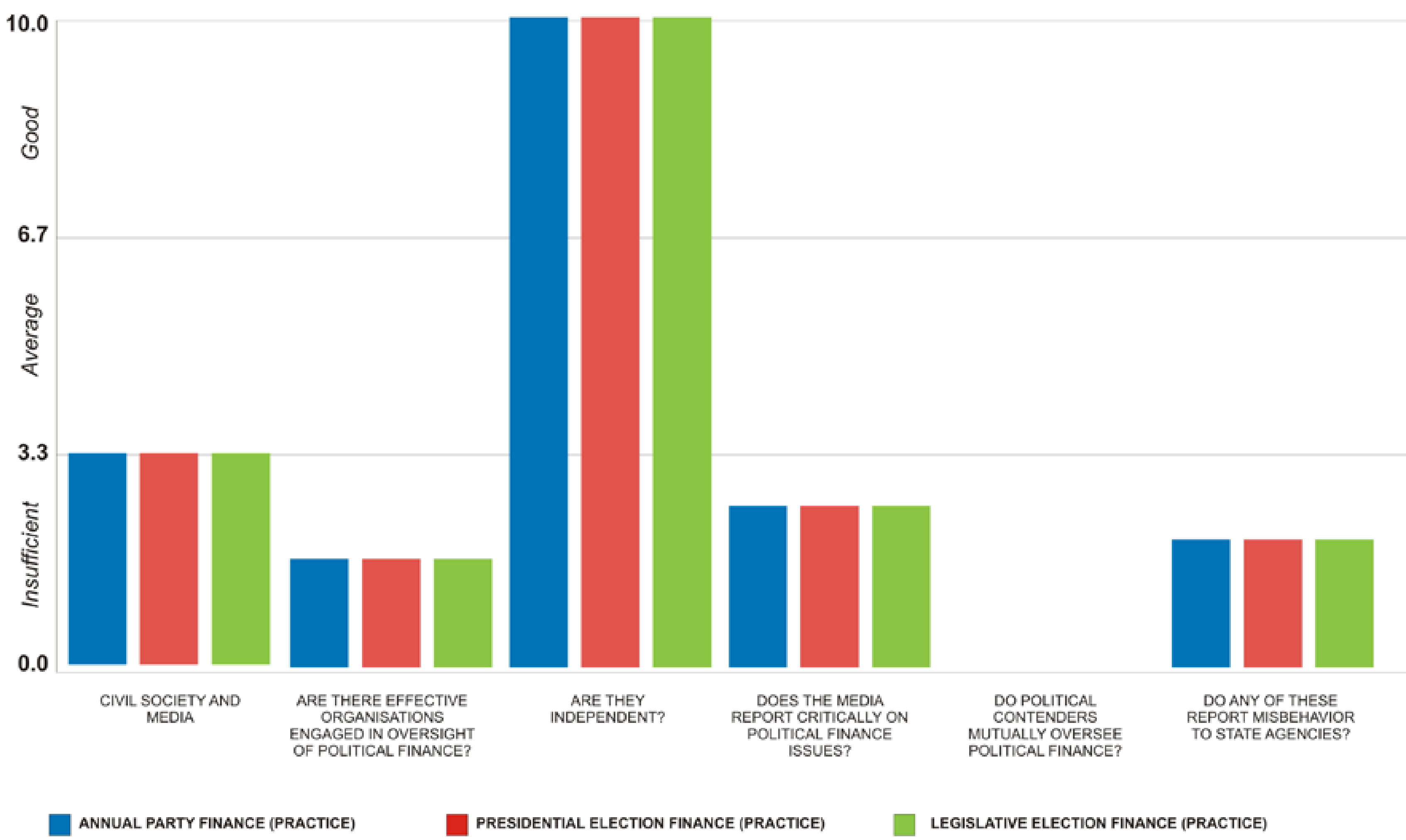


Figure 12: Civil society supervision

Conclusions:

Once the period of research was complete, the following main lessons were drawn:

