

# PERSPECTIVES

Political analysis and commentary from Southern Africa

## NAMIBIA'S 2009 ELECTIONS

### Dear Reader

Twenty years into independence, on 27 and 28 November 2009, Namibia experienced its possibly most turbulent Presidential and National Assembly elections yet. Without much surprise, incumbent President Pohamba and his ruling party, the South West Africa People's Organisation (Swapo), won a sweeping election victory, maintaining a two-thirds majority in parliament. However, the opposition landscape of the country has undergone a momentous shift – the Rally for Democracy and Progress (RDP), new kid on the block and breakaway from Swapo, emerged as the new official opposition. While the RDP was not able to eat into Swapo support, backing for older opposition parties such as the Congress of Democrats (CoD) and the Democratic Turnhalle Alliance (DTA) was cut in half.

The atmosphere during the lead-up to the general elections of 2009 was tense. Namibia, which widely has been considered a democracy with a political culture that is fairly open and tolerant, witnessed acrimonious and vicious attacks between supporters of the RDP and Swapo as well as reports of disrupted meetings and allegations of voter intimidation. The authoritarian tendencies of the political hegemon Swapo have become more visible than ever before.

Also, the conduct of the Electoral Commission of Namibia (ECN) has left a bitter aftertaste. A controversy over the legality and correctness of the voter's roll and the registration of voters, as well as the delays in counting and announcing election results, have led local media and some civil society organisations to question its competence in ensuring

a free, fair and transparent election process. Finally, eight opposition parties did not accept the election results and took the ECN to court for contravening the election law. However no court ruling – correction of the results or new elections – will topple the absolute majority of the ruling party.

Meanwhile, the observer missions of the Southern African Development Community (SADC) and the African Union (AU) were quick to praise the elections as free and fair, although some recommendations were made to improve the election process. More critical was the Pan-African Parliament (PAP) Observer Mission. While stating that the elections were conducted well, PAP observers clearly stressed their concerns about a number of irregularities such as the time lag in announcing election results and the skewed pre-election coverage of political parties.

This issue of *Perspectives* offers some reflection on these and other issues around Namibia's fourth general election since independence. In the first article, Henning Melber analyses the 2009 election results and points out some worrying political trends which are visible. He concludes that the next five years might prove to be decisive in terms of Namibia's political culture. Melber suggests that the ruling party will have to make the choice between either leading the country into authoritarian rule or transforming it into a truly peaceful, tolerant and democratic society.

Women constitute 51% of the population and 52% of the electorate in Namibia. However, the 2009 election resulted in women representation of only 22% in parliament, dropping from 25% in 2004. In the

second article, Liz Frank discusses the question of how this is possible in a democratic state with a progressive constitution and national gender policy that has been among the first to sign new international agreements promoting women's full equality and rights.

While election campaigns can make a positive contribution to the democratic system by mobilising people to vote through the presentation of persuasive and credible messages, they can also harm the democratic political culture by engaging in negative campaigning which reinforces public cynicism and apathy for political processes. In the third article of this issue, Phaniel Kaapama sheds light on the various electioneering tools used by the competing parties, their efforts to reach out to various constituencies, the electoral political environment, and finally the state of paralysis engulfing the political opposition.

Over the last one and a half decades domestic and international election observers have been deployed in

young democracies across Africa to promote openness and improve the credibility of elections. In Namibia a number of civil society organisations formed a domestic observation capacity that aimed to contribute to a transparent, fair, lawful and balanced election process. In the last article, John Nakuta describes the experiences and main challenges of the domestic observation programmes and analyses the electoral process in all its phases.

We hope that the collection of views gathered in this issue offers you accessible analyses of the political dynamics in Namibia's 2009 elections.

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## Biography

### Henning Melber

Henning immigrated to Namibia in 1967 as a teen, and joined Swapo in 1974. He graduated in Political Science in 1977 at the Freie Universität Berlin before receiving his PhD in the same discipline at the University of Bremen in 1980. He was the Director of the Namibian Economic Policy Research Unit (NEPRU) in Windhoek from 1992–2000 and Research Director at the Nordic Africa Institute in Uppsala, Sweden, from 2000–06, and has been the Executive Director of the Dag Hammarskjöld Foundation in the same city since then. Henning has been published widely in the area of African Studies, on racism and on solidarity as well as liberation movements, in particular on Southern Africa and Namibia.



# Namibia's Elections 2009

## Democracy without Democrats?

The smooth transition to independence from 1989–90, which followed a long and protracted anti-colonial liberation struggle, turned Namibia into an internationally applauded showpiece of African democracy. Based on a constitutionally enshrined multi-party democracy, the country set standards for controlled change within a normative framework in respect of what is generally labelled by those who hold the power of definition as “good governance”.

The liberation movement South West Africa People's Organisation (Swapo) seized legitimate political power as the result of United-Nations-supervised free and fair general elections. In an appraisal of the first party president Sam Nujoma, to whom parliament, in the course of his retirement, conferred the official title “Founding Father of the Republic of Namibia”, the Swapo website states: “He successfully united all Namibians into a peaceful, tolerant and democratic society governed by the rule of law.”<sup>1</sup>

This indeed sounds like an impressive track record. The latest National Assembly and Presidential elections, held 20 years into democracy on 27 and 28 November 2009, seem to be a good reference point and litmus test to verify this ambitious claim. Swapo

has operated as a de facto single party government ever since it obtained a two-third majority in the 1994 elections. It has since then, in the 1999 and 2004 elections, consolidated its political hegemony into a three-quarter majority of votes. Democracy in Namibia seems to be a rather unilateral affair and underscores the slogan of the struggle days that “Swapo is the nation and the nation is Swapo”.

### The state of Namibian democracy

Notwithstanding a rights-based constitutional framework adopted at independence, national sovereignty did not automatically predetermine a vibrant, plural democracy with strong civil society components. Instead, the legacy of a century of settler colonialism had created rather restrictive mental dispositions. A survey among Namibians aged 18–32 concluded, more than a decade after independence, that “Namibia does not have sufficient young Democrats to make the consolidation of democracy a foregone conclusion”.<sup>2</sup>

As if this would not be of enough discomfort, a follow up study added the not so flattering diagnosis that “Namibians are high in partisanship and low in

1 [http://www.swapoparty.org/founding\\_president.html](http://www.swapoparty.org/founding_president.html).

2 Keulder, C. and Spilker, D. (2002). “In search of Democrats in Namibia: Attitudes among the youth” in Henning Melber (comp.). *Measuring Democracy and Human Rights in Southern Africa*. Uppsala: The Nordic Africa Institute (NAI Discussion Paper; no. 18), p. 28.

cognitive skills”.<sup>3</sup> This touches on aspects of what could be termed the authoritarian character, resulting from the oppressive systems of both the settler colonial structures as well as the hierarchy of the anti-colonial movement, particularly in exile. Both were, by any standards, not a fertile breeding ground for a human and civil rights inspired culture and environment, fostering democratic mindsets.<sup>4</sup>

The Afrobarometer Network, in a compendium of public opinion findings based on a total of three surveys in Namibia between 1999 and 2006, concluded that among the 18 countries surveyed “Namibians appear to be the most deferential to their elected leaders”.<sup>5</sup> In terms of the attitudes among citizens, the Afrobarometer national survey of 2005 classified Namibia as “a democracy without Democrats”.<sup>6</sup> A summary of Afrobarometer indicators from five surveys between 1999 and 2008, among a representative sample of around 1 200 persons, concluded: “There is no obvious trend in support for democracy. It has fluctuated roughly around 60% across all 5 surveys.”

Furthermore: “Commitment to elections as the best means for selecting leaders declined by nearly 30% between 2002 and 2008.”<sup>7</sup>

It would be misleading, however, to assume that Namibians would idle passively or show signs of fatigue with regard to political contestation. As a matter of fact, in the last two years Namibian politics were livelier than before. There are impressive features of a plural political culture. A wide panorama of print media and journalists operate rather independently from the dominant party – much to the latter’s dislike.

With the formation of the new Rally for Democracy and Progress (RDP) in late 2007, made up of a fraction of former high-ranking political office bearers from the first (exile) generation of Swapo, the campaign for votes turned into anything but a honeymoon. Very quickly, during 2008, the political

climate in Namibia had markedly changed for the worse.<sup>8</sup>

A survey undertaken at the end of 2008 by the Afrobarometer project warned: “The unprecedented fixation on the coming election, which seemingly has been underway for years, has already challenged the peace and stability of the country in ways unseen since independence. Emotions are running high, judging by the unprecedented confrontations around recent by-elections and political party rallies.”<sup>9</sup>

A local observer predicted: “If RDP’s promise bears fruit, Namibia’s democracy will be paraded and be shown up to have either matured or regressed to the level of other sorry states in Africa.”<sup>10</sup>

Having since then navigated through a large part of unknown territory, the final verdict over the direction which Namibia’s political culture will ultimately take is still pending.

### The election results

Many observers would concede that the Swapo dominance once again displayed by the election results in late 2009 only reconfirmed the firm and efficient control exercised over the Namibian electorate by the party in political power. If only to the dislike of some, Swapo’s political rule in Namibia resembles all features of a dominant party system.<sup>11</sup> This is for a series of reasons, not least the failure of dissenting views to organise effectively in opposition parties. This is hardly reason enough to blame the winner.

For the first time a considerable number of young voters were able to express their preferences. Due to their sizeable numbers during the pre-election build-up, these “born free” were considered to be of some influence as a much speculated “unknown variable”. According to an Afrobarometer survey of late 2008, Swapo underperformed in terms of party attachment among younger voters (18–34 years). Core support remained primarily with “older, rural, and respondents

3 Keulder, C. (2002). *Changing values and attitudes: Can civic education make a difference?* Windhoek: Institute for Public Policy Research (IPPR Working Paper; no. 2), p. 24.

