

### CONTENTS

Election Phase and Post Election Review	1
Introduction	1
Opening of the Polling Stations	1
Election Materials	2
Voting	4
Secrecy of the Ballot	4
Counting and Verification	5
Voter Turnout	5
Results & Certification	6
Analysis of the Presidential and National Assembly Results	9

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## Election Phase and Post Election Review

### Introduction

This briefing paper assesses Namibia's third Presidential and National Assembly elections that took place from November 15-16 2004. The paper will be deliberating on the following key elements: polling station, elections materials, secrecy of the ballot, as well as the voting, counting and results verification processes. It will also focus on voter turnout, announcement of the results, the certification of

the electoral process as having been free and fair, and finally it will present an analysis of the political bearing and trends that these results will have for Namibia in the short and medium term.

### Opening of the Polling Stations

The ECN put in place 1168 fixed polling stations, most of which opened their doors to the already waiting electorate at 07h00 on Monday 15 November 2004. However, a few hitches were experienced by some polling stations that

delayed the on-schedule commencement of voting. These included problems with logging onto the computerized voters register by some polling officials, mainly resulting from the heightened security features that were installed to preserve the credibility of these electronic systems.

Other problems at Keetmanshoop in the southern part of the country, included the unavailability of the secret marking stamps required to validate each and every ballot paper issued, and without which they cannot be

considered valid and could not be counted. As a result, voting had to be delayed by three hours, and in the meantime several voters were reported to have left the polling station.<sup>1</sup>

At Grootfontein in the central northern part of the country, the voting process was delayed by few hours due to a power failure covering the whole town. While at Okakarara in the central highlands, the only fixed polling station opened its doors fifteen minutes late, due to the unavailability of police officers to authorize the release of election materials that were left at the police station for overnight safekeeping.<sup>2</sup>

The biggest delay was witnessed by voters in London, UK, where eligible voters living there were expected to vote for the first time. This resulted mainly as ballot papers and secret stamps to mark their authenticity did not arrive in time for the opening of the polling station on Monday. According to the Director of Elections, this resulted from inadequate arrangements made by those in charge of the polling stations abroad. They failed to collect the parcels containing election materials from the Heathrow International Airport.<sup>3</sup> Although provisions were made for eligible voters abroad to cast their voters, similar provisions were not made for them to register. As a result although the unofficial figure of potential eligible voters in

Britain was estimated at more than 20 000 voters, only 10 were said to have voted, the rest were disenfranchised, not because they did not want to vote, but rather due to the fact that they could not produce the necessary documentation required in order to vote.<sup>4</sup>

### **Election Materials**

The Director of Elections is required to issue the Returning Officers in charge of the respective polling stations with all the relevant equipment and materials required for the smooth conduct of a credible electoral process. Such materials include polling booths, ballot boxes, ballot papers, instruments with official marks for stamping ballot papers, sealed envelopes containing the imprint of the official mark, seals and lists of people removed from the roll.<sup>5</sup>

The following is an assessment of the extent to which the ECN in general and the Director of Elections in particular fared in fulfilling this important requirement:

#### ***The Voters Roll:***

Under section 74 of the 1992 Electoral Act, each polling station should have been furnished with a copy of the relevant portions of the national voters' register, however on the grounds of the following practicalities this provision was annulled through the provisions of the 1994 Electoral Amendment Act: The first

complication emanated from the fact that each polling station was not designated to deal only with the voters of that particular constituency, but also a substantial number of tendered voters, hence these particulars would also have to be checked against the full national voters' register. Secondly, supplying each station with a copy of the register is a logistically cumbersome exercise.

Nevertheless, an electronic voters' roll was introduced at approximately 300 polling stations in urban constituencies across the country to speed up the voting process. As expected in sharp contrast to past elections, the electronic system used for tracing the names of voters on the voters register expedited the whole voting process. This greatly contributed to the minimization of congestion in voting queues. Since this system was only introduced at certain polling stations in urban areas, it therefore came as no surprise that polling stations in highly populated informal and rural settlements experienced longer queues due to the slow manual process of tracking and verifying the particulars on the voters' roll.<sup>6</sup>

Several stakeholders expressed various concerns regarding the accuracy of the voters' roll for the 2004 Presidential and National Assembly's Elections. These included doubts regarding the accuracy of the total number of voters featured on the voters roll, predicated upon the fact that according to the 2001 National Population and Housing Census, the total

<sup>1</sup> New Era Newspaper, Tuesday November 16, 2004

<sup>2</sup> New Era Newspaper, Tuesday November 16, 2004

<sup>3</sup> The Namibian Newspaper, Wednesday, November 17, 2004

<sup>4</sup> New Era Newspaper, Wednesday November 17, 2004

<sup>5</sup> Electoral Institute of Southern Africa, A Handbook of Namibian Electoral Laws and Regulations, 1999, pp. 43 – 44

