



Promoting Credible Elections and
Democratic Governance in Africa

ELECTION UPDATE 2004

NAMIBIA

number 2 23 November 2004

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Published with the assistance
of NORAD and
OSISA



Preparatory Phase

This *Update* will review the preparatory phase of the 2004 Presidential and General Elections, as well as Regional Councils Election. Attention will also be given to the delimitation process for constituencies, civic and voter education, voter registration, compilation and publication of the voters' register, nominations of candidates by the different parties, the campaigning process, the logistics that

were put in place for the elections, and the designated role of the security and law enforcement apparatus of the state.

Delimitation of Constituencies

The Namibian Constitution under Article 104 empowers the President to institute Delimitation Commissions for purposes of creating new regions and constituencies. The membership of such Commission is composed of

three members, one of whom is a judge and also serves as the chairperson. Section 5 (1) and (2) of the Regional Councils Act 22 of 1992 provides the intervals at which a Delimitation Commission can be constituted, as well as its terms of reference.

In the course of its work, the Commission is guided by the provisions of Sub-section 2 of Section 5 of the Regional Councils Act, 22 of 1992, in terms of which it is urged to

give due regard to the sizes of eligible voters, geographic features, existing infrastructure and the socio-economic characteristics of the respective areas that are subject of the demarcation process.

A Delimitation Commission is instituted on a temporary basis and only exists for the period of its mandate. Since attaining independence fourteen years ago; three such commissions have been established. The Third Delimitation Commission was constituted in June 2002 and was expected to complete its task by end of August 2002. However, it could not complete the process of revising of the demarcation of electoral regions and constituencies, on schedule. This affected the general voters' registration process that was scheduled to commence in October of that same year. This delay led to the postponement of the general voter's registration to July/August 2003.

In may be argued that the delimitation of electoral regions and constituencies does not directly affects the holding of Presidential and General elections, because the Constitution of the Republic of Namibia requires the President of the country to be elected directly through in an election based on universal and equal suffrage. In addition, as per the provisions of Article 46

the elections of the members of the National Assembly Should be based on a system of proportional representation, in terms of which the total nation-wide votes are divided by the number of seats in the Assembly in order to derive a quota for the initial allocation of seats. However, it should also be noted that although the actual processes of both these elections are not based on the delimitation of the respective regions and constituencies, the process of delimitation remains crucial to both these elections in the sense that the process for the registration of voters requires to reflect the constituency to which each registered voter belongs.

Following the proclamation of the report of the Third Delimitations Commission, the number of regions remains unchanged at thirteen, while that of constituencies increased from 95 to 101.

Civic/Voter Education

Generally the role of civic education is to strengthen democratic institutions, through democratic politics and norms entailing the countering of public apathy, as expressed in low voter turnout, declining membership of political parties and the pervasive and at times misplaced distrust of the political system. This can be achieved by encouraging

voters to participate in the periodic local, regional and national elections, through information, education and mobilization campaigns. In this regard, the ECN budgeted over N\$32 million for logistics for the three elections scheduled for November 2004. Of this amount close to N\$1,5 million is earmarked voter education to increase citizens' understanding of democratic processes and to ensure participation in the electoral processes.¹ As a result, various materials are produced; these include radio jingles, the publication of the *Vote Newsletter*, television advertisements and the like.

The ECN has however voiced concern over the vandalism targeted at voter education material, especially posters that it has placed all over the country to try and remind all voters that each vote counts and that voting is not only a right but is also an obligation.

Voter Registration

Any person above the age of eighteen who qualifies for Namibian citizenship by virtue of the provisions of Article 17 (2) of the Namibian Constitution may register and vote for or stand as candidates in elections for functionaries to serve in the

¹ The Namibian Newspaper, Thursday, October 14, 2004

various structures of the state. Such potential voters are entitled to register in the constituency or local authority in which they normally reside. Excluded from this provision are people who are declared to be of unsound mind, mentally disordered or defective through an order of the court, as well as any those persons detained on the basis of their mental illness under the legal provisions of relevant laws of the country.