4 See for arguments and evidence seeking to substantiate this statement with particular reference to Namibia: Melber, H. (2009). “Southern African liberation movements as governments and the limits to liberation” in *Review of African political economy*, no. 121, September 2009, pp. 453–61.

5 Fujiwara, T., Logan, C., and Parish, V. (2006). *Citizens and the state in Africa: New results from Afrobarometer Round 3*. Cape Town: IDASA (Afrobarometer Working Paper; no. 61), p. 16.

6 Keulder, C. and Wiese, T. (2005). *Democracy without Democrats? Results from the 2003 Afrobarometer Survey in Namibia*. Cape Town: IDASA (Afrobarometer Working Paper; no. 47), p. 26.

7 Afrobarometer. (13 August 2009). *Popular attitudes toward democracy in Namibia: A summary of Afrobarometer indicators, (1999–2008)*, p. 1.

8 See Melber, M. “War or Peace? Authoritarian polarisation versus political pluralism” in *The Namibian*, Windhoek, 19 December 2008.

9 Afrobarometer. *Namibia political party prospects leading to the 2009 elections*. Windhoek: Institute for Public Policy Research (Afrobarometer Briefings), 12 March 2009, p. 1.

10 Amupadhi, T. (2008). “Tremor shakes Namibian politics” in *Perspectives: Political analysis and commentary from Southern Africa* (Cape Town: Heinrich Böll Foundation), no. 1, p. 6.

11 Du Pisani, A. and Lindeke, WA. (2009). *Political party life in Namibia: Dominant party with democratic consolidation*. Windhoek: Institute for Public Policy Research (IPPR Briefing Paper; no. 44); Melber, H. “Swapo is the Nation and the Nation is Swapo”. Government and opposition in a dominant party state – the case of Namibia. In: Hulterström, K., Kamete, A. Y. and Melber, H. *Political Opposition in African Countries. The Cases of Kenya, Namibia, Zambia and Zimbabwe*. Uppsala: The Nordic Africa Institute 2007 (NAI Discussion Paper; no. 37), pp. 61–83.

with less education, especially from the north-central areas”, while “urban, female, and younger voters represent a growing challenge for the ruling party in terms of party closeness or identification”.<sup>12</sup>

This certainly could not add comfort to the political minds in Swapo. It might have positively influenced the campaign strategy, as for the first time the cultivation of the liberation gospel was complemented by an emphasis on the claimed achievements under a Swapo government. At the end, the “born free” seemingly did not play any decisive role in changing the voting pattern.

Not so surprisingly, the official end results announced by the Electoral Commission of Namibia (ECN)<sup>13</sup> confirmed the hegemonic status of Swapo despite the RDP’s claims and earlier expectations that it would be a serious contender. The table is compiled on the basis of the official figures released. It documents that little has changed in terms of the fundamental political power relations for the forthcoming five-year legislative period.

and southern parts of the country. In parts of the Caprivi and Kavango it has strong contestation from the RDP and All People’s Party (APP) respectively. Among the Damara the United Democratic Front of Namibia (UDF) under Chief Garoeb remains the most popular albeit locally confined force, while among the Herero communities Chief Riruako draws considerable support for the National Unity Democratic Organisation (NUDO). Herero support is also provided to the Democratic Turnhalle Alliance (DTA) as represented by Katuutire Kaura and most likely the Herero leadership in Swanu.

At some polling stations in Windhoek the RDP emerged as the winner, while Swapo similarly lost a majority among the Baster community in Rehoboth to the RDP. Swapo’s majority in the southern and eastern regions has also been reduced. Since the first elections for independence, it relies more than ever on the stronghold in the so-called four O-regions of the former Ovamboland (Oshana, Omusati, Oshikoto and Ohangwena), where for historical reasons it is firmly anchored. Despite the RDP challenge (with some leaders coming from parts of this region) Swapo remains by far the biggest, and in most areas the only, fish in the pond. Given that this is the electorate which holds more than half of the votes, even Swapo – like most of the smaller parties – bears traces of an ethnical character.

Despite the fact that it has emerged as the new official opposition, the RDP has little reason to celebrate. Its leadership certainly had much higher hopes and publicly proclaimed markedly more ambitious aspirations during the election campaign. Yet while the RDP boasted to have a database with close to 400 000 supporters, they garnered less than 100 000 votes. Four out of their eight MPs taking seats in the National Assembly as from 21 March 2010 have in their earlier political life already represented Swapo in this august house. They will have to show that they can make a difference and are not merely old wine in new bottles. This will not be an easy task, especially when confronted with the merciless, dogmatic and unforgiving dominance of Swapo, which will be anything but accommodating.

Predictably the party which lost the most support was the Congress of Democrats (CoD), which collapsed from official opposition status into irrelevant marginality. It was established in late 1999 as a first breakaway party from Swapo, as new kid on the block it had managed to draw a lot of support from the electorate voting for other opposition parties before.

### National Assembly Election Results 2009

Party	Votes	%	Mandates
South West Africa People's Organisation (Swapo)	602 580	74.29	54
Rally for Democracy and Progress (RDP)	90 556	11.16	8
Democratic Turnhalle Alliance of Namibia (DTA)	25 393	3.13	2
National Unity Democratic Organisation (NUDO)	24 422	3.01	2
United Democratic Front of Namibia (UDF)	19 489	2.40	2
All People's Party (APP)	10 795	1.33	1
Republican Party of Namibia (RP)	6 541	0.81	1
Congress of Democrats (CoD)	5 375	0.66	1
South West Africa National Union (Swanu)	4 989	0.62	1
Monitor Action Group (MAG)	4 718	0.58	0
Democratic Party of Namibia (DPN)	1 942	0.24	0
Namibia Democratic Movement for Change (DMC)	1 770	0.22	0
National Democratic Party (NDP)	1 187	0.15	0
Communist Party (CP)	810	0.10	0
Rejected Ballots	10 576	1.30	
<b>Total</b>	<b>811 143</b>	<b>100.00</b>	<b>72</b>

The loss of one seat for Swapo is anything but a defeat. The party will however be well advised to take note of the “pockets” of dissenting votes cast in some of the urban centres as well as the central

12 Afrobarometer, *Namibia political party prospects*, op. cit. (note 9), p. 8. For a variety of empirical details from the survey, which was undertaken between 23 October and 3 December 2008 among 1 200 Namibians interviewed see Afrobarometer. *Summary of results. Round 4 Afrobarometer survey in Namibia*. Windhoek: Published in cooperation with the Institute for Public Policy Research, undated (2009).

13 <http://www.ecn.na/Pages/home.aspx>.

However, it never managed to challenge Swapo dominance, and in 2008, the CoD imploded over internal differences, power struggles and fights over resources.

The two most prominent founding members (who at the time of parting from Swapo held posts of ambassador and deputy minister respectively) separated. That they managed to survive on one mandate each under the CoD flag and the newly established APP only testifies to the ethnic-regional dimension of the latter's party leader Shixwameni in the Kavango capital of Rundu. The same pattern of ethnical-local support also applies to some extent to the Republican Party of Namibia (RP), DTA and Monitor Action Group (MAG), which draw most votes among the white electorate. Their declining influence can be seen as a further political marginalisation of the white minority, which is hardly represented in the National Assembly any more.

The replacement of MAG, the conservative, Afrikaans speaking advocacy group, by the South West Africa National Union (Swanu), the oldest anti-colonial organisation in existence, represents a remarkable symbolic shift in terms of emancipation from a not so long ago settler-colonial past. Swanu is for the first time represented in the National Assembly. This might be the result of some visible campaigning efforts which left a mark in the public sphere. If so, then Namibian democracy seems to exist at least to some encouraging degree. The party's president, elected into the National Assembly on the last seat available (and some 200 votes ahead of MAG), has declared to use the parliamentary forum for the promotion of Swanu's socialist policy program.

This may allow him (given the lack of support to the Communist Party (CP)) to contribute to discourse that assists in bringing about more equality for the majority of the population – including women, who have clearly been the biggest losers in Namibian society during these elections. The number of female parliamentary representatives decreased to 16, which is a far cry from reasonably equal representation.

The results of the presidential election, conducted in a parallel voting act on separate ballot papers, showed – as in all previous elections – that the votes for Swapo's candidate actually exceeded those for the party. Indeed Hifikepunye Pohamba received almost 9 000 votes more than the party list. Already soaring approval rates during the latest Afrobarometer survey placed him among the highest-ranked democratic

presidents.<sup>14</sup> This is a remarkable vote of confidence after a number of internal disputes during his first term in office, when party factions challenged his policy of reconciliation towards some party members who were accused of being “unreliable”.

The top runners, as extrapolated from the official figures, are:<sup>15</sup>

<b>Presidential Election Results 2009</b>		
<b>Candidate</b>	<b>Votes</b>	<b>%</b>
Hifikepunye Pohamba (Swapo)	611 241	75.25
Hidipo Hamutenya (RDP)	88 640	10.91
Katuutire Kaura (DTA)	24 186	2.98
Kuaima Riruako (NUDO)	23 735	2.92
Justus Garoeb (UDF)	19 258	2.37

The official results for both the National Assembly and Presidential elections were, after a lengthy and cumbersome process of verification, finally released by the ECN on 4 December 2009 and published in the Government Notice no. 4397 of 18 December 2009. A total of nine opposition parties sought legal intervention disputing the election results for the National Assembly, and the ECN was taken to court over suspected procedural, and other, irregularities. On 24 December 2009, to allow them the opportunity to substantiate their claims, the High Court granted the applicants access to selective election material. The ballot papers, however, were not released.