<sup>6</sup> New Era Newspaper, Tuesday, November 16, 2004

population of Namibia stood at 1.8 million, of which fifty one percent (51%) were said to be below the age of seventeen (17) years, hence charging that the figure of 977 742 has been inflated. These concerns however, were dismissed by the ECN on the grounds that an analysis of the 2001 Population Census reveals that the total number of the group aged 15 – 17 years by August 2001, and who would have become eligible to register and vote in 2004 was 123 124. Based on these statistics, the number of people who would have qualified to be on the voters roll should have been 1 079 503. The shortfall of 101 761 therefore accounts for those people who did not register on account of citizenship, migration, death or from sheer choice.<sup>7</sup>

The ECN further noted through an Official Public Statement that during the 1994 elections, the total number of registered voters was 654 189, which increased to 878 869 in the 1999 elections. The voters' roll for the 2004 therefore witnessed a meagre increase of 11.25 per cent compared to that of 1999 which stood at 34.3 per cent.<sup>8</sup>

Another concern regarding the voters' roll related to its late issuance for public scrutiny includes the fact that it was incomplete and had a number of double entries in terms of people who were registered

more than once.<sup>9</sup> Furthermore, it was discovered on the commencement of voting that names of several people who could present the Polling Officers with the voter registration cards were not on the voters' roll. These included some prominent political personalities such as the Governor of the Omaheke region and Mayor of Gobabis in the eastern parts of the country. In these cases, Presiding Officers at the polling station concerned were forced to use their discretion to allow such voters to cast their votes.<sup>10</sup>

Some political parties also reiterated their concerns that that thirty per cent (30%) of the names on the voters' roll represented those who could not identify themselves and therefore registered themselves as voters by way of sworn statements.

#### ***Ballot Boxes and Papers***

Several political parties expressed their uneasiness that the tender for the printing of over a million ballot papers was awarded to NAMPRINT, a local company with close links to the ruling SWAPO Party. The ECN defended its decision by pointing out that this company had previously received similar tenders, and had delivered on its promises. It further tried to allay these concerns by noting that the requirements pertaining to security and logistical arrangements for the delivery of the ballots papers to polling

stations; were all met prior to the allocation of the tender.<sup>11</sup>

The ECN also came under criticism for opting to print 3,6 million ballot papers - 1,2 million for each of the three elections. It was further alleged that some ballot boxes bore the same number, and that political parties were not informed as to how many seals were produced for the elections by the ECN.<sup>12</sup>

During the actual voting process, some political parties also bemoaned the fact that the ballot papers were not punched as agreed with the ECN. They further claimed that the number of ballot papers per ballot book varied and hence this contributed to what they termed the state of confusion; in the sense that some books contained more or less than 100 ballot papers.<sup>13</sup>

#### ***Indelible Ink***

The indelible ink that was supposed to have been applied to identify those persons who had already voted, easily washed off. This is said to have contributed to the creation of a potential loophole that may have allowed some people to vote more than once. Due to this concern, the Republican Party (RP) indicated its intention of requesting the ECN to facilitate the introduction of permanent marking ink in the subsequent Regional Council elections.<sup>14</sup>

<sup>7</sup> ECN Official Public Statement, published in the Namibian Newspaper of Monday November 29, 2004

<sup>8</sup> ECN Official Public Statement, published in the Namibian Newspaper of Monday November 29, 2004

<sup>9</sup> New Era Newspaper, Thursday, November 25, 2004

<sup>10</sup> New Era Newspaper, Tuesday, November 16, 2004

<sup>11</sup> Namibian Newspaper, October 13, 2004

<sup>12</sup> The Namibian Newspaper, Monday November 29, 2004

<sup>13</sup> New Era Newspaper, Thursday, November 25, 2004

<sup>14</sup> New Era Newspaper, Wednesday, November 24, 2004

## Voting

The Presiding Officer is required to administer the following procedures for ensuring the credibility and orderliness of the electoral process, he/she has to verify the validity of voting and identification documents presented by each voter; scrutinize as to whether the voter may have voted already, by checking for marks stamped in indelible ink; confirmation to ensure that the voter's name does not appear on the list of the names removed from the roll; record the particular of the voter and placing the indelible marks on the fingers of the voter to ensure that such a voter does not attempt to vote again in this particular set of elections. After performing all these requirements the polling official may then allow the voter to proceed with the casting his/her vote.

Two types of votes were cast: the ordinary vote by those voting within the constituencies in which they are registered as voters, and the tendered<sup>15</sup> votes by those who voted in other constituencies, rather than in the ones in which they are registered as voters. In the case of the latter voting system, the voter is issued with the tendered vote envelop endorsed with the name of the constituency in which the voter is registered, in which he/she should place the ballot paper after having cast his/her vote.