The laws regulating the conduct of elections in Namibia make the provision for the general registration of voters campaigns every ten years, this is to facilitate a regular update of the national voter's roll, as well as the issuance of voters with new identification cards. Should an election be pending in between the fixed General Voter Registration intervals, the President is empowered to proclaim a campaign for the Supplementary Registration of Voters.

Therefore, pursuant to the provision of the electoral law, the second general voter's registration process was originally scheduled for October 2002. However, as noted above, this had to be called off after it transpired that the Third Delimitations Commission could not deliver its findings in time.

The ECN was therefore forced to reschedule the voter registration process to

1 July 2003. This however, had to be delayed yet again for ten days, when the Congress of Democrats challenged the legality of the process, on the basis of the two legal technicalities – first, the commencement of the voter registration process prior to the enactment and promulgation of the Electoral Amendment Bill, which had been passed by the National Assembly, but had still to be debated and passed by the house of review, the National Council. The second technical flaw cited in this application related to the legality of the process for the appointment of the 1998 and 2002 Delimitations Commissions. However, the CoD lost the challenge, which paved the way for the voter registration process to progress as planned. This was complimented by a two week long supplementary voter registration process that took place between 20 September and 3 October 2004.

At registration, applicants are required to prove their age and citizenship through the presentation of official identification documents. In addition, applicants are also required to provide prove that they reside in the constituencies in which they intend to be registered in as voters. Meeting these requirements is said to have presented difficulties for the residents of the Tsumkwe and Western Caprivi

constituencies, the majority of whom belong to the culturally and socially marginalized indigenous San communities. The obstacles hampering registration of these people is because they continuously encounter difficulties in obtaining the relevant identification documents. Similarly, the young people who were repatriated from Botswana in 1994 and have just turned 18 years old, could not be registered as voters since the relevant legislation requires them to be 21 years of age before they are able to renounce their Botswana citizenship.²

Where applicants cannot produce the required documents to be registered as voters, the electoral law allows for the use of a sworn statement from two people who can supply such documentation to identify themselves. This provision drew heavy criticism, in particular from the opposition parties, because of fraud possibilities..³ For instance the National Society for Human Rights (NSHR), a Namibian non-governmental organization, reported of an irregular incident in the supplementary voter registration at the Nathaniel Maxuilili Community Hall in one of the suburbs of

² The Namibian Newspaper, September 22, 24, 2004

³ The Namibian Newspaper, Wednesday, September 24, 2003

Windhoek. Here it was noted that more than a dozen people were said to have been registered without the required documentation.⁴

Another issue that may have interfered with the voter registration process was that some church organisations in Namibia were reported to be discouraging their members (especially the youth) from taking part in political activities. According to reports, the primary argument used by these churches is that their members have “already voted for Jesus”. According to a volunteer for the Jehovah’s Witnesses in Windhoek, this line of reasoning derives from Chapter 13 of the Book of Romans, which reads, “Let every soul be subject to the higher powers. For there is no power but that of God: the powers that be are ordained of God. Whosoever resists the powers resists the ordinance of God; and they that resist shall receive to themselves damnation.”⁵

Another minor problem that was encountered related to the shortage of material at some registration points.⁶ Despite these, the process of voter registration on the whole can be said to have proceeded according to plan,

and 977 742 voters were registered through both the General and Supplementary Voter Registrations campaigns, of which 512 360 were female voters.

Compilation and Publication of the Voter Register

Duplicates of the issued voter registration cards are returned to the Director of Elections, on the fifteenth of every month. On the basis of this information, the Director compiles a voter’s register on a prescribed form. The updated versions are made available for inspection at various places specified in the *Gazette*, on the first seven days of each month.

Any person whose name appears on the voter’s lists can lodge objections to names appearing on the voters’ lists with the magistrate in the constituency or local authority. Such a magistrate hears appeals during the seven days each month on which the updated register is open to inspection. After the expiry of the period for the submission of objections to the Provisional Voters’ Register, the Final Voters’ Register is prepared and displayed in places specified in a notice in the *Government Gazette* for public scrutiny. In addition, every registered political party is provided with copies of the voter’s register.