On the 4 January 2010, on the basis of evidence compiled, the parties submitted an application for the nullification of the National Assembly election results. The court hearings are expected to commence during early February.<sup>16</sup> Despite the pending outcome, no correction of the results – or new elections – would bring an end to the absolute majority of Swapo. More interestingly, the questions remain as to what extent Namibian democracy can be fostered and consolidated and how the independence of the judiciary can strengthen the country's legitimacy.

### **Namibia's democratic future: an outlook**

While Swapo and its president can confidently claim to have defended their hegemonic role and mastered the RDP challenge, the next five years might prove to be

14 Afrobarometer. *The State of Democratic Consolidation and Economic Performance in Namibia*. Windhoek: Institute for Public Policy Research (Afrobarometer Briefings), 12 March 2009, p. 8.

15 <http://www.ecn.na/Pages/home.aspx>

16 Weidlich, B. 'High Court sheds light on election application.' In: *The Namibian*, 6 January 2010.

decisive in terms of political culture. If the dogmatic and narrow-minded equation that Swapo alone stands for Namibian patriotism prevails, the country's already damaged reputation will suffer more and the internal divisions will further deepen. The peaceful conduct of the elections and the civil forms of coming to terms with its results should not lead us to ignore the worrying signs of increased violence evident ahead of the elections. Those politically responsible among all social forces will face an enormous challenge to maintain peace and stability. The decisive factor in this will continue to be Swapo.

There remain worrying dissonances from a democratic choir, whose multiple voices are clearly not harmonising in the manner of notion and spirit embracing political pluralism. Those articulating little to no respect for dissenting voices include parts of the top brass of Swapo. It should therefore come as no surprise that the rank and file, in their eagerness, copy such fanatic rhetoric.

A triumphant (if not sycophantic) article, published both in the state-owned daily newspaper and on the Swapo website, confidently ended with the columnist's assurance that we can "safely claim that Namibia, SWAPO Party and Sam Nujoma are one".<sup>17</sup> If this sets the tone for a "peaceful, tolerant and democratic society governed by the rule of law", which the Founding Father of the Republic of Namibia is credited for by his party, then it seems not to bode well for those who do not share the same ideals.

As if to make the point, the results of the elections in some of the country's diplomatic missions (which produced strong support for the RDP) prompted a hysterical tribunal. These early votes were surprisingly released a few days ahead of the elections in Namibia. Even though they were numerically insignificant, they were reason for a publicly initiated witch-hunt. In a press conference on 24 November 2009, i.e. already prior to the elections inside the country, the leaders of the Swapo Youth League and the Swapo affiliated National Union of Namibian Workers (NUNW) stated: "Namibia under SWAPO Party Government can proudly teach America, Europe, Asia, SADC and Africa the meaning of National reconciliation, democracy, peace, stability and how to hold peaceful and democratic elections ... Poor and disappointing performance must be compensated by a recall and subsequent release from duties. We mean it, because

17 Froese, U.W., 'Africa: The Other Side of the Coin. Namibia, Swapo Party and Sam Nujoma are one!' In: *New Era*, 4 December 2009. Also accessible at [http://www.swapoparty.org/africa\\_the\\_other\\_side\\_of\\_the\\_coin.html](http://www.swapoparty.org/africa_the_other_side_of_the_coin.html)

the high commissioners are not diplomatic tourists in those countries but were supposed to represent the president of Namibia with uniform loyalty and not divided allegiance ... The Swapo Party must urgently set up a Deployment Policy on the basis of which cadres will be deployed in the government, its agencies and its SOEs and hold accountable on their performance and recalled for non-performance. If laws prevent this from happening, we cannot be held back by laws we can change, as simple as that ... We shall defend the gains of the liberation struggle through the ballot box. Those saboteurs and political cry babies who are masquerading as democrats are political failures on the string of neo-imperialists."<sup>18</sup>

In the spirit of victory, the following statement was published on the Swapo homepage's blog: "We are all democrats and therefore we must know that democracy means hardship to our people. Please no mercy to hibernators let them learn a lesson ... to feel the pinch of the Namibian majority, enough is enough comrades."<sup>19</sup>

And, in a similar vein, a like-minded patriot posted: "We in Swapo Party want to let those hibernators know that defecting Swapo is defecting the nation. Swapo is the Nation and the Nations of Namibia are Swapo."<sup>20</sup>

This self-righteousness has its roots in the days when Swapo was trying to bring independence to the people of Namibia. In the mid-1970s, in a resolution adopted by the majority of members of the UN General Assembly, the party was recognised as "the sole and authentic representative of the Namibian people". The bestowment was a political statement in support of the struggle for independence by the colonised majority, yet by implication the struggle was assumed to be one for democracy too.

In modification of a saying, one needs to remember, however, that reality lies in the eyes of the beholder. Strikingly, and in contrast to all the critical observations presented above, the latest Afrobarometer survey undertaken at the end of 2008 had the insight to offer that Namibians "are among the most satisfied populations in African democracies in terms of how democracy works in the country".<sup>21</sup>

18 Ngurare, E. and Kaaronda, E, *Swapo-SPYL, NUNW rap hibernators*. Accessible at [http://www.swapoparty.org/spyl\\_nunw\\_rap\\_hibernators.html](http://www.swapoparty.org/spyl_nunw_rap_hibernators.html)

19 Posted by Cde Kanamutenya, 2 December 2009, <http://www.swapoparty.org/>

20 Posted by Kapitaholo Otati, 11 December 2009, <http://www.swapoparty.org/>

21 Afrobarometer, *The State of Democratic Consolidation...*, op. cit. (note 14), p. 9.



## Biography

### Liz Frank

Liz, having moved to Namibia in 1990 to support the post-independence education reform, is the outgoing Director of Sister Namibia, a feminist NGO based in Windhoek. She conducted research on women's political participation in Namibia in 1998, which led to the 50/50 Campaign on Women's Political Empowerment run by Sister Namibia for the next six years, and she authored the Namibian Women's Manifesto and a number of papers on the campaign. Liz has degrees in Sociology and Education from La Trobe University, Australia, and Bremen University, Germany. A self-described lesbian, feminist activist, Liz is now preparing for her new career as a researcher and trainer on gender and sexual diversities.



# Women claiming citizenship in Namibia

**W**omen constitute 51% of the population and 52% of the electorate in Namibia, yet they were the losers of the recently held Presidential and National Assembly elections. While we hadn't expected any of the 14 contesting political parties to field a woman as candidate for the presidency, we were shocked at the low number of women candidates on the party lists for the National Assembly, Namibia's lower house of parliament. As a result, only 16 women (22 %) were elected among the 72 MPs, 2 less than the 18 women elected in 2004 (25%).

How is this possible in a democratic state with a progressive constitution and national gender policy that has been among the first to sign new international agreements promoting women's full equality and rights?

### The legal framework

In the 20 years since national independence, Namibia has created a favourable legal and policy environment with regard to the political participation of women. The constitution accords equal citizenship rights to women and men (Article 17); recognises the fact that women were excluded and discriminated against in the past and makes provision for the enactment of legislation, policies and practices that promote the effective participation of women in the political, social, economic and cultural life of the nation (Article 23); and calls for the endorsement of

legislation to ensure equal opportunity for women in all spheres of Namibian society (Article 95).

Furthermore, Namibia ratified the UN Convention on the Elimination of All Forms of Discrimination against Women soon after independence, endorsed the Beijing Platform for Action, and was the fourth state on the continent to support the AU Protocol on the Rights of Women in Africa. More recently, Namibia became the first state to ratify the Southern African Development Community (SADC) Protocol on Gender and Development, which specifically calls for the achievement of gender balance at all levels of government by 2015.

### Affirmative action in local government

Parliament adopted an affirmative action provision in the Local Authorities Act of 1992, which stipulated that the first Local Authority elections were to be conducted using a party list system and that those party lists had to include at least 2 women in respect of local authority councils with 10 or fewer members, and at least 3 women in respect of councils with 11 or more members. As a result 37% of the local councillors elected in 1992 were women.

In 1997 the Local Authorities Act was amended to allow for a second round of the party list system for the Local Authority elections to take place the following year, as opposed to changing to a ward-based system as initially stipulated by the



act. The affirmative action measures were further strengthened, specifying that party lists had to include a minimum of 3 women on councils with 10 or less members, and at least 5 women on larger councils.

Both the ruling South West Africa People's Organisation (Swapo) and the opposition Democratic Turnhalle Alliance (DTA) called on party branches to alternate female and male candidates "zebra-style" on party lists. The total percentage of women candidates was 47. Approximately 42% of the Swapo Party lists followed the zebra format, while 20% of the DTA lists complied with this principle. This resulted in an increase of women's representation in local government of up to 41%. Had the zebra principle been adhered to, gender balance would almost have been achieved! Many of the elected women became mayors, and the presidents of the Association of Local Authorities in Namibia have always been women.

In 2004, women constituted 43% of the local councillors elected. Namibia rates among the top countries globally with regard to the representation of women at this level.

In November 2002, the Local Authorities Act was amended again, this time to retain the party list system for all future elections, and with it the legislated quota for women. The parliamentary debates concerning quotas for the local authority elections were closely connected to debates for and against the ward system. In 1992, the Swapo Party made strong reference to the need for affirmative action provisions for women when stating its case for the party list system. This argument was repeated during debates on the amendments of the Local Authorities Act in 1997 and 2002.<sup>1</sup> In contrast, the opposition parties were staunchly united in their call for a ward-based electoral system, claiming that Swapo rejected it because it would benefit the smaller parties. They highlighted that if the ruling party was genuinely concerned with gender equality, it would implement a 50/50 quota.

### **Obstacles to women's political participation and representation**

In 1998, Sister Namibia undertook research on women's participation in politics and decision-making in Namibia.<sup>2</sup> At the time, in contrast to the high

percentage of women in local government, only 21% of elected leaders at the national level, and 4% of Regional Councillors at provincial level, were women.