Numerous stakeholders in the 2004 Presidential and National Assembly Elections raised their

concerns that the tendered system of voting significantly slowed the progression of voting at some polling stations. This was to such an extent that Mr. Victor Tonchi the Chairperson of the ECN noted that this has to be reviewed in the future. Most crucially were the concerns expressed regarding the apparent "unusually" high number of tendered ballots, which accounted for double the figure of the ordinary votes. For instance some political parties pointed to the incidence in the southern diamond mining town of Oranjemund. Here the initial number of people who had voted was put at 12 000; this was adjusted however, when it was pointed out to the ECN that this was impossible given that the registered number of voters was in the range of 5 000, as well as the fact that it is in a restricted zone, requiring entry by way of a permit. Hence such a large number of people probably would have not been allowed entry over such a short period of time. The final adjusted number of votes counted at Oranjemund was approximately 6 757. However, dispensing with the tendered voting system would not be a viable option, especially as Namibia has a highly mobile population. For instance, according to the 2001 National Population and Housing Census, a high urbanization rate was given totalling 5.6 per cent. This mainly comprises young people coming to cities and towns in search of better social and economic opportunities.

## Secrecy of the Ballot

In terms of the electoral procedures in place, the ECN carries the burden of

guaranteeing the integrity of the voting process, by ensuring that each voter can exercise his/her right to vote in secrecy. Therefore, as one of its obligations is the delivery by the ECN of polling booths to all polling stations.

Therefore, theoretically this provision accords all citizens the right to vote in secret, however its extension to illiterate and disabled voters, especially those who are blind or visually impaired, has in the past proved to be difficult. In the sense that such persons may call on the assistance of the presiding officer or any designated electoral official to mark their ballot paper for them, *ipso facto* compromises their right to secrecy. Moreover, such an arrangement could expose the voters concerned to the risk of their vote being manipulated and cheated by the person entrusted with the marking the ballot paper on his/her behalf.

With the unveiling a Braille tactile folder that was used for the first time in the 2004 Presidential, National Assembly and Regional elections, this risk seems to have been minimized. Close to the 30 000 visually impaired voters were provided with the mechanisms through which they could either read the names of the parties in Braille or differentiate between them by the corresponding number of punches next to their names, after which they could then mark the ballot paper with a thumb print in especially cut boxes.<sup>16</sup>

<sup>15</sup> Provided under Article 34 (c) of the 1994 Electoral Amendment Act

<sup>16</sup> Namibian Newspaper, October 13, 2004

Despite this new provision, it was reported that visually impaired voters encountered some problems in terms of understanding how the process works, and therefore could not cast their vote independently but needed assistance from polling officials. This was attributed to the fact that very little voter education was provided in order to ensure that visually impaired voters were familiar with the process well before the elections.

Due to this, a row erupted at a polling station in the Aminus constituency in the eastern part of Namibia, over the electoral regulation requiring polling official to assist illiterate and visually impaired voters who may need assistance when casting their votes. The returning officer was forced to invoke the provisions of Article 78 of the 1992 Electoral Act, which empower him/her to terminate the process of voting in the event of riot or any other emergency that might interfere with the proper conduct of the election. The incident began when some of those affected insisted on being assisted by trusted relatives rather than a stranger in the form of a polling official, but was amicably resolved and voting commenced after a one hour delay.

### Counting and Verification

The Electoral Act provides for the commencement of counting, at a pre-determined centralized point in each constituency, after the lapse of the time allocated for the voting process. In the pre-election consultations between the ECN and representative of political parties, appeals were made for

the former to allow presiding officers to start counting soon after all registered members had voted in constituencies, in an effort to further promote transparency. However, due to the constraints of time, this proposal could not be executed, as this would have required an amendment of the relevant electoral legislation.<sup>17</sup>

When the sealed ballot boxes and packets are brought to the venues where the counting is to take place, the Returning Officer has to examine the seals, and then allow the agents of the political parties and observers present to do the same, before he/she can open it. The Electoral laws requires the Director of Elections to divulge the information regarding the times and venues for the counting of the votes to all political parties.

After counting at the centralized point in each constituency was completed, the provisional results were transmitted by fax to the Election Result Centre in Windhoek, where final verification was done before the result were released.<sup>18</sup>

Despite these provisions, concerns were expressed regarding the "extraordinary" secrecy that surrounded the process of result verification at the Central Elections Results Centre, to the extent that some of the participating political parties claimed that they did not even have a clue as to what

such verification entailed. Therefore, some of the contestants bemoaned the fact that they were excluded from the counting process in general; and more specifically the verification of the results at the Election Result Centre, in the absence of party agents.<sup>19</sup> For instance the CoD claims that its party agents in some of the regions were denied access to vote counting venues.