Although the Electoral Commission of Namibia claimed that it adhered to the above provisions, by ensuring that copies of the provisional voters roll were displayed at magistrate’s offices countrywide between October 14 and 29, for public scrutiny; the counterclaim from some of parties was that they were not informed about these, and were therefore under the impression it was still being compiled. Therefore, these parties saw the roll for the first time when copies of the final voters roll were dropped at their offices three days before the polling stations opened their doors for the commencement of the elections. As a result, these parties were denied or denied themselves of the opportunity to audit the voter’s roll, as well as to lodge any complaints. *The Namibian* reported that the National Society for Human Rights (NSHR) and the Namibian Non-governmental Organisations Forum (NANGOF) tried to raise concerns over the accuracy of the voter’s roll in the absence of an inspection at a meeting with observers. In its response, the ECN roll alluded to had adhered to the provisions of the electoral law, as it made the roll available to the public after it was gazetted and political parties were duly informed and urged to get themselves hard copies.

⁴ The Namibian Newspaper, September 30, 2004

⁵ New Era Newspaper, October 13, 2004

⁶ The Namibian Newspaper, Thursday, August 28, 2003

Final Voter's Registers are used in the conducting of elections, and for the first time, the ECN will be introduce an **Electronic voter roll**. These rolls will be used in close to 300 polling stations in urban constituencies across the country, and it is hoped that this measure will help to speed up the voting process. Therefore, instead of finding names manually, the electronic system takes about 30 seconds to check whether a person has registered to take part in the election process and ensures that those registered vote only once. Hence the minimization of congestion in voting queues through this new system could also contribute towards the reduction of voter apathy.⁷

Candidate Nomination

Political parties are required to register in terms of the provisions contained in Part IV of the 1992 Electoral Act. Such registration is an essential step in paving the way for political parties to nominate persons as candidates to participate in electoral contest, as well as for the canvassing for votes at any such election.

Therefore, apart from the initial registration as political parties in terms of Part IV of the 1992 Electoral Act

referred to above during each election, those parties that are planning to field candidates are required to signal their intention to participate in that specific election, by nominating their candidates. The parties are required to provide the following in order to comply:

Presidential elections – the requirements for the nomination of candidates for the Presidential Elections are stipulated under section 54 of the 1992 Electoral Act, as amended. On the day designated for the submission of nomination papers, the following requirements have to be fulfilled by the potential candidates and their sponsors:

- The nomination should be made on the prescribed form - Elect 10 (c) that should be signed by the duly authorized person(s). In the case of a candidate nominated by a political party, a copy of registration certificate issued under section 39 (b) and duly certified by a Justice of the Peace or Commissioner of Oaths, should also to be enclosed; as well as a receipt for an amount of N\$ 10 000 that has been deposited with the State Revenue Fund. In addition, candidates are required to give their consent to the nomination in writing.

This should be accompanied by a photo of the candidate concerned. For a person interested in contesting a presidential election as an independent candidate, nomination must be submitted to the Chairperson of the ECN and must be accompanied by a list of 300 registered voters spread across at least ten of the country's political regions, as well as by a receipt indicating that an amount of N\$ 5 000 has been deposited in the State Revenue Fund.

In the election of the members of the National Assembly, a political party is required to submit a list of candidates in writing not later than 11h00 on the day determined in accordance with the provision of section 50 (1) (a) of the 1992 Electoral Act. Such a list should reflect the names and residential addresses of such nominated candidates, and a person shall not be nominated as a candidate unless he/she meets the requirements as stipulated in Article 59 (3) of the 1992 Electoral Act.

The Campaigning Process

It appears as if it is becoming customary for the countries of the Southern African region to experience coincidences in the timing of elections on the one hand

⁷ The Namibian Newspaper, September 22, 2004

and threats for involuntary land seizure, to expedite the processes for the redistribution of land ownership, on the other. On 25 February 2004, the Government of the Republic of Namibia revealed its plans to expropriate commercial agricultural land, in an effort to speed up land redistribution. This announcement almost coincided with five regional by-elections and the local authorities elections that took place in May of this year, as well as the Parliamentary, Presidential and Regional Council elections planned for later in the same year. Therefore, it not only did raise some eyebrows, but some observers projected that the forthcoming elections would be marred by violence.