Our study aimed to identify the obstacles and challenges facing aspiring women politicians at all three levels of government. We found that a major inhibitor was the fact that access to formal politics was controlled by political parties, which made little effort to promote women within their own ranks or as candidates for elections at national and regional levels. There was a tendency to blame women for not coming forward as candidates rather than to analyse the many barriers and constraints facing women who enter the patriarchal sphere of party politics. At the same time women face a difficult choice, as the price of access to formal political power is subordination to male party hierarchies.

Women's ascribed roles as wives, mothers, sisters and daughters, responsible for the everyday well-being not only of themselves but of the men in their families, were identified as another major barrier. Their stepping out of the so-called private space of the family into the public realm of politics caused some distress. "Who is going to cook for me?" was a common response from men whose wives aspired to political office, and many of the women politicians interviewed had paid the price of being either single or divorced.

Moreover, the stark social divisions of wealth and poverty, entrenched along lines of race, ethnicity and gender under colonial and apartheid rule, have not been overcome. Black Economic Empowerment (BEE) has not benefited the vast majority of women, who eke out a living as subsistence farmers, domestic workers or hawkers in the informal sector. At the same time, they take full responsibility for the upbringing of their children and care of their own households, often as single mothers who receive no maintenance payments from the fathers of their offspring. This depletes their resources for political participation in terms of money, time, energy and mobility. Escalating gender-based violence and lack of access to reproductive health services undermine the bodily integrity of women and lead to high rates of HIV infection, fuelled by cultural norms that deny women their right to sexual autonomy.

While personal autonomy and freedom from ascribed social roles is fundamental to exercising one's citizenship rights and obligations to the fullest, the vast majority of rural and marginalised urban women are so severely hindered by poverty, illiteracy,

1 For a detailed analysis of the parliamentary debates surrounding this issue, see Tjihero, K., Namalambo, D. and Hubbard, D. *Affirmative Action for Women in Local Government in Namibia: The 1998 Local Government Elections*.

2 See Frank, L. (2000). 'Women in Politics in Namibia: A Situational Analysis' in *Women in Politics in Southern Africa*. WiLDAF

violence and cultural bonds that they even lack of the knowledge about their constitutionally guaranteed human and citizenship rights.

### The 50/50 Campaign

The demand for gender balance in all elected positions in government arose in 1999 during a workshop at which Sister Namibia reported on the findings of the above research. At this workshop, Sister Namibia was given the mandate by women members of parliament, government and non-governmental organisations (NGOs) from across the political spectrum to take the lead in collaboratively developing the Namibian Women's Manifesto as our common "gender agenda" and calling for gender-balanced, zebra-style candidate lists for the National Assembly elections at the end of the year. We produced and published the manifesto in 7 languages and conducted a "Training of Trainers" workshop for women leaders from major towns in all 13 regions of Namibia. These women leaders then conducted local workshops to raise awareness of women's political and human rights and popularise the 50/50 demand.

Over the next five years, up to the 2004 elections at all three levels of government, Sister Namibia built and led the Namibian Women's Manifesto Network. We worked with partner organisations at the national level to conduct research on quota systems around the globe, and developed and lobbied for the 50/50 Bill spelling out the required amendments to the Namibian electoral laws. We regularly brought together women leaders from across Namibia to share experiences and equip them to conduct workshops and gain advocacy in their communities. During this period, members of the Namibian Women's Manifesto Network reached thousands of women through their workshops, and regularly visited schools, churches, local and traditional authorities, political parties and NGOs in their communities with our campaign materials and the 50/50 message.

Our aim of uniting women across party lines and other divides failed at the national level due to the homophobic attacks by members of the ruling Swapo Party on Sister Namibia and the network after we had advocated for equal human rights for lesbian women in the manifesto.<sup>3</sup> Yet at the local level, away from party rhetoric, state-sponsored hate speech and scapegoating, women managed to stand together.

<sup>3</sup> See the case study on Sister Namibia's 50/50 Campaign in "Written out. How sexuality is used to attack women's organizing", IGLHR and Centre for Women's Global Leadership, New York, 2000.

This is evidenced by the fact that of the 10 members of the network who stood as candidates for the local authority elections 4 were successful, and they were all from different political parties, including Swapo.

The 50/50 Campaign thus provided a space for women to come together across the divides of race, ethnicity, political affiliation, class and sexual orientation to exercise their citizenship rights of freedom of opinion, expression and association in demanding an electoral system that makes space for women. Through our collaborative work the notion of a 50/50 gender balance in political representation entered the mainstream discourse, yet only one political party, the Congress of Democrats (CoD), went beyond lip service and produced zebra-style party lists for the 2004 and 2009 National Assembly elections. Unfortunately this has made no difference to the outcomes of the recent elections, as the CoD only gained enough votes for one MP to join the next National Assembly, and of course the male party president was top of the list.

### The unbroken power of "traditional" institutions

Two weeks before the recent elections, the Namibian government provided each of the 50 recognised chiefs who are members of the Council of Traditional Leaders with a 4x4 vehicle. A paid driver and free fuel were part of the package. Forty-seven of the 50 chiefs were men. These "gifts" highlighted the usually more invisible layer of patriarchal rule which is still very strong among many rural communities in Namibia, and which is being exploited by the ruling party to stay in power.

This second layer of rule clearly casts women as non-citizens, living under the control of patriarchal family structures which are governed by customary law and presided over by traditional authorities. The power of men over women in their socially ascribed roles as wives, daughters and sisters is firmly entrenched in these three institutions. Feminist writers have explored the ways in which traditional practices were codified into "customary laws" by the colonisers of countries in the south to create "bounded communities" based on religion or ethnicity as part of the divide and rule politics of subjugation.<sup>4</sup>

While Namibia's civil law guarantees fundamental rights for all citizens, recognising customary law only to the extent that it does not infringe on individual

<sup>4</sup> See Mukhopadhyay, M. and Meer, S. (2004). *Creating voice and carving space. Redefining governance from a gender perspective*. KIT Publishers, Amsterdam. This publication also contains an analysis of Sister Namibia's 50/50 Campaign.

rights, customary law emphasises restoration of balance among patriarchal family groups rather than protection of individual rights, especially for women. Over the past 20 years, parliament has failed to comprehensively review customary law to ensure that it is in compliance with civil law. For example, between 90 and 95% of all marriages in Caprivi Region are customary marriages, yet the Customary Marriages Bill has still not been passed, along with the Property and Inheritance Bill and the Child Care and Protection Bill – all of which would challenge and curtail the power of men over women and children in the so-called “private” realm.

Under the Traditional Authorities Act of 2000, these institutions are tasked to “uphold, promote, protect and preserve the culture, language, traditions and traditional values of that traditional community” as well as “promote affirmative action among the members of that traditional community as contemplated in Article 23 of the Namibian Constitution, in particular by promoting gender equality with regard to positions of leadership”. Yet, 10 years after the adoption of the above mentioned Act there are still mainly men serving as traditional leaders.

### **Women claiming citizenship**

In the run-up to the recent Presidential and National Assembly elections, the feminist organisation Women’s Leadership Centre (WLC), in collaboration with activists for women’s human rights from all regions of the country, launched the Women Claiming Citizenship Campaign.

The aims of the campaign were six-fold:

1. To mobilise women, strengthen their voice and encourage them to vote;
2. To advocate and lobby for women’s demands;
3. To engage in dialogue with political parties so that they recognise women as an important constituency and commit to address women’s issues and demands;
4. To promote greater accountability and respect for women’s human rights;
5. To keep political parties and the Namibian state accountable to females, particularly to girls, and to the Namibian people in general; and
6. To evaluate the Namibian government’s performance regarding gender equality and the implementation of the constitution and gender laws.

The centrepieces of the campaign were two public dialogues with political parties. They brought representatives of 8 of the country’s 13 registered political parties face to face with more than 150 community and civil society activists and advocates from across the country. The forum’s purpose was to raise awareness among political parties to key concerns facing women through a newly launched advocacy brochure and through personal testimonies from women themselves. The ruling party was conspicuous in its absence.

The participants agreed that the concept of citizenship extends beyond voting. “We need to engage in matters of the state beyond this and become active citizens who are conscious about our right to have rights, who participate in decision-making and keep our policy-makers accountable to us, the citizens of this country.”

Political party representatives were asked to focus their remarks on the “gender agenda” put forth in the Women’s Advocacy Brochure that was developed by the WLC in consultation with women across Namibia. The issues addressed in the brochure include violence and discrimination against women; hunger and poverty; access to affordable housing, water and electricity; access to land and water for the rural poor; HIV/AIDS prevention and treatment; comprehensive health care; and access to quality education and training. One issue that drew considerable attention was the human rights status of lesbian and gay Namibians. In the end, the parties present agreed that LGBTI Namibians are guaranteed the same rights and freedoms as all other Namibians.

The Women Claiming Citizenship Campaign concluded its launch with a workshop that plotted strategies for mobilising women for the upcoming regional and local elections, scheduled for 2010. Several speakers at the forum identified the scarcity of women candidates as a barrier to women’s advancement. In response, the campaign has called for the adoption of the 50/50 Bill developed by the Namibian Women’s Manifesto Network in 2002, and made a commitment to identify feminist women who would like to stand for the next elections and build their platform around the networks “gender agenda.”

Women will need to exercise their individual and collective agency “beyond numbers” to transform the mainstream patriarchal discourses, institutions and practices governing the political, economic, social and cultural spaces in our post-colonial state.

