

Electoral Reform in Namibia: Challenges and Constraints by Joram

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Introduction

This paper will give an account of electoral reform undertaken and being undertaken in Namibia over the last decade or so, and will also briefly analyze the background, challenges and constraints to the country's electoral reform process since the first democratic elections held in 1989.

Background

Although regular elections were held in Namibia prior to independence (in 1990), these elections were run on exclusionist basis for separate administrative authorities of whites, coloureds, and blacks at various level of government. In actual fact, no common roll existed prior to independence. As a result, the independence elections in December 1989 were run without a national voter register. The basis of the legal and operational framework for these elections was agreed upon among the stakeholders: the South African government, the UN and political parties. This framework provided for, among other things, that the South African government would administer and conduct the elections while the United Nations Transition Assistance Group (UNTAG) would monitor and satisfy itself with the process and eventually pronounce itself on free-ness and fairness of the process. All citizens above 18 years and also any person of the

same age who had lived in Namibia for more than five consecutive years before 1989 were eligible to vote, by producing a voter registration card.

This included many South Africans and Angolans who were based in Namibia as civil servants and soldiers. The 1989 polls, based on the PR system, aimed at producing a 72-member constituent assembly, which would draft Namibia's first-ever constitution. In a record time of less than three months, the constituent assembly produced a constitution that has been hailed internationally as one of the most liberal constitution in the world: it provides for, inter alia:

- . an entrenched section on the bill of fundamental human and individual rights;
- . rule of law;
- . independence of the judiciary;
- . procedures for appointment of executive presidency and the executive branch of government, the legislature, and other constitutional bodies, such as the Delimitation Commission, Ombudsperson, to mention but a few.
- Constitutional procedures for appointment to the presidency and parliament include the following features:
 - Presidency: five-year term of office, renewable but once. [An amendment to the Constitution in 1998 provided for the Namibia's first president to be exempted from this provision and be given a third term].

- Parliament: five-year term of office, running concurrently with the presidency.
- An Act of Parliament to lay down procedures for conduct of elections. This act is called the Electoral Act (no. 24 of 1992).

Electoral Reform

The Electoral Act of 1992 provided for the appointment by the presidency, of a five-member part time electoral commission, which formulates policies and supervises all Namibian electoral activities: *voter registration, party registration, candidate nomination, conduct of polls, counting of votes and announcement of results*. Voter education was however added to this mandate, although the law did not explicitly give this responsibility to the ECN. The Commission was to be assisted clerically and administratively by the directorate of elections housed under a ministry. In order to give prominence to elections and facilitate related logistical support, the Government saw it necessary to locate the directorate in the Office of the Prime Minister (OPM).

In 1998, new amendments were effected to create a more autonomous **electoral management body**. These amendments only came into effect on April 01, 2000. They provided for the re-structuring of the ECN to become a statutory agency, which is subject to the public service and treasury rules and regulations. Put differently, the ECN would operate like any other government ministry, except that it would operate without a political head, such as a minister. It would

report to and receive its budget directly from Parliament. A request was recently made by the ECN for Parliament to establish an inter-party parliamentary standing committee on electoral matters, which would, *inter alia*, initiate electoral amendments and table and defend the ECN budget. Currently, this responsibility lies with the Speaker of the National Assembly.

Furthermore, the said amendments provided for public advertisement of the vacancies of members of the ECN and the Director of Elections (who is the chief electoral officers). Previously, such appointments were made by the President without any external input. New members of the ECN were recruited last year in accordance with the provisions of the new law: the law provides for the National Assembly to set qualifications for members of the Electoral Commission. A selection committee comprising representatives of the Supreme Court, Law Society of Namibia, and the Office of the Ombudsperson, with the CEO of the ECN as secretary, screens all applications once receipt and holds public interviews of short listed candidates. At least eight candidates' names are submitted to the President who selects five from the list as members of the Electoral Commission. Members of the public, or more specifically, registered voters, are at liberty to launch objections with the Selection Committee against any candidate who is not fit to be appointed as a Commissioner.