This was however refuted by the ECN. It claimed that the provisions of the Electoral Act regarding the counting process and verification of votes were fully adhered to, however it noted that some political parties denied themselves representation by not fielding party agents to oversee these processes that took place in the constituencies as prescribed by law.

### Voter Turnout

Following the third local authority elections that were held earlier on 14 May 2004, it was reported that voters in some local authorities were disturbed by the fact that leaders of their parties unilaterally altered the composition and sequence on the list of candidates that emerged from the party primaries for these elections. Hence it was predicted that this might contribute towards voter apathy.

However, it transpired that 825 376 registered voters defied the oddities of nature, in the form of both rain and extreme heat to cast their vote in the 2004 Presidential and National

<sup>17</sup> Namibian Newspaper, September 22, 2004

<sup>18</sup> <sup>18</sup> ECN Official Public Statement, published in the Namibian Newspaper of Monday November 29, 2004

<sup>19</sup> New Era Newspaper, Monday November 22, 2004

Assembly elections. This accounted for a voter turnout of eighty four point four per cent (84.4%). However, in the 2004 National Assembly elections, 11 421 votes, which accounts for 1.4 % of the total, were rejected as spoiled ballots. A ballot paper is endorsed as rejected when more than one vote is recorded, is not marked with the secret stamp, not bearing any voting mark, marked in a way in which the voter's choice is unclear, or bearing any mark or writing indicating the voter's identity.

It was reported from the Ohangwena region in the northern part of the country that some voters, especially the elderly, placed their crosses on the back of the ballot paper, instead of opening the ballot paper and putting their marks against the name of the party or presidential candidates of their choice. In other instances presiding officers reported that some voters just dropped their ballots papers into the ballot boxes without making any marks on them. It was not clear whether these instances were a result of sheer ignorance on the part of the voters or were a signal of deliberate protest.<sup>20</sup> If such reports happen to be true, then such ballots may have been declared as spoiled ballots. Moreover, where ignorance may have contributed to such incidences, then such reports the effectiveness of the voter/civic education campaigns that were undertaken by the ECN, political parties and non-governmental organizations could not be questioned, but

could equally cast doubt over the secrecy of the ballot. If the ballot was secret, how was it possible for other to detect as to how others voted?

### **Results & Certification**

After the counting of the ballot papers in the Presidential elections, the results are transmitted to the ECN Chairperson by the Returning Officer, for final verification, after which the Chief Commissioner announces it to the public. Such an announcement should stipulate the total number of votes recorded as well as the votes in respect of each candidate for that particular constituency.

While in the National Assembly elections, the Returning Officers reports to the Director on the result of the counting process, who then announces the number of votes recorded for each party in the constituency. Upon receiving the results recorded for each party in all the constituencies, the Director calculates the number of seats attained by each party in the National Assembly based on the highest remainder method.

After more than four days of counting, the final and official results of the 2004 Presidential and National Assembly elections were announced at a ceremony held at the Central Elections Result Centre in Windhoek, on Sunday, 21 November 2004. Although the outgoing Head of State, President Sam Nujoma, and the presidential candidates of the SWAPO Party, DTA and MAG attended the ceremony, it was however snubbed by the

majority of the other presidential candidates who participated in the election, as well as representatives of their parties.

The DTA presidential candidate who also spoke at the ceremony, accepted "the verdict of the people" by confirming that there were no major incidences of violence that could have warranted the casting of any serious doubts about the free and fairness of the entire electoral processes.

After the announcement of the final result, which marked the official conclusion of the electoral process, it later emerged that close to eight hundred (800) ballot papers from foreign missions were not tallied. The ECN decided that since the ballot papers from the Namibian missions abroad accounted for an insignificant 0.01 per cent of the total votes cast, it was therefore not in the interest of the electoral process to continue withholding the official announcement of the result after close to five days of counting. Therefore, after it had consulted with all political parties it proceeded to announce the result, despite the fact that it was still awaiting the ballot papers from missions abroad.<sup>21</sup>

The law requires the sealed separate packets of counted ballot papers, rejected ballots and polling stations returns are sent to the Director for safekeeping. No one aside from the Director of elections and/or the Commissioners of elections is allowed to open these packets

<sup>20</sup> New Era Newspaper, Wednesday November 17, 2004

<sup>21</sup> New Era Newspaper, Thursday, November 25, 2004

without a court order, which may be granted to assist the investigation of any complaints or the prosecution of an offence under the various Electoral Acts and Regulations.

