

Namibia Presidential and National Assembly Elections

27 November 2019



The Commonwealth

MAP OF NAMIBIA



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Acronyms and abbreviations

AU-EOM	African Union Electoral Observer Mission
COG	Commonwealth Observer Group
ECN	Electoral Commission of Namibia
ECF-SADC	Electoral Commissions Forum of SADC
EVM	electronic voting machine
NGO	non-governmental organisation
NUDO	National Unity Democratic Organisation
PDM	Popular Democratic Movement
SADC-EOM	Southern African Development Community Electoral Observer Mission
SWAPO	South West African People's Organisation
VVD	voter verification device
VVPAT	voter verifiable paper audit trail

LETTER OF TRANSMITTAL

Commonwealth Observer Group
Namibia Presidential and National Assembly Elections
27 November 2019

Dear Secretary-General,

I am pleased to forward to you the Final Report of the Commonwealth Observer Group you constituted to observe the 2019 Presidential and National Assembly elections in the Republic of Namibia on 27 November 2019.

It was a unique privilege to chair this group of experts from different Commonwealth countries, and to be present for these landmark elections in Namibia's electoral history.

We are deeply appreciative of the warm welcome extended to us by all stakeholders we engaged with throughout our deployment in the country. Ahead of the elections, we were briefed by the Electoral Commission of Namibia (ECN), representatives of political parties, leaders of civil society organisations, the senior police command and members of the Commonwealth diplomatic community in Windhoek, among others.

Our observers were deployed across three regions of the country, where they undertook pre-election day, Election Day and post-election day engagements with regional stakeholders. Our report is informed by extensive consultations with national stakeholders, engagement with other international observer groups and our observation of all aspects of the process during the period of our deployment.

We noted that these elections - the sixth multiparty elections since Namibia's independence - were the most competitive in the country's electoral history. Electoral competition was heightened by the candidacy of a card-carrying member of the governing SWAPO [South West African People's Organisation] party, Dr Panduleni Itula, who, as an independent candidate, decided to challenge the party's agreed candidate, incumbent President Hage Geingob, in the Presidential election. The dynamics of this phenomenon within SWAPO and voting patterns prompted some stakeholders to express concerns over an increasing perception that tribalism could be entrenched in Namibian politics.

The participation of an independent candidate and the candidacy of a woman, NUDO's (National Unity Democratic Organisation) Esther Muinjangue, for the Presidential election, were unprecedented developments in the country's electoral history, and augur well for the robustness of its democracy.

The lack of a voter verifiable paper audit trail (VVPAT) was a source of concern for several stakeholders with whom the Group met. The loss of some electronic voting

machines (EVMs) loaned by the ECN to the SWAPO party for its internal elections and, as well as minimal communication and engagement over the issue, further eroded confidence and trust in the machines. On 25 November, two days before voting day, the Electoral Tribunal dismissed an application by the independent presidential candidate to replace electronic voting machines with ballot papers.

Despite the competitive nature of the elections, the Group observed that the electoral environment was largely peaceful. Polling on 27 November was peaceful, transparent and well managed.

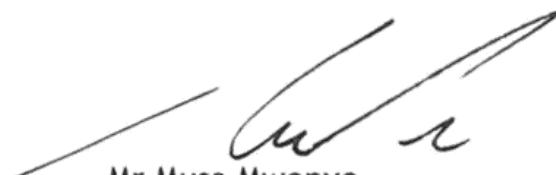
In line with our encouragement to Namibia to continue being an inspiration for the rising tide of democracy in Africa and the wider Commonwealth, we encourage the ECN, political parties, civil society and other electoral stakeholders to engage in inclusive post-election dialogue to resolve the issue of the lack of a verifiable paper trail ahead of future elections. The ECN's ongoing and consistent engagement with political parties is a critical part of building and maintaining confidence in the electoral process.

I conclude by expressing the Group's appreciation, once again, for the privilege to have supported efforts towards consolidating electoral democracy in Namibia. I wish to also take this opportunity to express the Group's appreciation to the Commonwealth Secretariat staff, who provided invaluable support to the mission.

Our continued best wishes to the people of Namibia.