## Biography

### Phanuel Kaapama

Phanuel is a lecturer in Governance and Development Studies in the Department of Political and Administrative Studies, at the University of Namibia. He holds a National Diploma in Public Administration from the Polytechnic of Namibia, as well as an MSc in Development, Planning and Administration from the University of Bristol in the UK. Phanuel is currently pursuing his PhD studies through the University of the Witwatersrand in Johannesburg, South Africa. His primary areas of research interest revolve around issues of development theory and practice, and currently he is working on the politics of national reconciliation and the agricultural land question in postcolonial settings. He regularly gives media commentaries on Namibian and Southern African politics.



# Electioneering and parties' platforms in the 2009 Namibian Presidential and National elections

## Introduction

From 27–28 November 2009, Namibia witnessed its fifth democratic polls. The country's electorate was once again accorded an opportunity to exercise its constitutionally enshrined political right of electing the President of the Republic as well as the 72 members of the legislative National Assembly. In this civil political contest 12 presidential candidates and 14 political parties were balloted against each other.

In the National Assembly elections, 811 143 votes were cast compared to 829 269 in the previous polls of 2004, which represents a decline of 2.2%. Of the nine political parties that participated in the 2004 elections, the Congress of Democrats (CoD), which subsequent to that election was elevated to the status of the official opposition, emerged as the biggest casualty. It experienced a downfall of 91.4% in votes in comparison to its 2004 support.

**Table 1: A comparison of parties' electoral performances in 2004 and 2009**

Party	2004 votes	2009 votes	Increase/decrease in real votes	Increase/decrease in percent
APP	–	10 795	–	–
CP	–	812	–	–
CoD	59 668	5 145	-54 523	-91.4
DPN	–	1941	–	–
DTA	42 097	25 331	-16 766	-39.8
MAG	6 941	4 716	-2 225	-32.1
NDMC	4 343	1 670	-2 673	-61.6
NDP	–	1 120	–	–
NUDO	34 220	24 202	-10 018	-29.3
RDP	–	90 506	–	–
RP	16 175	6 531	-9 644	-59.6
Swanu	3 605	4 968	+1 363	+37.8
Swapo	620 609	602 580	-18 029	-2.9
UDF	29 806	19 488	-10 318	-34.6

The ruling South West Africa People's Organisation (Swapo), which continues to dominate the Namibian political landscape, witnessed a slight decline of 18 029 in the total votes garnered. This translated in a reduction of its share of parliamentary seats by 1, from 55 to 54. However, as attested in Table 1 above, the loss of 18 029 votes is the second-highest for all the parties that contested the 2004 elections.

Although some of the contesting political parties may have been very active, the electoral campaigns that preceded the 2009 polls were characterised as lacking in vibrancy, focus and vision, and generally failed to excite the voters. This article will make an attempt at examining the factors that may have accounted for these interesting variances. In this regard the various electioneering tools used by the competing parties; their efforts to reach out to the constituencies of women, the youth and first-time voters; the role of the media; the electoral political environment; and finally the state of paralysis engulfing the political opposition will be subject to a closer scrutiny.

## Electioneering tools and instruments

### Election manifestos

In most multiparty political democracies, the unveiling of comprehensive political programmes by electoral contestants in the form of election manifestos is deemed as being indispensable to their respective processes of democratic consolidation. This is firstly because it provides the electorate with reasoned alternatives on the basis of which they can make their electoral choice. Secondly, the presentation of comprehensive political programmes can enhance a party's political credibility in the eyes of the electorate by demonstrating that they have clear visions for the country's future. Thirdly, an electoral contest that is based on previously articulated sets of policy directives and political and ideological outlooks may significantly contribute towards ensuring that the electoral process remains issue oriented, rather than descending into politics of factionalism and personality contest.

However the essence, role and impact of such political platforms have remained an element of controversy in the Namibian context. Some pundits have proclaimed that political manifestos are of little consequences in swaying votes in comparison with the overriding factors of the history of the liberation struggle, the personal appeal of leaders, and ethnic

affiliation. For instance, Alois Gende<sup>1</sup> a former Secretary General of the Democratic Turnhalle Alliance (DTA) is quoted as having opined that: "You can write a very good manifesto, but people don't read manifestos – they ask who is the leader, where does he come from, is he respectable, is he a strong leader, is he from my region."

As opposed to blaming the electorate, another commentator, Frederico Links,<sup>2</sup> placed the blame squarely at the door of the Namibian political establishments, bemoaning that parties tend to approach elections: "As something of a lackadaisical saunter towards a minor event to overcome before settling down once again into the status-quo rut."

Links continues by saying that the apparent inability of the political manifesto of the competing parties to inspire "any great confidence for a more robust problem-solving approach" leaves the electorate "wedged very uncomfortably between a very solid rock and a very hard place when it comes to choice".

Thus it was hardly surprising that, with less than three weeks remaining before the commencement of voting, it was reported in the media that the Republican Party (RP), Democratic Party of Namibia (DPN), Namibia Democratic Movement for Change (NDMC) and the Communist Party (CP) (the same four parties that later contested the 2009 elections) were still to publicly release any comprehensive political programmes for public scrutiny. On its part the NDMC, through its Secretary General, is said to have justified this state of affairs by noting that it saw no need to release a manifesto because "Namibians have no reading culture".<sup>3</sup>

What is interesting, however, is the fact that of these four parties only the RP has managed to secure parliamentary representation for the period 2010–15, although its overall performance in 2009 paints a sorrowful depiction. The RP suffered the third-highest loss on its 2004 share of votes, having lost 59.6%, trailing only the CoD and NDMC whose respective shares declined by 91.4 and 61.6%.

For its part, the Monitor Action Group (MAG) held onto what became its tradition of refraining from releasing any comprehensive manifesto, opting rather for a populist 1-page pamphlet with its 10

1 Quoted in a news article by Christof Maletsky, titled 'Not worth the paper they're written on?' published in *The Namibian* newspaper on 14 October 2009.

2 In an opinion piece published in *The Namibian* newspaper on 11 September 11 2009, under the title 'Choices, what choices?'

3 See an article by Toivo Ndjobela, published under the title 'Parties put cart before the horses,' in the *New Era* Newspaper of 5 November 2009.

core beliefs. Moreover, according to its chairman, unlike other parties that may be striving for taking over government and/or rising to the rank of official opposition, the MAG is struggling for a platform for the advancement of its political ideas.<sup>4</sup> By losing 2 225 votes (or 32.1%) of the 6 900 it garnered in 2004, it was overtaken by the South West Africa National Union (Swanu), a past poor performer, by some 252 votes, and as a result the MAG lost its only seat in the National Assembly.

The predicaments of these parties significantly contrast with the recent experience of Swanu, Namibia's oldest political party. It not only miraculously regained entry to the National Assembly after 14 long years of being relegated to the political wilderness, but also managed to raise its 2004 share of votes from 3 605 to 4 968, presenting a 37.8% improvement. One of the factors that may have contributed to Swanu's ability to overturn its past political misfortunes is the early start of its campaign. For instance, towards the end of August 2008, it had already unveiled a 10-point plan detailing what it terms as solutions to the country's social and economic problems.<sup>5</sup>

### Reaching out to women, the youth and first-time voters

Despite being a signatory to various international legal instruments on equal gender representation in the structures of decision-making, Namibia has been making slow progress in attaining the desired gender parity. Women representation in the National Assembly was slightly raised from 26.4% in 1999 to 27.3% in 2004, which gradually increased to 32% owing to vacancies that arose from time to time due to death and voluntary retirements. There is however a possibility that this will drop to 22.2% in the National Assembly from March 2010.

Only two parties will have women legislators in their rank, these being the governing Swapo Party with a 20.8% women representation and the Rally for Democracy and Progress (RDP), which is bound to take over from the CoD as the new official opposition, which has one woman (or 12.5%) among its eight elected legislators. This state of affairs can be attributed to the poor showing of other parties, in particular the CoD which in the last National Assembly had attained a 50/50 equal gender

representation in its rank owing to its zebra style.<sup>6</sup>

Thus despite the public pretence of the various parties regarding their commitment to gender equality and/or the inclusion of women candidates on their respective lists, in reality women continue to be victims of glass ceilings as the balances of power within the various political parties are tilted in favour of men. This tendency is attested by the fact that although women candidates normally account for more than 30% of the names tendered on the lists of contesting political parties, their names are mainly placed at the lower ends. This trend becomes a serious concern in the sense that the only other opportunity prior to the 2015 deadline set by the Southern African Development Community (SADC) for member states to comply with the 50% women representation in their respective parliaments will be in 2014.

Another group that attracted tremendous attention is the youth, for a number of reasons. For instance, according to the 2008 Afrobarometer survey, 33% of the 18–24 age group indicated that they had no interest in public affairs, while another 48% were recorded to have been undecided when asked which party they identified with. Thus in their quest to appeal to the youth, especially the first-time voters, parties such as Swapo, CoD, DTA and RDP ventured into the extensive use of websites, blogs and social networks sites like YouTube and Facebook.

These were used to provide members and cyber visitors with basic party information, such as parties' constitutions, election manifestos, leadership profiles, and recent press statements. Furthermore, in some instances opportunities were provided for users to participate in online current affairs polls and debates, cellphone fundraising campaigns, and competitions of various types in which cash and other prizes could be won.<sup>7</sup>

### The electoral environment

Namibia has an electoral code of conduct in place that was signed by all political parties in 1999 that impressed upon all contestants to refrain from using language in their various campaign materials, be it speeches, pamphlets, newsletters or posters, that may be construed as inciting violence in any form. Secondly, the parties were entrusted with the responsibility for ensuring that the conduct of their members and supporters would at all times

4 Windhoek Observer, 16 October 2009; *New Era* newspaper of 15 October 2009.

5 Kaapama, P. 2008. 'Overview of Namibian Politics,' in *New Era*, 19 December 2008.

6 *The Namibian* newspaper of 9 December 2009.

7 *The Namibian* newspaper, 8 October 2009; *Windhoek Observer*



conform to the letter and spirit of the code of conduct.