In the overall context it should be stated that the 2004 elections proceeded in an atmosphere of peace and mutual tolerance, as there were isolated and very minor incidents of violent conflict recorded. One case was reported in the town of Ongwediva in northern Namibia, where supporters of SWAPO and CoD accused one another of throwing stones, and as result of which one person was reported to have been admitted to the Oshakati Hospital, after sustaining minor injuries. The incident is said to have resulted from a SWAPO Party victory march involving between 2000 – 3000 people, whose path crossed with that of close to 50 CoD members gathered at a bar owned by CoD Oshakati Town Council. According to a NSHR report, a 20-member strong police reinforcement had to be called to the scene to defuse this potentially volatile situation.<sup>22</sup>

### ***Political Parties***

Some political parties expressed serious concerns regarding a number of issues and demanded reasonable explanations from the ECN, in order to allay potential and/or a real sense of doubt among the Namibian public regarding the credibility and integrity of the concluded electoral processes. For instance CoD insisted on the delaying the final declaration and certification of the result until after the

conclusion of a national audit, accounting and reconciliation of votes cast, as well as all other sensitive electoral materials. It further demanded such an audit be undertaken in the presence of a designated audit team comprising of all parties as well as accredited independent electoral observers.<sup>23</sup>

Together with SWANU, RP and NMDC, the CoD raised collective concerns and threatened to lodge a court application to seek an independent, all inclusive and open audits for the verification of the final outcome of the voting and counting processes. NUDO attended the initial press conference that announced of the intention of seeking recourse in the court of law. However it later distanced itself from both these intentions as well as the demand for the independent auditing and verification of the entire electoral process.<sup>24</sup>

The framework stipulated by the legislations governing elections requires that any complaints about electoral irregularities should be lodged with the Court Registrar within thirty (30) days. Following which the applicant must provide security for the cost likely to be incurred by witnesses or the persons or parties who are respondents to the complaints, within a period of five days of the submission. It is the prerogative of the Registrar of the Court to decide on the sum to be demanded as security. The respondent must

be informed of the complaints through a notice given to them within ten days of the application; the registrar is also under obligation to notify all concerned ten days before the trial's opening. Under normal circumstance such a trial should take place within sixty (60) days of the application, the law further states that no election shall be set-aside on grounds of any irregularity if the court decides that the irregularities did not affect the outcome of the election.<sup>25</sup>

The controversy over the integrity of the electoral process took a new twist, when twenty-two (22) ballot papers from the National Assembly elections that had allegedly mysteriously disappeared from the custody of the ECN and Namibian Police were found a passerby on November 25, 2004 strewn in the bushes of the Swakop River to the south of Okahandja. With the exception of one, all the ballot papers were, completely intact, and depicted the secret polling stamps at the back. Moreover, to the surprise of many, all the papers were marked as opposition party votes, with five for the DTA, two each for the CoD and the RP, eleven for NUDO, and two for the NMDC, and were presumed to have originated from polling stations in the Omatako and Okahandja constituencies.<sup>26</sup>

In an unprecedented move in its response to this new drama, the ruling SWAPO Party claimed

<sup>22</sup> The Namibian Newspaper, Tuesday November 23, 2004

<sup>23</sup> New Era Newspaper, Monday, November 22, 2004

<sup>24</sup> New Era Newspaper, Wednesday, December 1, 2004

<sup>25</sup> Electoral Institute of Southern Africa, A Handbook of Namibian Electoral Laws and Regulations, 1999, pp. 59

<sup>26</sup> New Era Newspaper, Monday, November 29, 2004

that as one of the stakeholders, it was perhaps more concerned than all the other political parties, hence it demanded a thorough investigation into this specific fiasco. As a governing party, this move by implication signalled that the SWAPO Party in this particular case had to distance itself from the internal operations of the ECN, in opposition to coming to its defence.<sup>27</sup>

Contrary to the demands of political parties that each party agent should be allowed to retain those ballot papers marked for their respective parties, the ECN issued an instruction that the recovered ballot papers should be gathered together and placed under police custody, while investigation continues. In the meantime however, it authorized the issuance of certified rather than the original copies of the ballot papers to officials of the affected party, which they could retain as proof.

Some commentators considered the discovery of the ballot paper as a sufficient evidence for the ECN to nullify the election.<sup>28</sup> However, the ECN delayed in taking any such measures; it considered the matter to be *sub judice*, as it had been referred to the police for further investigations.

In the meantime however, conflicting statements and hypotheses emerged from different ECN office-bearers. For instance in his public explanation, the chairperson of

the ECN, Mr. Victor Tonchi noted that as some stakeholders tried to discredit both the ECN and the entire electoral process, the suspicious manner in which the papers were discovered, raises questions. He therefore speculated on the possibility of the ballot papers to have been planted.<sup>29</sup> He further stated that as the papers are marked, that this attests to the fact that there was no intention to rig the elections. Moreover, he was of the view that if the papers were marked then it could mean that they were already counted, and could therefore form part of the results as certified and released by the ECN.<sup>30</sup> Whereas according to Mr. Philemon Kanime, the Director of Elections, the ballot papers might have fallen off a truck "or something" while being transported, he further tried to place the burden of explaining this irregularity on those who discovered the ill-fated papers.<sup>31</sup>