A handwritten signature in black ink, appearing to read 'Musa Mwenye', with a small red square mark to its left.

Musa Mwenye
Former Attorney General of the Republic of Zambia
Chair of the Commonwealth Observer Group to Namibia



Mr Musa Mwenye
Former Attorney General,
Republic of Zambia



Ms Daisy Amdany,
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Mr Henry Hogger,
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EXECUTIVE SUMMARY

The Commonwealth Observer Group deployed to observe Namibia's 2019 Presidential and National Assembly elections was present in Namibia from 22 November to 2 December 2019. In discharging its mandate in accordance with its Terms of Reference, the Group assessed the various aspects of the electoral process against national, regional, Commonwealth and international standards for democratic elections to which Namibia has committed itself.

In order to build a comprehensive picture of the conduct of the process, the Group held consultations with a wide range of relevant national stakeholders, including the Electoral Commission of Namibia, political parties, civil society organisations (including women's, youth and governance organisations) and the police command. The Group also met with Commonwealth High Commissioners and other citizen and international observer missions.

The Group observed some final rallies in Windhoek. Ahead of Election Day, the Chair paid a courtesy call on President Hage Geingob to convey the Commonwealth Secretary-General's best wishes to the people of Namibia ahead of the polls. From 25 November, the Group deployed to 3 of the country's 14 regions, namely Khomas (Windhoek), Erongo and Oshana (see Deployment Plan in **Annex III**). During their deployment, observers also met with key stakeholders at their areas of deployment and observed pre-election day and post-election day activities.

Although the 2019 Presidential and National Assembly elections were the most competitive in Namibia's electoral history, the elections were largely peaceful and orderly. Political competition was heightened by the unprecedented participation of an independent candidate, Dr Panduleni Itula, a member of the governing SWAPO party, who decided to challenge the party's agreed candidate, incumbent President Hage Geingob, for the presidency. These internal dynamics within SWAPO and subsequent voting patterns for the Presidential election deepened some stakeholders' concerns over the possible entrenchment of tribalism in Namibian politics.

The Group also highlights the candidacy of a woman, NUDO's Esther Muinjangue, for the Presidential election, another unprecedented development in the country's electoral history, which was a positive development for women's political participation in Namibia's democratic processes.

A central concern raised by several stakeholders the Group met was the lack of a voter verifiable paper audit trail (VVPAT). The loss of some electronic voting machines (EVMs) loaned by the ECN to the SWAPO party for its internal elections, and insufficient communication and engagement over the issue, did not help build overall confidence and trust in the machines.

On 25 November, two days before voting day, the Electoral Tribunal dismissed an application by the independent presidential candidate to replace electronic voting

machines with ballot papers. The Tribunal ruled that it had no jurisdiction over the matter.

On Election Day, procedures were generally transparent and Presiding Officers conducted the process with care and in accordance with prescribed procedures. The Group commends the voters, polling staff and all other electoral stakeholders for the patience, commitment and tolerance demonstrated throughout the process.

An important issue raised was the lack of funding for the activities of civil society organisations, which hampers effective participation in electoral processes. The Group therefore encourages electoral stakeholders to financially support citizen observation, for a more robust civil society participation and engagement.

The Group encourages the ECN, political parties, civil society and other electoral stakeholders to engage in an inclusive post-election dialogue in order to resolve the issue of the lack of a verifiable paper trail ahead of future elections.

We highlight below our specific recommendations, which are offered in the spirit of contributing to the further enhancement of electoral democracy in Namibia. We hope the ECN and other stakeholders will find them helpful as they further deliberate on practical ways of implementing them, bearing in mind Namibia's own realities.

Recommendations

The Commonwealth Observer Group recommends the following.

Voter education and participation

Recommendations:

- *The ECN should invest more in voter education and collaborate with other stakeholders, including civil society actors to carry out voter and civic education.*
- *The ECN should invest in an official spokesperson to give regular and prompt updates on the electoral process and management of results transmission. It should also have a well-equipped social media and information and communications technology (ICT) team, to counter misinformation spread via social media and online platforms.*
- *The Government of Namibia is encouraged to set up a national civic education programme to engage citizens in different fora regarding their rights and responsibilities, and to utilise every available avenue such as student elections, government open days and expos to showcase and acquaint citizens on the EVMs.*

Youth engagement

The Commonwealth Observer Group recommends the following.