Notwithstanding these provisions, various incidences of violence in both the direct physical and discursive forms were reported, in contravention of this electoral code.

### **Direct physical violence**

The 2009 Presidential and National Assembly elections unfolded against a backdrop of a number of by-elections that were characterised by impulsive incidences of political intimidations, stand-offs and violence, and which spilled over into the 2009 elections.

These were exemplified by isolated and sporadic incidences of physical assaults; blockades with the view of denying political rivals the necessary access to roads, townships, villages and public gathering places; clashes over trees and electricity and streetlight poles for hosting flags and posters; ripping off of posters and burning of flags; smashing of cars; destruction of campaign materials; and hurling of insults, among other things.

One may, however, have to single out the much-publicised skirmishes between Swapo and RDP supporters, at the town of Outapi in the Omusati region on Sunday 8 November 2009, during which the police had to use teargas in order to defuse a situation of tension and potential bloody carnage. For two reasons this specific confrontation appears as having been pre-meditated. Firstly, because of claims to the effect that some of the Swapo supporters, who participated in the setting up of roadblocks and the subsequent stoning of RDP supporters driving to and from their rally, were transported into the town from other places in the region and beyond. Secondly, the array of weapons that were either reported to have been used in the encounter or were confiscated by the police (mainly from RDP supporters) also point to a well orchestrated, pre-emptive violent encounter.<sup>8</sup>

The various incidences of political intimidation and violence elicited fiercest public condemnations from, among others, the Electoral Commission of Namibia (ECN), political parties, civil society organisations (CSOs), and government, through the Minister of Information and Communication Technologies who did not spare his own party supporters the necessary castigation for their unbecoming behaviour.

<sup>8</sup> See newspaper articles published in the *New Era* of 9 and 10 November 2009; *The Namibian* of 9 and 11 November 2009; *Namibian Sun* of 5 November 2009; *Windhoek Observer* of 14 November 2009

### **Discursive violence**

However, some of these condemnations seemed more like mere acts of public posturing, made in passing and lacking the necessary conviction and determination. While some leaders publicly condemned these fragrant acts of unruly behaviour, their fellows appeared to remain hell bent on the fermentation of hatred. This is particularly exemplified by the tendency on the part of some of these leaders to raise their respective flocks on wolf milking based on politics of character assassination, name-calling and bad-mouthing of opponents, including the making of both implicit and explicit portrayals of those holding divergent political views as being enemies.<sup>9</sup>

All these incidences have one thing in common, which is that all can be attributed to politics of exclusive territoriality and the fostering of political no-go areas. Given the fact that Namibian politics of late, rather than addressing issues, have degenerated to the extent that they more often centre on character assassination and name-calling across the political spectrum, the unprecedented state of electoral violence should not have come as a surprise to anyone who closely follows Namibian politics. Already in August 2009, the annual report of the Committee for the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) strongly criticised the practicing of hate speech in Namibian politics, which it characterised to be continuing at an unacceptable rate.

The state of sporadic violence that prevailed during the 2009 election underscores the urgent need for a serious collective effort for the reinvigoration of a culture of political civility and tolerance, which may have to include the revisiting of the Electoral Code of Conduct with the view of giving it some teeth. This may include the incorporation into the electoral law of a provision for the establishment of an Electoral Tribunal as a specifically designated instrument for the expedient resolution of electoral grievances and conflicts.

### **The political opposition as its own worst enemy**

As noted by Munamava<sup>10</sup> that inasmuch as the parties in opposition may be inclined to complain about anything from media coverage to the ECN, the Namibian Broadcasting Corporation (NBC), or

<sup>9</sup> A newspaper editorial written by Kae Matundu titled 'Tjiparuro' in *New Era*, 13 November 2009; Kaapama P., 2008. 'Overview of Namibian Politics,' a review published in the *New Era* newspaper of 19 December 2008.

<sup>10</sup> In a newspaper editorial published in the *New Era* of 6 November 2009.

the ruling party, they seem to lack a critical sense of introspection. They thus seem unable to come forth with alternative strategies for the circumvention of self-inflicted political challenges and constraints, which hamper their respective and/or collective abilities to make a meaningful political impact.

#### **Internal political squabbles**

In the case of the CoD, paralysing political infightings rendered the party into the epithet of the 'sick man' of Namibian politics in 2008. Members of the leadership turned their guns on each other with accusations and counteraccusations that, among others, included misappropriation of party funds, dictatorship, and other undemocratic tendencies. These internal power struggles not only fragmented the party, but also seriously ruined its reputation in the eyes of the electorate. Moreover, the tussle depleted the party's financial resources, as it had to spend close to a million dollars in legal fees alone.

The same fate befell the DTA, also a former official opposition. It started with 21 seats in parliament in 1990 before dwindling to 15 in 1994, 7 in 1999, and 4 in 2004. However, prior to the 2004 election, it witnessed a mass exodus of its affiliate parties, following disagreements over the running of party affairs.

These squabbles generally attest to the preoccupations of some opposition leaders with the attainment of a few seats in parliament, rather than with the strategic positioning of the opposition not only as a government-in-waiting, but also for the eventual seizure of state power through democratic means.

#### **Sustained negativism and the politics of disgruntlement**

The establishment of the RDP comes subsequent to the fall-out from the 2004 Swapo Party extraordinary congress which pinned President Pohamba, Prime Minister Nahas Angula and Hidipo Hamutenya, a former Trade and Industry and Foreign Affairs Minister, in a three-man race for confirmation as the party's presidential candidate.

The arrival on the scene of the RDP livened up the political environment – the expectations in some quarters being that the new party may eventually mount the first ever major challenge to Swapo's political dominance and hegemony, especially by making serious inroads in the governing latter's traditional political support base in the four central northern regions of Oshana, Oshikoto, Ohangwena

and Omusati.<sup>11</sup> While the RDP excited a number of people, especially in the media, its immediate biggest challenge became that of sustaining the initial momentum it had gained. In particular its below-par performance in the three by-elections that preceded the 2009 elections seemed to take the winds out of its sails.

Throughout its electoral campaign, the RDP seemed too inclined towards sustained negativism rather than systematically articulating its own political programmes. Its campaign therefore tended to be preoccupied with the prejudgment of the electoral process long before the electorate had the opportunity to cast their vote – to the extent that at one point its spokesperson was quoted as having advocated for bringing in the UN to oversee the elections.<sup>12</sup>

Such politics of disgruntlement and sustained negativism has a danger of its own, in that it may become counterproductive in the longer run as it could cultivate seeds of disillusionment that result in voter apathy. Those who may have wanted to vote for the party could have arrive at the conclusion that since the electoral process lacked credibility, the very act of voting was therefore nothing more than an exercise in futility.

#### **Narrow ethnocentric focus**

The past legacies of apartheid and Bantustan policies continue to reincarnate themselves in the political landscape of contemporary independent Namibia. Despite the claims of some of the poor performers in the just concluded elections that they remain political homes for all Namibians irrespective of the colour of their skin, ethnicity, creed etc, a close examination of the demographic composition of their list of parliamentary candidates and the geographic distribution of their rallies reveal a different story.

To start with, one may refer to the examples of the United Democratic Front (UDF) and National Unity Democratic Organisation (NUDO). Apart from being led by traditional leaders, they also seem to share similar political ideological brands of ethno-nationalistic developmentalism, which largely reduces them to ethno-cultural and/or political interest groups as opposed to being broad-based political formations.

In the past elections, it may appear on the surface as if these two parties, unlike some others in the ranks

<sup>11</sup> One of those who harboured this belief was Alexactus Kaure, see his weekly 'Eye on Africa' column of 11 September 2009.

<sup>12</sup> See a report in *The Namibian* newspaper of 6 November 2009.

of oppositional politics, have maintained their past consistent electoral performance, by each holding onto two of the three seats that they previously held. However, that these parties have not done much in terms of broadening their narrow ethno-nationalistic outlooks may have significantly contributed to the fact that the UDF experienced the fourth-highest loss of 10 318 votes, while NUDO lost 10 018 votes, the fifth-highest loss for the 2009 elections.

The same can be said upon the perusal through the party list of MAG for the National Assembly election. Here predominantly white Afrikaner exclusivity raises questions about the extent to which this party, a successor of the apartheid-era National Party, is

committed to an agenda of racial integration in line with the political signs of the time. In its response to newspaper inquiry into this matter, although acknowledging that there may be other racial groups apart from white Afrikaners who continue to vote for it, they were however afraid to demonstrate the allegiance openly for the fear of being labelled as puppets or hibernators, accused of working with the imperialists and colonialists.<sup>13</sup>

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<sup>13</sup> See an article in the *New Era* newspaper of 9 October 2009

## Biography

### John Nakuta

John is a lecturer and Head of Department at the University of Namibia where he specialises in administrative and criminal law. He is a non-residential PhD candidate at the University of Maastricht in the Netherlands, where his thesis examines the use of maximum available resources for the progressive realisation of the right to adequate housing in Windhoek. John writes in the area of human rights, particularly economic, social and cultural (ESC) rights. He collaborates with a range of NGOs in an advocacy role on issues relating to human rights, democracy and social justice.



# Civil society for free and fair elections

## Experiences from Namibia

### Introduction

Over the last one and a half decades, domestic and international election observers have been deployed in infant democracies across Africa to promote openness and improve transparency in elections. In many instances they have helped to enhance public confidence and encouraged citizens' involvement in the election process.

Various civil society organisations (CSOs) fielded domestic observation teams to observe the Namibian 2009 Presidential and National Assembly elections. The teams were primarily fielded to contribute to a transparent, fair, lawful and balanced election process.

This article describes the experiences and main challenges of CSOs as watchdogs of the electoral process in Namibia, and outlines their main findings and analyses of the electoral process, in all its phases.