- The legal framework regarding political finance in Mozambique is very weak. For example, it does not establish limits on private financing , does not require parties to publish the names of their donors, does not establish clearly the powers of the state supervisory bodies and does not require the reports submitted by the parties to follow international accounting principles;
- Mozambican political parties have many problems in terms of organisation and they are very centralised as regards the accessibility of information on political finance, since the necessary information is only available to senior members of the parties, who have not been prepared to make this information available. At the same time, Mozambican political parties have not yet understood the importance of being accountable with regard to political finance. The same is true of the state supervisory bodies (the TA and the NEC) and of society in general because there seems to be a prevailing perception that political finance is an internal party matter.
- For their part, the TA and NEC have not exercised their role in auditing the accounts of political parties, citing legal limitations. But these in themselves do not justify the apathy that both of these institutions have shown towards this issue, since they have exposed infringements in other institutions that benefit from state funding, while failing to do so in political parties, giving them unjustified "special" treatment. Perhaps such behaviour indicates a certain anxiety on their part in dealing with political parties.
- The media clearly understand the problems and the limitations of political finance, although journalists have not carried out much serious investigation on it, limiting it to uncomplicated television debates on the topic in the run up to elections.
- Civil society organisations understand the limitations and the risks of funding political parties, although none of them (except CIP) is focused particularly on studying the area of political finance, which slightly hampers debate on the subject.

Recommendations:

Below we present our recommendations for key stakeholders so as to make political finance in Mozambique more transparent and accountable:

For the government (Legislature):

- Strengthen the regulations on public finance to political parties, establishing straightforward rules on allocation (seats in parliament) and clearly stipulating the spending criteria for these funds, which will contribute towards preventing the misuse of funds by the parties, such as using the funds to pay the wages of members or to by assets for their leaders;
- Strengthen the rules on supervision by the state supervisory bodies for political parties, clearing giving them the power to audit all the income and expenditure of political parties. Here it is suggested that a department be created in the NEC for auditing political parties, which would function not only at the time of elections, but at all times, thus freeing the TA from this function;
- Party representation should be removed from the composition of the NEC (the NEC is currently composed of 13 members, 5 from the political parties according to their representation in parliament and 8 from civil society), and their participation should be limited to that of observers, without powers of decision. Associated with this point, is the suggestion that transparent mechanisms should be created for the election of people from civil society through a process of public competition, carried out in such a way as to involve all of civil society interested in this problem, with the criteria for election and the election results published;
- A legal obligation for the financial transactions of political parties and candidates to be done through the banking system;
- Creation of incentives, such as tax exemptions, for donors who disclose the donations to political parties;
- Strengthen the sanctions applicable to political parties and candidates, including making them criminally liable, and punishing donors and media organisations for misconduct;
- Specific legal obligation to disclose information relating to private finance to political parties, the name of the donor and the amounts, as well as the actual airtime that each party and candidate has enjoyed.

For the NEC:

- Create mechanisms that show the transparency of the criteria for the election of its members and their fairness and impartiality;
- Create web pages giving access to all information relating to political parties (income, expenditure, donations) brought up to date at the end of each financial year;
- Creation of a department for auditing the accounts of political parties with regard to all their sources of income and their expenditure;
- Creation of an electoral code of conduct, identifying misconduct and the sanctions against it;
- Supervise the enforcement of legislation, mainly in respect of the disclosure of information, requiring the political parties to do this as the law foresees.

For the political parties:

- They must have organised accounts that are clear and transparent, according to democratic principles, demonstrating openness to the public whenever information is needed;
- They should make information on their revenue and expenditure available electronically so that it is available to citizens;
- They should be more open towards civil society organisations and citizens and clarify issues relating to political finance, which is something that has not been found with any political party.

For civil society organisations:

- More focus on finance through the creation of joint projects for the supervision of practices in political finance;
- Joint and coordinated advocacy on the reforms necessary to make political finance more transparent;
- Monitor political finance in the country in election periods so as to reduce the amount of spending on elections.

For the media:

- They should ensure independent and balanced reporting, giving the public accurate information on political finance. They should also carry out investigation into annual and election finance and publish reports of this investigation;
- Publish investigative reports on the sources of funds received by parties and candidates for elections and on how they were spent;
- Publish all the official information on political finance in order to inform citizens.

For the private sector:

- It should publish all the useful information on donations (cash and in-kind) that are made to political parties.

Annex 1.

List of civil society personalities interviewed

Dr Luís de Brito (IESE)
Sérgio Chichava (IESE)
Sheik Abdul Carimo (Electoral Observatory)

List of NEC auditors interviewed

António Salomão Chipanga (Voting member, NEC) – Coordinator of the Legal Affairs and Ethics Committee;
Rábia Valgy (Voting member, NEC) – Coordinator of the Administration and Finance Committee;
Francisco Carlos Manuel (STAE) - Director of Administration and Finance

List of media organisations contacted

TVM
STV
Record Moçambique
TIM