Recommendations:

- *The ECN should encourage more youth involvement in the electoral process and use the youth who are deployed as electoral officials to carry out civic and voter education, to build confidence and trust in the electoral process and the use of EVMs.*
- *The ECN should recruit youth champions to engage fellow youth in online and social media platforms on the electoral process, to build confidence and trust in the process.*

Women's participation

The Commonwealth Observer Group recommends the following.

Recommendations:

- *The commendable steps taken to promote the political participation of women through deliberate inclusion on party lists should be enhanced through clear legislative frameworks.*
- *The ECN should consider putting measures in place to avoid penalising genuine cases of mothers with children seeking to exercise their voting rights.*

Persons with disabilities

The Commonwealth Observer Group recommends the following.

Recommendations:

- *The ECN is encouraged to invest more in targeted civic and voter education for the disabled, including investing in materials that will enable them to get better acquainted with the process.*
- *The ECN is encouraged, in collaboration with the Namibian Federation of the Visually Impaired, to undertake robust voter education for the visually impaired on the use of the special features on the EVMs, to facilitate their full participation in the electoral process.*

Elderly persons

The Commonwealth Observer Group recommends the following.

Recommendation:

- *The ECN is encouraged to be more deliberate and targeted in its voter education for pensioners and the elderly, so as to avoid inconveniences to these groups during the electoral process.*

Campaign and the media

The Commonwealth Observer Group recommends the following.

Recommendations:

- *In order to engender trust in the electoral process and counteract the effects of fake news and eliminate suspicion and misunderstanding regarding that process, we encourage the ECN to regularly engage political parties, the media and other stakeholders.*
- *Ahead of future elections, we encourage the ECN, political parties, civil society and other electoral stakeholders to engage in a post-election inclusive dialogue to resolve the issue of the lack of a verifiable paper trail.*
- *We encourage the Namibian government to consider introducing campaign financing for political parties in accordance with its regional commitments and best practice.*

Voting, counting and results process

The Commonwealth Observer Group recommends the following.

Recommendations:

- *The ECN is encouraged to consider ways of expediting the voting process, including the possibility of introducing additional polling streams within polling stations.*
- *The ECN is encouraged to draw up clear guidelines for the role of police officers at polling stations.*

Chapter 1 - INTRODUCTION

Invitation

Following an invitation from the Electoral Commission of Namibia, the Commonwealth Secretary-General, The Rt Hon. Patricia Scotland QC, constituted a Commonwealth Observer Group (hereinafter referred to as ‘the Group’ or ‘the COG’) to the Presidential and National Assembly elections held on 27 November 2019. The Group was chaired by Mr Musa Mwenye, Former Attorney General of the Republic of Zambia, and comprised four eminent persons, supported by a three-member staff team from the Commonwealth Secretariat. These were the sixth multiparty elections in the country’s electoral history. A full list of the members of the Group and biographies can be found at **Annex I**.

Terms of Reference

The Group is established by the Commonwealth Secretary-General at the invitation of the Electoral Commission of Namibia. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.

It will determine in its own judgment whether the elections have been conducted according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of future elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Namibia, the Electoral Commission of Namibia, and leaders of political parties, and thereafter to all Commonwealth Governments.

Activities

The Commonwealth Observer Group was present in the Republic of Namibia from 22 November and issued an Arrival Statement the following day (**Annex II**). During two days of intensive briefing in Windhoek, the Group held meetings with the Electoral Commission of Namibia, representatives of political parties, civil society organisations, the police and Commonwealth High Commissioners resident in Windhoek, as well as with other international observer missions. Members of the Group observed some final rallies in Windhoek ahead of Election Day.

On 25 November, members of the Group were deployed to Oshana and Erongo regions. On the same day, the Chair of the Group paid a courtesy call on the Head

of State, HE President Geingob. The Chair and staff team members were based in Windhoek, where they observed Election Day processes. A copy of the Deployment Plan is at **Annex III**.