### What is the importance of domestic election observation in Namibia?

The first election observer team deployed in the country was the United Nations Transitional Assistance Group (UNTAG). The UNTAG mandate was primarily to create an environment suitable for free and fair elections. The presence of UNTAG and the extra

election specialists<sup>1</sup> succeeded to boost confidence in the electoral process. The election was subsequently declared free and fair by all the international observer groups.

The Council of Churches of Namibia (CCN) was the only domestic observation group that observed the 1989 elections. Admittedly, Namibian CSOs did not play a prominent role in elections immediately after independence. This is particularly true for the 1994 and 1999 Presidential and National Assembly elections. Blame this on the proverbial honeymoon period and the euphoria which accompanied the country's independence at the time. Be that as it may, their diminished presence deprived the Namibian nation from a critical independent voice necessary to assess the credibility of these elections.

In all fairness, it must be added that for these and other elections, and indeed until 2009, the Electoral Act (No. 24 of 1992) did not provide for the use of observers or monitors (domestic or otherwise) in any Namibian election. Until then, the Act only provided for the accreditation of agents of political parties or

<sup>1</sup> United Nations, Namibia – Background retrievable at <http://www.un.org/en/peacekeeping/missions/past/untagFT.htm#Background>, accessed on 15 November 2009.

independent candidates to observe the various stages of the electoral process. The use and accreditation of domestic observers during elections were thus entirely the prerogative of the Electoral Commission of Namibia (ECN).

The 2004 Presidential and National Assembly elections, in retrospect, served as a catalyst for the recognition and standing of domestic observers in Namibian elections. These elections aroused keen interest among all sectors in the Namibian society. They were seen as a watershed for Namibian politics because they would bring to a close the presidency of Dr Sam Nujoma, the country's founding president, who had served three consecutive terms.<sup>2</sup> Linked to this was the so-called demise of the political careers of several ruling party veteran politicians whose voluntary or involuntary retirements were allegedly intertwined with the departure of the "Old Man".<sup>3</sup>

Namibian CSOs, under the umbrella of the Namibia Civil Society Observation Coalition (NSCOC), seized this opportunity to demand space and recognition for the critical role CSOs were supposed to play in the electoral process. Their insistence paid off. Given the statutory constraints, and the ECN's stand that observing elections in Namibia was not a right but a privilege, they were eventually granted accreditation.<sup>4</sup> Unsurprisingly, the NSCOC's Observation Report took issue with the legal status of domestic observers in Namibian elections, and called for the amendment of the Electoral Act (No. 24 of 1992).<sup>5</sup>

The call for the amendment of the Electoral Act eventually bore fruit. In September 2009, the National Assembly hastily passed several important adjustments. Of note was the accreditation of observers. Section 52A (1) of the Amendment Act specifically provides for the accreditation of any juristic person to observe an election upon application to the ECN.<sup>6</sup> With this revision, the legislature, albeit belatedly, finally acknowledged that the observance and/or monitoring of the electoral process by organised national groups is an essential tool for promoting election integrity.

Well executed domestic election observation is

useful in strengthening the democratisation process in several ways. The activities of domestic observation groups help to:

- Foster openness, fair play, and respect for human rights;
- Make election officials do their work properly;
- Deter violence, fraud and rigging;
- Enhance the transparency and credibility of elections, and thereby the acceptance of results; and
- Legitimise the electoral process and thereby legitimise the elected government and contribute to its international respectability.<sup>7</sup>

Namibian civil society did not shy away from utilising the provisions of section 52A (1) for purposes of the 2009 general elections. Four<sup>8</sup> different CSOs applied for accreditation. Roughly, 1 800 domestic observers were deployed throughout the country to complement the efforts of international observer missions.

### Cooperation with electoral officials and the ECN

The ECN is the electoral management body of Namibia, and its main functions are to direct, control and supervise all elections in a fair and impartial manner. The ECN is further empowered to conduct voter registration, compile and publish the voters' rolls, register political parties and candidates, conduct voter education, and accredit domestic and international observers.<sup>9</sup>

Experience with the Directorate of Election, the administrative arm of the ECN, has shown that the institution maintains an open-door policy and a willingness to cooperate with stakeholders in the electoral process. Unfortunately, issues relating to the often inept performance of some ECN officials have caused many to question the ability of the institution to organise and manage elections in the country. For instance, the application of the Civil Society Elections Coalition (CSEC) for accreditation as observers took several months to be finalised. This resulted in the coalition not being able to observe the pre-election phase of the general elections as initially planned.

The relationship between the ECN and the National Society of Human Rights (NSHR) was

2 Namibia Civil Society Observation Coalition (NSCOC). (2004). *In defence of democracy – Observation Report on the 2004 Presidential and National Assembly Elections in Namibia*, Windhoek: Nangof, p. 2.

3 Sam Nujoma is affectionately referred to as the "Old Man" in certain Namibian political circles.

4 Ibid.

5 Ibid, p. 17.

6 See section 52A (1) of the Electoral Act (No. 24 of 1992 as amended).

7 Electoral Commission of Ghana, framework for domestic election observation, retrievable at <http://www.ec.gov.gh/node/49?q=node/50>, accessed on 10 December 2009.

8 The Civil Society Elections Coalition (CSEC), the Council of Churches of Namibia (CCN), the Namibia Non Governmental Organisations Forum (Nangof) Trust, and the National Society for Human Rights (NSHR).

9 See section 4, Electoral Act (No. 24 of 1992 as amended).

particularly shaky during these elections, with both institutions accusing each other of wrongdoings. The row between them once again brought into question the independence and impartiality of the former. It is a notorious fact that political appointments are susceptible to manipulation. The current practice whereby the president appoints ECN commissioners and directors without a doubt gives a political taste to this very important matter. Changes in this regard will go a long way to dispel sentiments of partiality and favouritism that were experienced in the recent elections.

### The relationship of domestic observation groups with political parties

It is a globally accepted norm that all election observers should hold themselves independent, impartial, and free from any political party and/or candidate contesting elections. In tandem with this norm the CSEC drew up a Code of Conduct for its observers. The Code of Conduct specifically commits CSEC Observers to demonstrate: “A non-partisan approach in [their] dealings with all political parties in the execution of [their] duties.”<sup>10</sup>

The CCN and the Namibia Non Governmental Organisations Forum (Nangof) Trust similarly made their observers pledge to a code of conduct which required them to be neutral, objective and non-partisan in the executing of their duties.

The same cannot, however, be said about the NSHR. The objectivity and impartiality of the NSHR as a domestic observer mission during the past election came under serious scrutiny. Whereas the NSHR accused the ECN as being a stooge of the ruling party, the ECN accused the human rights organisation of misleading the public by spreading lies and trying to convince the international community that Namibia’s electoral process was subject to rigging.<sup>11</sup> The ECN further claimed that there was collusion between the NSHR and some of the political parties contesting the elections.<sup>12</sup> This let the electoral management body to withdraw the election observer status of the NSHR.

The NSHR did not accept this lying down. It brought an urgent court challenge against the ECN’s decision. The High Court ruled in favour of the NSHR on the grounds that the electoral management

body was procedurally unfair and failed to give the NSHR an opportunity to present their case before the decision was taken, as enshrined in article 18 of the Namibian Constitution, when it decided to withdraw the NSHR’s observer status. In typical tit-for-tat style, the ECN complied with the court order and granted the NSHR an audience to state its case, only to confirm their decision to withdraw the organisation’s observer status. The NSHR lodged a second urgent interdict but lost this on technical grounds.

### Analysis of the pre-election, Election Day and post-election observation results

The Nangof Trust, CSEC, CCN and NSHR all claim to have used the Namibian Constitution and the Electoral Act (No. 24 of 1992 as amended) as the primary yardsticks for their respective observation missions. However, since neither the constitution nor the act contain adequate detail about domestic observation of elections, these organisations found it necessary to rely on applicable international declarations and principles to supplement the existing constitutional and legislative shortcomings in this regard. Among the key international instruments that were used were:

- ❑ The Principles for Election Management, Monitoring and Observation (PEMMO) in the Southern African Development Community (SADC);
- ❑ African Charter on Democracy, Elections and Governance;
- ❑ SADC Parliamentary Forum Norms and Standards for Elections in the SADC Region;
- ❑ The SADC Principles and Guidelines Governing Democratic Elections; and
- ❑ The OAU/AU Declaration on the Principles Governing Democratic Elections in Africa.

A concise summary of the preliminary reports of these organisations, based primarily on PEMMO, reveals the following:

#### 1. Pre-election phase

##### 1.1 Voter registration

None of the organisations pointed out any substantive irregularities relating to the registration of voters, i.e. restrictions, accessibility, registration period, etc. The NSHR alleged that some Angolans along the Namibian–Angolan border were registered to bolster the support base of the ruling party in that area, but it provided no evidence to substantiate this claim. The organisation also alleged multiple registrations of ruling

<sup>10</sup> Namibia Institute for Democracy. (2009). *Guide to Election Observation in Namibia, Code of Conduct for Civil Society Elections Observers*. Windhoek: NID, p.57.

<sup>11</sup> Maletsky, C. ‘ECN blackballs NSHR’ in *The Namibian*, 24 November 2009.

<sup>12</sup> Ibid.



party supporters. The ECN, however, dismissed these allegations. Such cases, according to the ECN, related to instances where people lost their voter registration cards and were thus merely issued with duplicate voter registration cards as provided for by the law.

A major contentious issue during this election phase related to the voters' roll published by the ECN. The roll was fraught with inaccuracies. It contained names of deceased voters, misspelled names, incorrect sex designations and incorrect constituencies. The biggest flaw in this regard remains the different number of total registered voters given by the ECN for the elections. The ECN released three different versions of the voters' roll and its officials contradicted themselves as to which one was the ultimate correct one.