However, fears were allayed by assurances given by government leaders that this process would proceed peacefully and in terms of the framework of the Namibian Constitution, as well as by the provisions of the relevant laws. This ensured that the campaigning process remained free of violence and intimidations.

Therefore, on the whole, the campaign process proceeded in an atmosphere of freeness and fairness. This means that to a larger extent, the spirit of the Electoral Code of Conduct that was negotiated and signed by all the parties in terms of

section 43 of the 1992 Electoral Act is to date, being adhered to by all of the political parties.

However there have been minor reports hinting at the use of hate speech at political party rallies. One such report was filed by the National Society for Human Rights (NSHR), in terms of which a senior leader of the SWAPO Party was accused of hate speech and other forms of bigotry and incitement by labelling the NSHR human rights monitors as "monsters, reptiles and bears", and therefore urged party supporters to kill them, at a public rally that was held at Etomba village in the Ondobe Constituency, on Saturday, 9 October 2004.⁸

Logistics in Place for the Election

As noted above, the ECN budgeted over N\$32 million for the logistics of the three elections scheduled for November 2004. Among expenditure items covered by this budget, was the printing of total of 3,6 million papers - 1,2 million for each of the three elections. The ECN decided to print an extra 1,65 million ballots to preclude the repeat of an incidence during the Regional Council by-election in the Otjinene constituency, earlier this year, where some

polling stations experienced a shortage of ballot papers.⁹

The tender for the printing of ballot papers was awarded to NAMPRINT, a local company with close links to the ruling Swapo Party. It previously received similar tenders for the 1999 general elections and the other by-elections that took place in Namibia in the past few years. The procedures in awarding the tender, include site inspections of facilities, in order to establish their conformity to the various requirements, such as those pertaining to security and logistical arrangements for the delivery of the ballots papers to polling stations.¹⁰

The unused ballot papers will be returned to the ECN. It has undertaken to provide each polling station registered with a list of the ballot papers' serial numbers and once polling is over, the ECN will account for each ballot paper issued - those used, unused and spoiled.

Other logistical preparations include the securing of the necessary infrastructures, such as the identification of venues for hosting 1168 fixed polling stations; places for the safekeeping of electoral materials; venues for counting the votes cast; as well as providing the

⁸ The Namibian Newspaper, Thursday, October 14, 2004

⁹ The Namibian Newspaper, Friday, November 12, 2004

¹⁰ Namibian Newspaper, October 13, 2004

National Result Centre in Windhoek with the necessary infrastructure.¹¹

In order to accommodate eligible voters who are abroad during the two days of voting, the ECN had to identify Namibian missions abroad that will serve as polling stations. Such voters will thus be able to exercise their democratic right to vote in both the Presidential and General Elections.

Role of Security Forces

Chapter 15 of the Namibian Constitution defines the respective roles and functions of both the police and defence forces. The former is responsible for securing internal security and maintenance of the rule of law; whereas the latter is responsible for defending the territory and the national interest of Namibia. Therefore, given this clear distinction, the police, in line with its constitutional obligations, is designated a significant role in ensuring peace and tranquility during the campaign process as well as at the various voter registration points and polling stations. Several police stations were entrusted with the responsibility of safeguarding the various important materials both before voting, after the first day of voting, as well as

before the commencement of counting after the second day of voting.

Deployment of International Observers

Various international actors are becoming increasingly interested in other elections; this expressed through election observation reciprocity and the sharing of lessons on democratic innovations, and socio-political engineering. In keeping with this spirit, the African Union (AU), Southern African Development Community (SADC) Parliamentary Forum, EISA, as well as various electoral commissions from different African countries each deployed a team of election observers in the different regions of the country.

As part of their mandate, the teams will focus on the independence, impartiality and accountability of the election authorities; the secrecy of the ballot and the transparency and legitimacy of the electoral process; and the registration and the state of the voter's roll. Gender trends and voter turnout in comparison to that of previous elections, will also be examined.¹²

¹¹ ECN Vote Newsletter, vol. 2, September 30, 2004

¹² The Namibian Newspaper, Friday, November 12, 2004

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