During deployment in their respective regions, observers met and held discussions with regional Electoral Commission of Namibia officials, senior police officials, political party leaders and some voters, as well as citizen and international observers. The meetings with other observers were intended to establish wider information-sharing networks for an enhanced and more comprehensive coverage on Election Day.

On 26 November, the Windhoek team attended a pre-election day meeting of international observer missions, convened by the Head of the Southern African Development Community Electoral Observer Mission (SADC-EOM). The meeting was also attended by the African Union Electoral Observer Mission (AU-EOM) and the Electoral Commissions Forum of SADC (ECF-SADC).

To share Election Day observations and findings, the Chairperson of the COG attended a post-election day meeting of international observer groups, convened by the Head of the African Union Electoral Observer Mission. The meeting was also attended by the Southern African Development Community Electoral Observer Mission and the Electoral Commissions Forum of SADC.

On 29 November, the Chairperson issued an Interim Statement (**Annex IV**) based on the observations and findings of the Group. The Group re-convened in Windhoek on 29 November to fully debrief, deliberate and draft this Final Report. The Group departed Namibia on 2 December.

Chapter 2 - POLITICAL BACKGROUND

Introduction

The 2019 Presidential and National Assembly elections were the sixth multiparty elections since Namibia gained its political independence, and the second successive elections using electronic voting machines (EVMs). Although it remains one of the youngest nations in Africa - having gained its independence in 1990 - Namibia has successfully held multiparty elections since independence, with the country enjoying relative socioeconomic and political stability. The country has had peaceful political transitions, with the incumbent President Hage Geingob being the country's third President. Despite having several political parties, the South West African People's Organisation (SWAPO), Namibia's liberation movement, has dominated the political scene and won every election the country has held to date.

Brief Political History

Namibia was colonised by the Germans in the late nineteenth century. In 1883, the merchant and adventurer, Adolf Luederitz, from Bremen in northern Germany, purchased the bay Angra Pequena - now called Luederitz Bay - and the terrain of 20 miles around the bay from the Nama Chief Joseph Fredericks from Bethanien.

The following year, the German Empire took over the protection of the Luederitz properties. A small corps of the Imperial Marine landed in the bay and hoisted the German flag there. From 1884 to 1914, Namibia was a German Protectorate and was named German South West Africa. 'Protection Contracts', granting military protection to the Herero and Nama tribes by the Germans, were negotiated. In turn, both tribes agreed to permit German settlers to use and occupy their land.

Eventually the Herero and the Nama realised that the German occupation threatened their subsistence and their traditional way of life as free cattle and goat herders, and both tribes rose in armed rebellion. These military conflicts lasted until 1908.

At the beginning of the First World War, South Africa occupied South-West Africa and in 1920, received a mandate from the League of Nations to govern the country. When this mandate was abolished in 1966 by the United Nations, South Africa, under the apartheid regime, rejected the decision. This resulted in many years of military struggle between South Africa and the Namibian liberation movement, SWAPO. On 21 March 1990, Namibia was finally granted political independence and a democratic constitution was drawn up. SWAPO won the first free elections and became the governing party. Its leader, Dr Sam Nujoma, was elected the first Namibian President and the country immediately became a member of the Commonwealth of Nations.

In 2005, Mr Hifikepunye Pohamba replaced Dr Nujoma and served as President until 2015. He was replaced by Dr Hage Geingob, who secured an overwhelming victory in the 2014 Presidential election, gaining 87 per cent of the popular vote, the largest share in Namibia's post-independence history. A simultaneous election for the National Assembly (the lower house of parliament) resulted in an equally significant victory for SWAPO, which secured four-fifths of the votes cast.

Political Context of the 2019 Elections

The 27 November 2019 Presidential and National Assembly elections were the most competitive in the Namibia's electoral history, which made the outcome difficult to predict. Political competition was heightened by the candidacy of Dr Panduleni Itula, a card-carrying member of the governing SWAPO party, who decided to run as an independent candidate to challenge the party's candidate, incumbent President Hage Geingob, in the Presidential election. This internal rivalry prompted some stakeholders to express concern that one of the unintended consequences of the intra-party divide could be an entrenchment of tribalism in Namibian politics. Stakeholders the Group met with believed that the rivalry could have been motivated by tribalism, as President Geingob is from the minority Damara tribe, while Dr Itula is from the majority Ovambo tribe - which had previously led SWAPO. The independent candidate factor was given a boost by the economy being in difficulty and the emergence, in early November, of an alleged corruption scandal involving two cabinet ministers who were forced to resign.