#### **International Observers**

The five-member delegation from the African Union expressed its full satisfaction with the manner in which the polls were planned, managed and conducted, however it called for a more inclusive Electoral Act that empowers the ECN to ensure compliance to the norms and standards governing elections in SADC and beyond.<sup>32</sup>

EISA dispatched a thirty (30) member strong elections

observation team which conducted its work in terms of the Principles for Election Management, Monitoring and Observation (PEMMO) in the SADC region. In its interim report that was released on Thursday, 18 November 2004, it commended the Namibian people for their political maturity and the peaceful manner of canvassing for political support, voting and counting. It certified the process as having been free and fair; however it also identified a number of areas in which improvements will be required.

In view of the concerns raised by political parties not having received the voters' roll on time, the EISA team urged the ECN to ensure that this is made accessible for public scrutiny in good time. The interim report also alluded to the concerns raised regarding the security of the ballot boxes after polling. In addition, mentioned that different patterns marked the voting process as administered by the mobile polling teams, which in some cases were either accused of opening late or of completely failing to open in designated locations. The EISA observation team also called on the ECN to undertake an extensive and inclusive process for the auditing and reviewing of the various mechanisms and procedures governing the tendered ballots. This could culminate in the effecting more effective measures that could pave the way for the counting of tendered ballots at polling stations, immediately after the completion of voting; rather than transporting the ballot boxes to the central counting stations.

<sup>27</sup> The Namibian Newspaper, Wednesday December 1, 2004

<sup>28</sup> The Namibian Newspaper, Monday November 29, 2004

<sup>29</sup> New Era Newspaper, Monday, November 29, 2004

<sup>30</sup> The Namibian Newspaper, Monday November 30, 2004

<sup>31</sup> The Namibian Newspaper, Monday November 29, 2004

<sup>32</sup> New Era Newspaper, Monday, November 22, 2004



### **Domestic Observers**

The electoral process was also monitored and/or observed by local non-governmental organizations. One of these was the National Society for Human Rights (NSHR) that has been involved in the monitoring of the electoral process since 2002, when the Third Delimitation Commission was appointed. In its submission, the NSHR did not concur with the ECN in its certification of the process as having been entirely free and fair.<sup>33</sup> It further expressed its doubts regarding the impartiality of the electoral management process. In order to substantiate this claim, the NSHR listed as proof the misuse of state resources, as well as the printing of ballot paper by a company in which one of the contesting political parties held a stake.<sup>34</sup>

Another local group that observed the elections was the Namibia Non-Governmental Organisations Forum (NANGOF). Based on the findings of its observation team, it also declared the electoral process as free and fair, with room for improvement. In particular, it commended all stakeholders for their full adherence to the legislation, regulations and the Code of Conduct. As a case in point, it cited the excellent collaboration between party agents and polling official especially in terms of ensuring an atmosphere of peace and tolerance at polling stations. For instance party agents and polling officials were seen working together to remove by mutual consent, posters of

political parties from the close vicinity of polling stations.<sup>35</sup>

It also voiced its concern that there seems not to have been standardized guidelines for the vote counting; hence various Returning Officers relied on their own discretion. The NANGOF election observation team also came out strongly regarding the hurdles encountered by its observers in gaining access to polling stations. This it attributed to the fact that the ECN seems to be reluctant in formalizing its relationship with the actors of the domestic civil society.<sup>36</sup> As part of its recommendations, the elections observation team from NAGOF demanded the review of the tendered ballot voting system, especially the rationale for its application in the context of future Presidential and National Assembly elections, since the two are not constituency based.

### **Analysis of the Presidential and National Assembly Elections Results**

#### **Results of the Presidential Elections**

The presidential candidate for the ruling SWAPO Party, Hifikepunye Pohamba won the race to occupy the State House, by taking 76.4 per cent of the votes; Moreover, like his predecessor, he did this in style by not only emerging victorious, but also by scoring 4818 more votes than his party. However, this percentage is slightly less than the 76.8 per cent that was garnered by President Sam Nujoma, who stood for the ruling SWAPO

Party in the last presidential elections.

The presidential candidate of the CoD, Benjamin Ulenga came second, with 7.3 per cent of the vote, which is lower than the 10.5 that he received in the 1999 Presidential elections. Whereas the misfortunes of Katuutire Kaura of the DTA was much greater as his share of votes in 2004 stood at 5.1 per cent, which is almost twice less than the 9.6 per cent he secured in 1999.

Chief Justus Garoeb of the UDF, was overtaken for the fourth place by the first-timer Chief Kuaima Riruako of NUDO who secured 4.23 per cent. Despite this, it is worth noting that Garoeb however is the only candidate to have improved his share votes, from 3.02 per cent in 1999 to 3.83 per cent. Henk Mudge of the RP and Kosie Pretorius of MAG came sixth and seventh respectively, with each securing less than two per cent of the votes cast.

