



ELECTION · TALK

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BACKGROUND TO BOTSWANA'S FORTHCOMING 2004 ELECTION

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National elections are due in Botswana in the latter part of 2004, but as in every other such event since the eve of independence in 1965, no change in government can reasonably be expected.

The ruling Botswana Democratic Party (BDP) enjoys predominance in the political system and the opposition parties are weak and divided; the Botswana National Front (BNF) has at present six seats, and the Botswana Congress Party just one in a 44-seat National Assembly. They have never come even close to gaining a majority in Parliament, in regular, free, and fairly fair elections, over almost 40 years. There are and have been predominant party systems in other democracies – Italy, Japan, Sweden, not to say South Africa and Namibia recently – but this is one of the most enduring.

The leader of the ruling BDP is also the state president, empowered to decide alone. He controls the resources of a fairly efficient state in a relatively rich upper middle income country. He enjoys the powers of such Old Crocodiles as Kamuzu Banda or P.W. Botha, plus the legitimacy which only the ballot box in a liberal democracy confers. The BDP is always better resourced and funded in electioneering, while the opposition struggles even to produce a coherent programme and present it at all effectively to the voters. Getting eligible voters out to the polls is highly problematic given the BDP's longevity. The BNF scored its highest representation, with eleven seats, in 1994, when it ran an effective campaign under the slogan "Time for a Change", but it subsequently implored and never established itself as an alternative government. In 1999 the country reverted to the "dull elections" of which, President Festus Mogae said at the time, Botswana prefers. Turnout was only some 42 per cent.

Short of some scandalous occurrence, corruption or gross mismanagement, and the disunity among the ruling elite this might engender, the BDP

seems assured of victory. Factionalism exists with the upper ranks, focussed apparently on Vice President Ian Khama, and those who support or oppose this former military commander and continuing traditional chief. He has an image of authoritarianism and of someone above the law, but as things stand is set to inherit the dual presidency on Mogae's retirement. Underlying problems in ethnic relations, human rights, and resource-dependency exist in Botswana, but are still to become issues for debate and resolution. If no realistic opportunity for change is offered to the people, elections will remain dull and the outcomes unaltered.

THE MALAWI GENERAL ELECTION:

Focus on Registration

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Election fever has yet again returned to Malawi with the onset of the registration exercise that commenced on January 5th 2004. The process was initially supposed to run from January 5th – January 18th 2004, but was soon afflicted by severe systemic problems that impeded operations and discouraged would-be voters from registering. The process was expected to enlist 500,000 new voters (i.e. those who had attained voting age since 1999).

Soon after the exercise was launched, reports of shortage of materials started trickling in. Vital items such as duplicate certificates, registration forms, tamper-proof pouches, plastic bags, files and films ran out in numerous centres. Supervisors vainly endeavoured to obtain the requisite items, but were thwarted by the absence or unavailability of Returning Officers. The Malawi Electoral Commission (MEC) issued numerous reassurances but these came to naught as the shortages persisted and intensified until many centres were virtually non functional.

The morale in the registration centres was further lowered by the inadequacy of the training that soon became apparent in the divergences of methodology applied by staff in different centres. For example, in some centres, transferees (voters who had registered elsewhere in 1999, but had since been relocated elsewhere) were handled without having to go elsewhere, whilst in other centres the transferees were instructed to go to their previous centre to collect the requisite transfer. This was notwithstanding the fact that the MEC had, through the media, clearly outlined three specific methods on transferring voters¹. The resultant confusion created considerable disgruntlement and consternation in transferees who were bona fide voters in 1999.

On Saturday, 17th January 2004, (one day before the registration process was supposed to end) the

Registration Centre at Chilinde School was prematurely shut down for the day because the State President was holding a political rally at the school. This was a startling example of cavalier disregard of norms and procedures by the organisers of the event, on the one hand, and the authorities who permitted the rally on the other. Any rally would have to apply for permission in advance and receive approval from the Police and the local authority. Further to this, the MEC has clearly stipulated that the campaign period would only commence on March 9th 2004. Thus all the other political parties and some civil society organisations stridently cried foul – but to no avail, because the MEC merely shrugged off all objections by stating that they were not aware of the event. The tragedy was that would be voters of that area were denied registration on a most opportune day (Saturday) which fell on the second last day before the exercise was scheduled to end.

The above mentioned issues are by no means comprehensive, but they serve to provide vivid illustrations of the stumbling blocks that are impeding our registration process. The MEC has since, extended the deadline twice and the exercise finally ended on Wednesday, 28th January 2004 amidst a creeping sense of despondency. Only 320,000 out of the expected 500,000 new voters were registered – an indication of voter apathy that does not auger well for the upcoming general elections.

¹ The first method involved checking the voters roll within the centre itself and making the correct entries. The second entailed sending people back to the registration centre where they had originally registered to get a transfer certificate and the third was to simply re-register the voters.

PROSPECTS FOR MORE TRANSPARENCY IN MOZAMBIQUE'S 2004 ELECTIONS

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Late 2004, Mozambique will, in principle, hold its third general multiparty elections. I say "in principle" because all the electoral processes that have taken place after the introduction of multipartism (1990) and the signature of the General Peace Accord (1992) have known delays, whose origins lie in the systematic mistrust between the main political actors, FRELIMO and RENAMO. On the other hand, this profound mistrust leads to systematic difficulties in the acceptance of the final results of the general elections as the opposition regards them as fraudulent (1994, 1999). Mistrust has also led to Renamo's and the majority of the opposition parties' boycott of the first municipal/local elections in 1998. In spite of some reservations, an exception to this trend has been the November 2003 municipal/local elections whose results were formally accepted by the opposition.