Despite the competitive nature of the elections, the Group observed that the electoral environment was largely peaceful. All political parties and candidates were generally able to engage in campaign activities without restrictions. However, the Group was informed by some stakeholders that some youths supporting one of the Presidential candidates had attempted to block the Presidential convoy in Oshana Region on 16 November, leading to the intervention of the police and the use of teargas to disperse them. There were also a few reports of posters of opponents being torn down, but this did not appear to be systematic or widespread.

The following were the key issues the Group noted in the lead up to the elections:

- i) The lack of a voter verifiable paper audit trail (VVPAT) was a major issue raised by opposition political parties that the Group met. The main opposition Popular Democratic Movement (PDM) underscored that the initial agreement for the use of EVMs was on the basis that they should have a paper trail, as articulated in the Electoral Act. However, the Electoral Commission of Namibia (ECN) informed the Group that a court ruling delivered on the matter in 2014 stated that it was legal to use EVMs without the VVPAT. Concerns over this issue were exacerbated by the loss of some electronic voting machines (EVMs) loaned by the ECN to the SWAPO party for its internal elections, and ineffective communication and engagement over the issue.

On 25 November, two days before voting day, the Electoral Tribunal dismissed an application by the independent presidential candidate, Dr Itula, to replace electronic voting machines with ballot papers. The Tribunal ruled that it had no jurisdiction to adjudicate on matters that involved reviewing the Electoral Commission of Namibia, while also stating that the application lacked urgency.

- ii) **Trust in the ECN:** Opposition political parties the Group met with expressed a lack of trust in the independence of the ECN, alleging that

the ECN Chairperson had held a private and exclusive meeting with President Geingob at State House in the period leading up to the elections. The opposition also complained of a lack of effective communication and inclusion in ECN decision-making processes.

- iii) **Voter apathy:** Stakeholders stated that recent elections had revealed a significant level of voter apathy. The youth, in particular, who were adversely affected by high levels of unemployment, were reported to have lost faith in politicians and felt discouraged to vote.
- iv) **Campaign finance:** Lack of proper regulations for party and campaign financing remained a major challenge, especially for opposition political parties. Financial constraints were reportedly a major obstacle for mobilising voters across the country, especially given Namibia's vast and complex geography and terrain.
- v) **Joint operations by security forces:** The opposition complained about the rationale for a joint police-military operation in the lead up to the elections dubbed 'Operation Kalahari Desert' to fight crime. To the PDM, this operation was unnecessary, as Namibia did not have security threats warranting such a deployment of soldiers in operations that had allegedly recorded human rights violations. The opposition considered this operation an attempt to intimidate the population in an electoral context. However, the Group did not see any compelling evidence that there was a direct correlation between this operation and the elections.
- vi) **Women's political participation:** Although women held important positions in government and other institutions, women's political participation was an area that required support, as Namibia remains a profoundly patriarchal society. The governing SWAPO party was the only political party with a 50/50 'zebra list' policy. The candidacy of a woman, NUDO's Esther Muinjangue, for the Presidential election, was a positive development which augured well for women's political participation and Namibia's democracy.

Political Parties and Presidential Candidates Contesting the 2019 Elections

There were 11 candidates for the Presidential election. Fifteen (15) political parties took part in the National Assembly elections. The full list of parties and candidates and final results can be found in **Annex V**.

Chapter 3 - THE ELECTORAL FRAMEWORK AND ELECTION ADMINISTRATION

The Legal Framework for Elections

Chapter 3 of Namibia's Constitution sets out various fundamental human rights accorded to citizens, including the right to '...participate in peaceful political activity intended to influence the composition and policies of the Government', freedom of speech and expression, and freedom of the press and the media. Section 135(1) of the Electoral Act also accords every citizen of Namibia the right to 'establish and join a political party... or organisation of his or her choice'. Citizens who have reached the age of 18 years have the right to vote, and those who have reached the age of 21 may be elected to public office.