PEMMO recommends that there should be sufficient time for public inspection of the voters' roll and for the adjudication of appeals. Given the intransigence displayed by the ECN regarding this matter, it is unclear why the opposition parties opted not to challenge the credibility of this very important aspect of the elections before the commencement of the polling process.

### 1.2 Election campaign

The elections campaign was characterised by intense rivalry and skirmishes between supporters of the ruling party, the South West Africa People's Organisation (Swapo) and those supporting the opposition parties, especially the Rally for Democracy (RDP). In this regard, supporters of the ruling party should take the greatest blame for having ignored the code of conduct for political parties and resorted to unlawful practices, such as designating certain parts of the country as so-called "no-go" areas.

Such practices are manifestly illegal and in clear breach of national and international norms and standards. The government also came under heavy criticism for using the campaign period to implement long outstanding government programmes. A case in point was the delivery of 4x4 vehicles to all recognised traditional chiefs a week before the elections. These were invariably seen as "election gifts"<sup>13</sup>, and in blatant breach of the principles, norms and standards underpinning free, fair and democratic elections.

### 1.3 Media

International standards and norms dictate that all

parties and candidates contesting elections should have fair and equitable access to the public media.<sup>14</sup> It is safe to state, without fear or favour, that the television service of the Namibia Broadcasting Corporation (NBC) breached this important principle during the past elections. Election coverage by the NBC, as pointed out by the SADC Parliamentary Forum, was most certainly tilted towards the ruling party.<sup>15</sup> For instance, surveys conducted and released by the Institute for Public Policy and Research (IPPR) revealed that on 17 and 25 November the ruling party respectively received 83% and 70% election coverage on NBC TV.

The trend by the NBC to rank the opposition as less newsworthy is totally unacceptable and unjustified. It is a recipe for anarchy and such biased assistance should be condemned in the strongest terms. Practices such as this, as noted earlier, are in clear breach of PEMMO, the SADC Principles and the African Charter on Democratic Elections, to mention but a few.

## 2. Election Day

Friday and Saturday, 27–28 November 2009, were set aside for Namibians to elect a new president and members for the National Assembly. The voting environment and processes were largely peaceful and voting was successfully completed on time, without any reported incidents of conflicts. The Namibia Institute for Democracy (NID) observed that the wide deployment of national and international observers, who had free access to polling stations, and the professional, non-partisan manner in which the Namibian police and security forces conducted their duties, predominantly contributed to a peaceful, free and fair polling process.<sup>16</sup> Nothing to the contrary was pointed out by any of the others observer teams.

Concerns raised during this process related mainly to the quality of the indelible ink for voters and the tendered voter system. Several people complained about the durability of the ink, saying that it rubbed off easily. The author put this theory to the test and can testify that these allegations are indeed true. This finding is shocking to say the least, and could

14 See PEMMO, Principles 4.6, retrievable at <http://www.eisa.org.za/PDF/pemmo.pdf>, accessed on 12 December 2009.

15 Weidlich, B. 'SADC Parliamentary Forum says polls fair,' in *The Namibian*, 2 December 2009, p. 3.

16 Namibia Institute for Democracy. *Preliminary statement by the Namibia Institute for Democracy (NID) on the 2009 National Assembly and Presidential Elections*, retrievable at <http://www.nid.org.na/>, accessed on 10 December 2009.

13 'Election gift to chiefs', in *The Namibian*, 20 November 2009.

potentially have been used by unscrupulous individuals and/or groups with an interest in exploiting this deficiency to their own advantage.

Namibia is using the tendered vote system during Presidential and National Assembly elections. For these elections the country is regarded as one constituency. This system allows voters to cast their votes at any constituency they find themselves at at the time of these elections. This is a notable practice which is meant to allow as many voters as possible the opportunity to exercise their inalienable right to vote. However, the Pan-African Parliament (PAP) Observer Mission highlighted laudable concerns relating to this practice. For instance, the procedure of recording the voter registration card number of voters on the ballot paper counterfoil potentially compromised the secrecy of the polling process.<sup>17</sup>

Interestingly, this point was also raised by the High Court in the 2004 case of *The Republican Party of Namibia & Others*.<sup>18</sup> Why neither the legislature nor the ECN saw it fit to address the concerns around the tender vote system is highly questionable and open to various interpretations.

### 3 Post-election phase

#### 3.1 Counting

One of the most significant amendments made to Electoral Act in 2009 relates to the counting of votes. In terms of this amendment, the counting of votes in all Namibian elections now occurs at the polling station immediately after the close of polling.<sup>19</sup> The presiding officer, assisted by counting officers, must do the counting<sup>20</sup> in the presence of party agents, accredited observers, and police officers. All indications are that there was strict compliance with this statutory provision.

#### 3.2 Announcement and acceptance of results

The announcement of the results by the ECN, without a doubt, was the most controversial part of the past elections, as it was painstakingly slow. When the official results were finally publicised on the evening of 4 December 2009, there was a clear disinterest in the proceedings – and not only on the part of the majority of opposition who boycotted the event.<sup>21</sup>

In the words of Ambrose Dery, the PAP Observation Mission Leader: “It was only thanks to the work of the Namibian Police and the peaceful nature of the Namibian people that the public hadn’t risen up in violence to protest the delay, as had happened in other countries in recent elections.”

The reasons given by the ECN for this undue delaying of results were unconvincing and did not succeed in quelling the suspicions and allegations of sinister acts. The ECN must explain to the nation why the procedures laid down in the act were not followed to the letter. Why for instance, were the results not announced and posted outside the polling stations as prescribed by the law? Why also, was there a need to establish a so-called national verification centre?

A close reading of the act reveals that “verification centres” should only be established at constituency level. Verified information from these centres is supposed to be transmitted to the ECN Chairperson and the Director of Elections, who respectively announce the results of the Presidential elections and the allocation of seats in the National Assembly. No verification of results is supposed to take place at national level, period.

The long time that it took to announce the results, as pointed out by the NID, casts a shadow over what otherwise could have been exemplary elections.<sup>22</sup> It thus came as no surprise when some of the major opposition political parties announced their intention to file a court application against the ECN for alleged election irregularities. The nation awaits the finalisation of this process and the court’s ruling on the status of the results as announced by the ECN. It is to be hoped that once the courts have pronounced on this matter, one way or the other, all will accept the outcome.

### Conclusion

The 2009 Presidential and National Assembly elections were marred by avoidable human and administrative errors. The amount of confusion (i.e. accreditation of domestic observers, the voters’ roll), the lack of transparency (i.e. verification of votes), and the mismanagement and ineptness on the part of ECN officials leave much to be desired.

Were the elections credible, free and fair? Assessing the outcome of the 2009 Presidential and National Assembly elections with reference to the polling process only would be fundamentally flawed and misleading.

17 Shejvali, N. ‘Namibia could do better: PAP Observers’ in *The Namibian*, 20 November 2009.

18 *Republican Party of Namibia & Others*. (2005). NAHC 2, pp. 43–58.

19 See section 85(1) of Electoral Act (No. 24 of 1992 as amended)

20 Ibid.

21 Editorial, ‘Elections end on a sour note’ in *The Namibian*, 20 November 2009

22 *Supra*, note 21.

The incidents of intimidation and violence against supporters of the opposition, the alleged intimidation and victimisation of government officials perceived to be members and/or supporters of opposition parties, the use of state resources by the ruling party, and the flagrant bias of the state media towards the ruling party invariably impacted on the fairness aspect of the electoral process. It is respectfully submitted that any reasonably observer, whether accredited or not, will come to the same conclusion.

As noted earlier, the polling process on Election Day, without a doubt, may be declared to have been credible, free and fair.

Unfortunately, the same cannot be said about the last and crucial phase of the electoral process. The time lag in announcing the final results and the allegation that political party agents were not invited and/or allowed to be present at the verification centre cast a shadow on the credibility and fairness of the results.

Simple logic dictates that where two (pre-election and post-election) out of the three electoral phases (pre-election, election-day and post-election) cannot be termed credible, free and fair, then the entire process cannot objectively be said to have been credible, free and fair.

Lessons from the recent elections have shown that CSOs have a critical role to play during all phases of the electoral procedure. It is safe to state that the different domestic observation missions positively contribute to the quality of the elections.

### Recommendations

Namibians will go to the polls again in 2010 to elect their regional and local government authorities. To avoid a repeat of the 2009 election challenges it is imperative that the following proposals are implemented:

#### The legislature

Amend the Electoral Act (No. 24 of 1992 as amended) to:

- ❑ Make the ECN truly independent and subject only to the constitution and the law;
- ❑ Provide that the commissioners and director of the ECN be appointed by the president subject to ratification by parliament;
- ❑ Give legal force to the code of conduct for political parties, with clear criminal and administrative sanctions for parties and their supporters violating the code;

- ❑ Give equal airtime to all political parties in the state media;
- ❑ Compel political parties to adhere to greater gender equity when compiling their party lists;
- ❑ Reduce voting to one day; and
- ❑ Provide for alternative dispute resolution systems (i.e. conflict-management committees) to supplement the otherwise expensive legal route of settling disputes.

#### ECN

- ❑ Review the effectiveness of the tender vote system to make it less cumbersome;
- ❑ Assess and test the quality of the indelible ink prior to elections to ensure its durability and effectiveness;
- ❑ Improve on the counting process to ensure the timely release of results to help avoid unnecessary tension, anxiety and suspicion; and
- ❑ Invest in more training of ECN staff and officials to ensure that they are fully conversant with the legal requirements/framework within which they are supposed to carry out their tasks.

#### CSOs

- ❑ All domestic observer teams should refrain from aligning themselves, direct or indirectly, with any political party or candidate contesting the elections.



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