It is our wish to see more autonomy and independence on the part of the ECN. However, this process must be carried out with meticulous consideration of cost

implications and impact of such independence on the effectiveness of the ECN. This issue and many other related matters will be our key pre-occupation in the next 12 months during which we first want to finalize our de-linkage from the OPM and consolidate our inter-dependence with other public sister-institutions, such as those responsible for logistical and financial support to the ECN.

Other areas of electoral reform include **voter registration**. Our electoral laws provide for a general voter registration every 10 years; supplementary registration before every election and by-election. In 1994, we introduced continuous voter registration as a way of enabling citizens turning 18 years and those wishing to change address to do so in their constituencies on continuous basis. At least one private person and the services of the national postal services company were recruited on agency basis to conduct continuous registration in each constituency. We paid them a certain amount of money per correctly completed form. This process has not been without problems. The high turnover of continuous registration officers and their lack of commitment to work has caused us to rethink the efficacy of this process: some officials would register the same voters again and again in order to earn more money, and NamPost officials would register voters for the wrong constituencies and by the time these errors are detected it would be too late and thus difficult to rectify such faulty registration.

Following consultation with political parties, the ECN recommend to Parliament, last year, to abolish continuous registration all together. This means that we shall rely on supplementary registration that takes place before every election and the general registration that takes place after every 10 years. Our next general registration is in the year 2002 and we hope to establish a new voter registration then and do away with the current one that has so many flaws: double registrations and ghost voters due to voter ignorance and poor deaths registration in rural area, respectively. Our ideas, which have been discussed with our stakeholders, include the introduction of polling districts, meaning that voters will register and vote where they live, and the introduction of a voter register which incorporate photographs of voters and would require voters to carry separate voter identity on voting day. However, voters would have to identify themselves when registering. These arrangements will relieve the burden on high rate of loss of voter cards and the problem of many Namibian voters who are not in possession of means of identification, such as passports, national identity cards, etc.

Another reform took place in the area of the **administration of the tendered votes**. This system entails an arrangement whereby voters can vote anywhere in the country, or even abroad, instead of voting only their constituencies of registration (and domicile).

Instead of counting all tendered votes (votes by voters who are away from their constituencies during general elections) in the capital after the closing the polls throughout the country, as it has been the practice in the past, we have now amended the law to provide for a decentralized system, namely a constituency-based counting system. Although the new system has boosted efficacy in the administration of such votes, it has proven to be cumbersome and tedious to some officials and party agents in the regions whose level of election literacy is still low. This matter needs some attention in the near future.

We also introduced new **administrative measures** in order to enhance effective electoral management: these include the establishment of an election results and verification center during Elections '99. Here we worked closely with the South African IEC to set up a technology-driven facility where all results were verified before public final announcement, including transmission via Internet and broadcasting by various public broadcaster, such as NBC, SABC, BBC, etc. Other reform administrative measures included the **establishment of national party liaison committee**, the **regional election coordination offices** in all regions, and the regional election advisory committees. We have also agreed to embark upon a vigorous staff development programme, particularly during our non-election period. This will entail attachment to other EMBs when they have elections and related activities. We have approached some donors to help us with these attachments and capacity-building programmes.

Several other amendments are being discussed with stakeholders, and they include:

- .a merger of the delimitation commission with the electoral commission;
- increased autonomy of the EMB;
- streamlining procedures for pertinent electoral activities, such as;
 - voter registration,
 - nomination of candidates (sufficiency of time),
 - polling (off-shore voting) –
 - one or two days of voting;
 - counting of votes (centralized or decentralized system); and
 - results announcement (maintenance of election result verification center).

Conclusion

We believe that regular evaluation of electoral practices is *sine qua non* for the effective functioning of every electoral system, and thus to guarantee electoral efficacy, it is imperative to consistently compare own systems with others in order foster sustainable, vibrant electoral reform and improvements.