In addition, Namibia has also signed various important regional and international instruments pertaining to the right to vote, and to the conduct of democratic elections. These include the African Charter on Human and People's Rights and the Universal Declaration of Human Rights.

The Electoral Commission of Namibia

Namibia's elections are administered by the Electoral Commission of Namibia (ECN), which was established by Act No.5 of 2014 in terms of section 94B of the Constitution. It is an independent body whose mandate is to direct, supervise, manage and control the conduct of elections and referenda.

The ECN, which is accountable only to Parliament, comprises five Commissioners, including the Chairperson, and is appointed by the President with the approval of the National Assembly. They serve a five-year term, renewable only once. At least two of them must be women. The Commission is supported by a secretariat, which is headed by the Chief Electoral and Referenda Officer supported, by such number of full-time staff members as the Commission considers necessary, taking into account the provisions of the Public Service Act.

Its powers and duties include the preparation, publication and maintenance of a National Voters' Register and Local Authority Voters' Register; the conduct of civic and voter education; registration of observers; the nomination of candidates for Presidential elections; the conduct of election of members of the National Assembly; the conduct of elections of members of regional councils and local authorities; and voting at polling stations. It is also mandated to register and regulate the conduct of political parties by means of a Code of Conduct. It engages with registered political parties through a Political Liaison Committee.

Voter Eligibility and Registration

A person who is a citizen of Namibia, is registered to vote, has attained the age of 18 years and is of sound mind is eligible to vote in terms of the Electoral Act. The Act also provides for general registration of voters for local and overseas citizens at a time proclaimed by the President and at intervals of not more than ten years. The

final register must be prepared and certified before a writ of elections is issued. The Act also provides for the supplementary registration of voters.

The President

In terms of Article 27 of the Constitution, Namibia's President is both Head of State and of Government. Thus, executive power rests not only in the Cabinet, but in the President as well. In order to be nominated as a candidate for election to the office of President, a person must be qualified to be elected as such by virtue of being a registered voter in terms of the Electoral Act. The person must also be nominated as a representative of a registered political party or as an independent candidate whose nomination is supported by at least 500 registered voters per region. There were 11 Presidential candidates contesting the 2019 Presidential elections.

Pursuant to Article 28 of the Constitution, the President is elected by direct, universal and equal suffrage, and must receive more than 50 per cent of the valid votes cast. Failing this, a second ballot must be conducted in which the two candidates who received the most votes must participate, and the candidate who then receives the most votes is elected.

This year's election differed from previous elections in that for the first time in the country's history, an independent presidential candidate, Dr Panduleni Itula, a card-carrying member of the governing SWAPO party, contested for the presidency, thus challenging incumbent President Hage Geingob. Another first was the participation of a woman, NUDO's Esther Muinjangue, in the Presidential election.

The National Assembly

The 96 members of Namibia's National Assembly are elected on the basis of a closed list by an electoral system of proportional representation (PR) for five-year terms. In terms of sections 77 and 78 of the Electoral Act, political parties submit their nominated candidates to the ECN in line with the relevant provisions thereof. Persons nominated must be registered voters, who are also members of the registered political party submitting the list of the candidates it desires to be nominated. Fifteen (15) political parties contested the 2019 National Assembly elections.

Following the elections, the ECN uses a three-stage formula to determine the number of seats for each party. In the first stage, the total number of valid votes each party obtains are divided by the total number of seats in the National Assembly to obtain a quota of votes. In the second stage, each party's valid votes are divided by the quota to determine its number of seats. In the event that a party has a surplus of votes not absorbed by the number of seats allocated, the allocation is made in accordance with Schedule 4 to the Constitution.

Regional Councils

In terms of Article 106(3) of the Constitution, a candidate receiving the most votes in any constituency will be the elected member of the Regional Council for that constituency.

Local Authority Councils

For Local Authority Council elections, the proportional representation system is applied.

Election Petitions and Appeals

The Electoral Act provides for the resolution of election petitions. In terms of section 162(2) of that Act, all petitions arising before polling day are to be adjudicated upon by a duly constituted electoral tribunal, while all appeals are to be addressed to an Electoral Court established and constituted in terms of section 167(1) of the Act. In terms of section 172, however, Presidential electoral challenges relating to the outcome of an election are to be brought before the Supreme Court as a court of first instance.