**Table 1: 2004 Presidential Results (%)**

Candidates	Party	No. of Votes
Justus Garoeb	United Democratic Front (UDF)	31354 3.83%
Katuutire Kaura	Democratic Turnhalle Alliance (DTA)	41905 5.12%
Henk Mudge	Republican Party (RP)	15 955 1.95%
Hifikepunye Pohamba	SWAPO Party of Namibia	625 605 76.44%
Kosie Pretorius	Monitor Action Group (MAG)	9378 1.15%
Kuaima Riruako	National Unity Democratic Organisation (NUDO)	34616 4.23%
Benjamin Ulenga	Congress of Democrats (CoD)	59547 7.28%

<sup>33</sup> New Era Newspaper, Monday, November 22, 2004

<sup>34</sup> The Namibian Newspaper, Tuesday, November 23, 2004

<sup>35</sup> New Era Newspaper, Tuesday November 16, 2004

<sup>36</sup> New Era Newspaper, Monday November 22, 2004

### ***Results of the National Assembly Elections***

The National Assembly elections are based on a direct proportional voting system, in terms of which each contesting party tenders a list of its candidates. Therefore a quota system is applied in the allocation of the preliminary share of the seats based on the total votes cast.

This system operates on the basis of an effective threshold that translates into greater number of seats for more votes. Due to a higher voter turnout for the 2004 General Assembly elections, an equally higher quota for allocation of seats applied, which meant that in order to qualify for a single seat, political parties needed to attain 11 305 votes. Following the expulsion from Cabinet of

the former Minister of Foreign Affairs Hidipo Hamutenya and his deputy Dr. Kaire Mbuende by President Sam Nujoma, some analysts predicted that this may force some SWAPO supporters to either stay away from the polling booths or alternatively cast a protest vote. However, although as attested by Table 2 the share of seats in the National Assembly secured by the ruling **SWAPO Party** remained constant at 55, the party has not only nevertheless not only managed to retain its two-majority in the house but as indicated in Table 3 below, it also succeeded in increasing its total share of votes by 212613, which is the biggest increase in comparison to all parties.

Therefore, it can be interpreted that the low placing of Hamutenya who occupied

number 57 on the SWAPO Party list and some other senior ministers on the SWAPO Party list for the National Assembly may have had a different impact than that anticipated by many. In the sense that it may have encouraged their supporters not only to flock to the polls but also to vote for SWAPO hoping that they would squeeze their preferred candidates back in the National Assembly

Unfortunately for Hamutenya and six other members of cabinet, whose names were not among the 55 from the SWAPO party that will be going to the fourth National Assembly in March 2005. They therefore had to contend with being enumerated among the casualties of this election

***Table 2: Number of National Assembly Seats Per Contesting Parties***

<b>PARTY</b>	<b>No. of Seats in the National Assembly</b>	
	<b>1999 - 2004</b>	<b>2004 - 2009</b>
Congress of Democrats (CoD)	7	5
Democratic Turnhalle Alliance (DTA)	7	4
Monitor Action Group (MAG)	1	1
Namibia Movement for Democratic Change (NMDC)	-	0
National Unity Democratic Organisation (NUDO)	-	3
Republican Party (RP)	-	1
South West Africa National Union (SWANU)	0	0
SWAPO Party	55	55
United Democratic Front (UDF)	2	3
Total	72	72

*Table 3: Performance of the Parties Across All Regions*

REGIONS	CoD	DTA	MAG	NMDC	NUDO	RP	SWANU	SWAPO	UDF
Caprivi	3872 (-2496)	1809 (866)	56 (39)	38	68	2745	42 (14)	19596 (9842)	244 (70)
Erongo	6186 (596)	2746 (-626)	1102 (637)	281	3380	1664	291 (190)	39604 (15539)	8127 (4030)
Hardap	6098 (1244)	5118 (1175)	599 (146)	226	479	1303	73 (1)	15767 (9449)	609 (256)
Karas	7059 (2196)	3761 (822)	671 (266)	215	495	1061	82 (53)	25127 (12003)	681 (382)
Kavango	4617 (-221)	5198 (-1981)	189 (106)	194	520	431	235 (14)	65077 (31107)	795 (116)
Khomas	18872 (4342)	7225 (1568)	1982 (1136)	819	8782	5040	1071 (769)	87092 (42167)	5880 (3592)
Kunene	1324 (-204)	5716 (-1195)	393 (201)	109	2015	667	117 (73)	9817 (5449)	6511 (3076)
Ohangwena	443 (135)	166 (14)	31 (13)	64	158	80	133 (-48)	88061 (19468)	374 (131)
Omaheke	1039 (-928)	3488 (-4131)	566 (167)	1549	6849	1310	821 (567)	12582 (6180)	491 (191)
Omusati	523 (149)	163 (-448)	25 (-10)	94	751	81	110 (-100)	92082 (11481)	435 (158)
Oshana	1674 (361)	870 (143)	59 (42)	85	312	97	93 (-35)	70111 (17864)	366 (132)
Oshikoto	2567 (406)	647 (-274)	244 (165)	88	410	228	149 (5)	63769 (16185)	1126 (428)
Otjozondjupa	5161 (706)	4762 (-5081)	1002 (396)	344	9622	1257	219 (60)	31423 (15435)	3690 (1085)
Total	59465 (6176)	41714 (-9110)	6920 (3302)	4138	33874	15965	3438 (1553)	620787 (212613)	29336 (13651)