What is new that justifies the change in Renamo's, and in general, the opposition parties' attitude this time around? In fact there were two aspects that distinguish these elections from the previous ones. Firstly, for the first time the opposition coalition (Renamo – Electoral Union) managed to get in power, by winning five of the 33 "mayorships" and the absolute majority in the assemblies of four municipalities, of which it is worth noting they obtained an electoral victory in Beira, the second largest city in the country. Secondly, a new core actor of the electoral process entered the scene, the recently constituted Constitutional Council. The powers defined by the constitution for the Constitutional Council in the realm of elections (namely its role as the court of appeal on electoral matters) were previously exercised by the Supreme Court whose legitimacy was always contested by Renamo.

The fact that the Constitutional Council accepted Renamo - Electoral Union's complaint with regard to the National Electoral Commission's (CNE) decision to exclude their candidate from running for the mayor of Mocuba Municipality was a clear evidence of its independence and a major step towards the legitimisation of its authority. This came to be confirmed later on by the thorough and impartial manner the Council decided on a series of

other complaints and its critical assessment of some of the shortcomings of the electoral legislation.

The existence of an impartial Constitutional Council that commands the respect of all electoral stakeholders is certainly a positive development for the upcoming elections, but it would be naïve for one to think that all the problems are hence resolved. If one compares with local elections, the stakes for the general elections are undoubtedly more important and the areas of potential political frictions and disagreements are numerous.

One of the obstacles for smooth running of the next elections is the fact that the review of the electoral legislation by the National Assembly has not yet been concluded and approved. This means that if consensus over the issues under discussion is not speedily reached, the elections could run the risk of being postponed, unless they take place under the current legislation, which is still a possibility but on the outset this would lead to a climate of high tension and dissatisfaction on the part of the opposition.

In reviewing the Electoral Act 3/99 (on the election of the President of the Republic and the members of Parliament) the main point of divergence is around the issue of vote counting. Renamo proposes a tabulation system similar to the one used for the last municipal elections whereby a district counting level is introduced while Frelimo maintains that it is unnecessary. Another issue with regard to the counting system relates to the legal provision introduced in the municipal elections' legislation that requires that copies of the tally sheets and the minutes of the polling operations be given to all parties' and candidates' agents at the polling station. These minutes must contain, among other elements, the number of registered voters, the number of those who actually voted or did not vote, the number of votes obtained by each candidature, the number of abstentions and spoiled ballots as well as the number of protested and/or claimed ballots. Contrary to the district counting claim which would inevitably result in the increase of logistical difficulties and the costs of running the electoral process, the issue of minutes and tally sheets is undoubtedly a critical aspect in promoting transparency of the elections.

A speedy and consensual solution of the problems blocking the approval of the electoral legislation together with the legitimacy gained by the Constitutional Council would send a positive signal for the conduct of the upcoming third general multiparty elections in Mozambique.

CLEARING THE CLOUD OF UNCERTAINTY OVER NAMIBIA'S 2004 ELECTIONS

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The last two years were characterised by uncertainties and delays, which have thrown a number of challenges in the way of the Electoral Commission of Namibia (ECN) in the execution of its onerous mandate of conducting elections in a free, fair and credible manner.

The laws regulating the conduct of elections in Namibia make provision for undertaking the general registration of voters after every ten years. This is to facilitate a regular update of the national voters' roll, as well as the issuance of voters with new identification cards. Pursuant to this provision the ECN scheduled the commencement of the second general voters' registration process for October 2002. This however, had to be called off after the realisation that the Third Delimitations Commission was not poised to complete its deliberations on the revision of the demarcation of electoral regions and constituencies as it was on this basis that the potential voters were to be registered

The ECN was therefore forced to reschedule the voter registration process to 1 July 2002. This however, had to be delayed again by ten days, when the Congress of Democrats challenged the legality of this process on the basis of the following 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 National Council as the house of review. Second, certain illegalities in the appointment of the 1998 and 2002 Delimitations Commissions were cited.

In an apparent attempt to save cost and counter voter apathy, the ruling party and the government in particular initially proposed the simultaneous holding of the local and regional elections. A constitutional amendment bill was therefore introduced in the National Assembly in June 2003 to shorten the term of office of the Regional Councillors from the initial six years. The house of review, which is constituted by representatives of all the 13 Regional Councils, was however

unanimously removed to "withhold" its support for the bill. This lack of agreement cast a shadow of uncertainty not only on the scheduling of Regional Councils Elections, but on the Local Authorities elections, as well.

In November 2003, a second attempt was made when the Deputy Prime Minister proposed in the National Assembly that both should be held in February 2005. This proposal was however, rejected by the opposition parties, and as a result a compromise framework was agreed upon in terms of which the local authority elections are now proposed for the end of July 2004.

Apart from the scheduling of the two elections discussed above, the Presidential and National Assembly elections are also supposed to be held later in the year, as per the respective stipulations of the Namibian Constitution. In addition provision will also have to be made to redress the vacancies that have arisen in seven constituencies due to the resignations of the serving Regional Councillors. Therefore, these could mean that the ECN may have to prepare itself for the mammoth and daunting historical task of overseeing the administration of a multiple set of elections in the year 2004. This situation could present a host of logistical and administrative challenges.

These challenges were confirmed by Prime Minister Theo Ben Gurirab¹ who alluded to the fact that the multiple elections planned for this year could prove to be costly to the government. He however gave an assurance that given the importance of these elections to the sustenance of the Namibian infant democracy, the resources required will have to be found and earmarked accordingly.

¹ In an address to the Swakopmund Town Council, reported in the *Namibian* newspaper on 20 January 2004, p. 7