On 25 November, two days before voting day, the Electoral Tribunal dismissed an application by the independent presidential candidate to replace electronic voting machines (EVMs) with ballot papers. The Tribunal held, among other things, that the applicant had failed to disclose whether the EVMs to be used in the elections were ‘dysfunctional because of particular defects in them’.

Electronic voter machines (EVMs) were first used in Namibia during the 2014 elections. They were introduced in terms of section 97 of the Electoral Act which provides, in subsections (3) and (4) respectively, that their use should be subject to the simultaneous utilisation of a voter verifiable paper audit trail (VVPAT) for every vote cast. In the event of the results of the EVM and the results of the paper trail not matching, the paper trail results are to be accepted as the election outcome for the polling station or voting thread concerned. The latter subsections are, however, specifically excluded from coming into force by Government Notice No.5593 of 17 October 2014, which brought into force the current Electoral Act (No.5 of 2014).

The lack of a VVPAT was a source of concern for several stakeholders. The ECN’s assurances that there was a paper audit trail that could be verified from the EVMs being used did not allay voters’ fears.

CHAPTER 4 - PARTICIPATION AND INCLUSION

Voter Education and Participation

The importance of voter education and citizen participation in the electoral process cannot be denied. Voter education entails providing citizens in a democracy with basic information about participating in elections and their electoral system, with a focus on the importance of the vote and the end-to-end process on how to vote. Voter education is always supposed to be non-partisan and it is important in helping the citizen to understand that their participation in the voting process will contribute to the final result in an election. The Group noted that the Electoral Commission of Namibia (ECN) had carried out some voter education; however, those efforts to educate the citizenry could have been boosted by other stakeholders, including civil society actors. The Group witnessed several voters in different polling stations, both young and old, including some educated voters who were not well informed about the entire voting process nor about the use of the electronic voter machines (EVMs). This slowed down the voting process in some areas, as the Presiding Officer had to take each such voter through the process. Furthermore, the lack of clear and proper information helped fuel rumours and allegations about electoral irregularities on social media platforms.

Recommendations:

- *The ECN should invest more in voter education and seek collaboration with other stakeholders, including civil society actors to carry out voter and civic education.*
- *The ECN should invest in an official spokesperson to give regular and prompt updates on the electoral process and management of results transmission. It should also have a well-equipped social media and information and communications technology (ICT) team to counter misinformation spread via social media and online platforms.*
- *The ECN should encourage the government to set up a national civic education programme that can engage citizens, in different fora, on their rights and responsibilities and utilise every available avenue, such as student elections, government open days and expos, to showcase and educate citizens on the EVMs.*

Youth Engagement

The decision by the ECN to recruit qualified and unemployed young people as electoral officials went a long way in ensuring youth engagement and participation in the electoral process. The Group noted youth involvement in the electoral process both during the campaign period and on Election Day. The Group witnessed the active participation of the youth within the governing SWAPO party, giving them the opportunity to participate in its rallies. During final rallies in Windhoek, the Group witnessed the inclusion of first-time voters and student leaders, who addressed

crowds to air their grievances as well as share their expectations of political party leaders.

The team also noted some worrisome aspects of youth engagement, with reports received that some youth supporting one of the candidates allegedly attempted to block the Presidential convoy in Oshana Region on 16 November, leading to the intervention of the police and the use of teargas to disperse them. There were also a few reports of posters of opponents being torn down.

The youth participation in the electoral process as polling officials, their understanding of that process, and their confidence as they carried out their duties were impressive.

The team also noted that many youth were engaged as agents of political parties and presidential candidates. There was also a high turnout of young people as voters, with many even sleeping at the polling stations eager to cast their votes. There were long queues at several polling stations as early as 3:00-4:00am, as youth displayed their eagerness to participate in the polls.

