

ELECTORAL REFORM IN NAMIBIA

Challenges and Constraints

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INTRODUCTION

This paper gives an account of electoral reform in Namibia and analyses briefly the background, challenges and constraints to the country's electoral reform process since the first democratic elections were held in 1989.

BACKGROUND

Although there were regular elections in Namibia prior to the country gaining independence in 1990, they were run on an exclusionist basis for separate administrative authorities of whites, coloureds, and blacks at various level of government – there was no common roll. Consequently, the independence elections in December 1989 were run without a national voter register. The legal and operational framework of the elections was agreed upon among the stakeholders: the South African government, the United Nations (UN) and the political parties. This framework provided, among other things, that the South African government would administer and conduct the elections while the United Nations Transition Assistance Group (UNTAG) would monitor the process and eventually pronounce on whether it was 'free and fair'.

All citizens older than 18 and all people of that age or older who had lived in Namibia for more than five consecutive years before 1989 were eligible to vote if they had registered during the voter registration which preceded the polls. The second category of voters was the South Africans and Angolans who were based in Namibia as civil servants and soldiers. The 1989 polls, based on the proportional representation (PR) system, aimed to produce a 72-member constituent assembly, which would draft Namibia's first constitution. In record time – less than three months – the constituent assembly produced a constitution that was hailed internationally as one of the most liberal in the world. It provides, *inter alia*, for:

- A bill of fundamental human and individual rights.
- The independence of the judiciary.

- Transparent and democratic procedures for the appointment of an executive president and the executive branch of government, the legislature, and other constitutional bodies, such as a delimitation commission and the ombudsperson.

Constitutional provisions for the appointment of the presidency and parliament include the following features:

- Presidency: a five-year term of office, renewable only once.¹
- Parliament: a five-year term of office, running concurrently with the presidency.
- An Act of Parliament to lay down procedures for the conduct of elections. This act is called the Electoral Act (24 of 1992).

ELECTORAL REFORM

The Electoral Act provides for the appointment by the presidency of a five-member part-time electoral commission that 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 added to this mandate, although the law did not explicitly give responsibility for it to the Electoral Commission of Namibia (ECN). The Commission is assisted clerically and administratively by the directorate of elections housed under a ministry which, prior to the 1998 amendments, was housed under the Office of the Prime Minister.

After 1998 the ECN was restructured to provide for increased autonomy: it became a semi-autonomous statutory agency, although it was subject to the public service and treasury rules and regulations. In other words, it operates like any other government ministry, but without a political head such as a minister. It also reports to Parliament.

The 1998 amendments also provided that vacancies for membership of the ECN and for the Director of Elections (the chief electoral officer) should be advertised. Previously, such appointments were made by the President without any external input. New members of the ECN were recruited during 2001 in accordance with the provisions of the new law. This law provides for the National Assembly to set qualifications for members of the Electoral Commission. A selection committee, comprising representatives of the Supreme Court, the Law Society of Namibia, and the Office of the Ombudsperson, with the Chief Executive Officer of the ECN as secretary, screens all applications and interviews short-listed candidates publicly. The names of at least eight candidates are submitted to the President,

¹ An amendment to the Constitution in 1998 provided for Namibia's first president to be exempt from this provision and to be given a third term.

who selects five 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 they believe is not fit to be appointed as a Commissioner.

The ECN would prefer to have more autonomy and independence in its day-to-day operation and functioning. However, any transition to greater independence must be carried out with meticulous consideration of the cost implications and impact of such a move on the effectiveness of the ECN. This issue will be a key preoccupation of the ECN in the immediate future.

Another area requiring electoral reform is voter registration. Namibia's electoral laws provide for a general voter registration every 10 years and for supplementary registration before every election and by-election. In 1994 the ECN introduced continuous voter registration as a way of enabling citizens who had turned 18, or who had changed their address, to register whenever it was necessary. In each constituency registration was conducted by at least one private individual, and the services of the national postal services company were recruited on an agency basis. Officers were paid for each correctly completed form. This process, however, proved problematic because of the high turnover of registration officers and their lack of commitment to the work. Among the problems were the fact that some officials would register the same voters again and again in order to earn more money, and that NamPost officials would register voters for the wrong constituencies, and by the time the errors were detected they were difficult to rectify.

After consulting with political parties, the ECN recommended to Parliament in 2000 that continuous registration should be abolished and that the voters' roll should only be updated before every election.

Namibia's next general registration is in 2003 and the ECN hopes to establish a new registration system to replace the current system with its flaws that include double registrations caused by voter ignorance and ghost voters resulting from poor death registration in rural area. The ECN's ideas, which have been discussed with its stakeholders, include the introduction of new voter registration cards incorporating photographs of voters. These would mean that, although voters will have to identify themselves when they register to vote, they will not be required to carry separate voter identity on polling day. This system will obviate the high rate of loss of voter cards and the problem of many Namibian voters who are not in possession of a means of identification such as passports, national identity cards, and so on.

Another area that was reformed was the administration of the tendered votes, a system that enables voters to vote anywhere in the country, or even abroad, instead of only in their constituencies of registration (and domicile).

In the past, all tendered votes were counted in the capital after polls closed throughout the country, now the law has been amended to provide for a decentralised, constituency-based counting system. Although the new system has boosted efficacy in the administration of such votes, it has proved to be cumbersome

and tedious for some regional officials and party agents, whose level of election literacy is still low.

Among the new administrative measures introduced to enhance effective electoral management was the establishment, during Elections '99, of an election results and verification centre. Here the ECN worked closely with the South African Independent Electoral Commission (IEC) to set up a technology-driven facility to verify all results before they were announced. Facilities included transmission via the Internet and broadcasting by public broadcasters, both local and international.

Other reforms included the establishment of a national party liaison committee, regional election coordination offices in all regions, and regional election advisory committees. It was also agreed to embark upon a vigorous staff development programme, particularly during the non-election period. This will entail attachment to other electoral management bodies when they have elections and related activities.

Several other amendments that are being discussed with stakeholders include:

- A merger of the delimitation commission with the electoral commission.
- Increased autonomy of the EMB.
- Streamlining procedures for:
 - voter registration;
 - providing sufficient time for nomination of candidates;
 - polling (off-shore voting);
 - one or two days of voting;
 - counting votes (centralised or decentralised system);
 - the announcement of results (maintenance of an election result verification centre).

CONCLUSION

The regular evaluation of electoral practices is a *sine qua non* for the effective functioning of every electoral system. It is thus imperative for Namibia, if it is to foster sustainable, vibrant electoral reform and improvements, to constantly compare its electoral system and practices with those of its neighbours and beyond.