The **CoD** came second overall, and its total share of votes in the 2004 National Assembly elections increased by 6176, compared to what it gained in 1999. However, the CoD will lose two of its seven seats in the National Assembly for the period 2005 - 2010.

Having received 9110 votes less than in the 1999 National Assembly elections, the **DTA** emerged as the only party that contested the 1999 and 2004 election that witnessed a decline in the total number of votes received. This is largely due to the internal power struggle within its fold, which led to three splinter groups of **NUDO**, **RP** and **NMDC** withdrawing from under the

**DTA** political umbrella, by deciding to contest the 2004 elections on their own. As indicated in Table 2 the DTA will as a result be losing three of its seven seats in the house, when a new National Assembly is sworn in March 2005.

In comparison to the 1999 National Assembly elections, the performance of **UDF** improved by 13 651 additional votes. Moreover, of all those parties that contested the previous National Assembly elections, only the UDF has seen an increase in its share of seats in the house. Prior to the 2004 National Assembly elections the UDF occupied two seats in the house, however when the new Assembly is

inaugurated in March 2005, it will be the only party to enjoy an improved numerical strength, even if this is by a mere single seat.

**MAG** managed to increase its share of votes by 3302, and will be able to retain its one seat in the fourth National Assembly (2004 – 2010). While **SWANU**, which is proclaimed as the oldest existing parties in Namibia has managed to increase its share of votes by 1553, yet in recorded the lowest number of votes at 3 438 and has a result once more failed to gain representation in the House.

Only two of the three so-called new or reincarnated parties that

contested for seats in the National Assembly, for the first time, managed to secure seats. These were **NUDO** and the **Republican Party (RP)**. The fortunes of **Namibia Movement for Democratic Change (NMDC)** were less comparable as it failed to make a significant impact in securing representation in the house, as they were only able to record 4138 votes.

#### ***Equitable Representation in the National Assembly***

An analysis on the list of candidates elected to the National Assembly following the 2004 elections reflects a fair representation of young people, especially activists who not long ago served in the youth wings of the various political parties. For instance close to ten (10) out of the fifty-five (55) of the newly elected Members of Parliament for the ruling SWAPO Party, are either former or present leaders in its youth wing. This includes Pohamba Shifeta who was serving as the Secretary General of National Youth Council (NYC) at the time of his election. Commenting on this breakthrough by young people, the President-elect Pohamba was of the conviction

that the youth are likely to be drawn into the Cabinet that he is going to announce on or close to March 21, 2005, rather than being confined to the backbenches of the National Assembly.

Another young person re-elected to the National Assembly for the period 2005 - 2010, is the twenty seven year old Mc Henry Venaani who serves as the Secretary – General as well as the Chief Whip of the DTA-UDF parliamentary coalition.

The same cannot be said about representation by women in the new National Assembly. Although almost all of the political parties had more than 30 per cent women candidates, they were placed too low on the lists of the respective parties. Therefore, as it stands at present, Namibia will not be able to match the targeted benchmark contained in the SADC Gender Declaration, which calls for 30 per cent women representation in all decision-making bodies by 2005.

The percentage of women representation in the National Assembly stood at 26.4 percent prior to the 2004 National

Assembly election, and based on the results of the present elections would increase by 0.9 per cent, to become 27.3 per cent. The results are particularly disturbing if one takes cognizance of the fact that fifty two per cent (52%) of all voters registered for the 2004 Presidential and national Assembly elections were women. The only way to salvage this situation is for the President-elect Hifikepunye Pohamba to include additional women among the six non-voting National Assembly members, which he is empowered to appoint in terms of Article 46 (1)(b) of the Namibian Constitution.

In view of this, the Women Manifesto Network, a Namibian NGO working in the gender sector urged for the adoption of concrete and firm measures to ensure women's access to decision-making bodies, such as a 50/50 Equal Gender Presentation legislation, through which political parties will be obliged to submit "zebra-style" candidates' lists (The Namibian Newspaper, Wednesday November 24, 2004).

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