Recommendations:

- *The ECN should encourage more youth involvement in the electoral process and use the youth who were deployed as electoral officials to carry out civic and voter education, to build confidence and trust in the electoral process and the use of EVMs.*
- *The ECN should recruit youth champions to engage fellow youth in online and social media platforms on the electoral process, to build confidence and trust in the process.*

Women's Participation

The efforts to encourage the participation and engagement of women in the electoral process in Namibia were enhanced by the candidacy of NUDO's Esther Muinjangue in the Presidential election, a first in the country's electoral history. The governing SWAPO party continues to lead Namibia's efforts to include women in decision-making by ensuring that its party lists for the National Assembly alternate between men and women (zebra lists). This has brought the inclusion of women in the governing party to near 50:50. It has also led to other political parties including more women on their lists, thereby boosting women's participation and involvement in political and electoral processes. It is notable that the Prime Minister and Leader of Government and the Deputy Prime Minister of Namibia under SWAPO are women. The efforts to put women in premier positions of decision-making helps to change the perception of women being unable to lead and breaks the barriers that hinder women's full participation. There was also a high number of women among the ECN polling staff with an average of four women out of the six polling staff in each of the polling stations visited.

In the areas observed, the Group also noted that at least half the police officers deployed for Election Day were female, with some deployments comprising all female officers. Women also constituted a high number of party agents.

The ECN made provisions to ensure pregnant women and women with babies and toddlers were given priority to vote at the polling centre. However, in some polling stations observed, polling officials informed observers that some women misused this opportunity by using other women's children to get to the front of the queues. This resulted in the polling officials taking the decision to allow only mothers with very young babies to access the privilege, with several women with toddlers having to wait for long periods in the queues and these children becoming restless.

Recommendations

- *While we commend the steps taken to promote the political participation of women through deliberate inclusion on party lists, efforts in this regard need to be enhanced through clear legislative frameworks.*
- *The ECN could consider putting measures in place to avoid penalising genuine cases of mothers with children seeking to exercise their voting rights at polling stations.*

Persons with Disabilities

The team noted that the ECN had made adequate provision for the participation of persons with disabilities, with them given priority and assistance at all the polling centres. There was also provision for braille voting processes to ensure that the visually impaired were able to fully participate in the voting process.

Recommendations:

- *The ECN is encouraged to invest more in targeted civic and voter education to the disabled, including materials that will enable them to get better acquainted with the process.*
- *The ECN is encouraged, in collaboration with the Namibian Federation of the Visually Impaired, to undertake robust voter education targeting the visually impaired on the use of the special features on the EVMs, to facilitate their full participation in the electoral process.*

Elderly Persons

Persons aged 65 years and older constitute approximately 4 per cent of the population in Namibia.¹ The government provides Homes for the Aged and housing units for independent low-income older persons (HUILOPs) through the Ministry of Health and Social Services for vulnerable older persons. This helps to promote and maintain independent living and the well-being of older people. The team noted

¹ Namibia Demographics Profile (2019), Index Mundi, available at: www.indexmundi.com/Namibia/demographics_profile.html

that the ECN made provision for mobile polling units to visit old persons' homes, as well as hospitals to ensure the participation of the elderly and incapacitated citizens.

Provision was also made for pensioners and the elderly (60yrs and over) to be given priority voting rights at the polling stations. The team witnessed several elderly voters participating in the electoral process unhindered, with those who needed assistance promptly getting it. There were a few incidences of pensioners coming to the polling station with their old voting cards being turned away and asked to return with the new voting cards. Those who did went ahead and voted without hindrance.

Recommendation:

- *The ECN should be encouraged to be more deliberate and targeted in its voter education to pensioners and the elderly, so as to avoid inconveniences during the electoral process.*

Chapter 5 - CAMPAIGN AND THE MEDIA

The Campaign

Legal framework

Article 17 of the Namibian Constitution guarantees the right of every citizen ‘to participate in peaceful political activity intended to influence the composition and policies of the Government’. The right to form and join political parties; to vote; and to be elected to public office, subject to stated conditions, are also guaranteed under the Constitution. Article 21 provides for freedom of association; the right to peaceful assembly; and to move freely throughout Namibia.

The Electoral Act of 2014, as previously stated, establishes the Electoral Commission of Namibia (ECN). Section 135 provides for the establishment and registration of political parties and organisations whose principal objective is to participate in and promote elections. In addition, section 154 provides for the funding of political parties represented in the National Assembly. Section 145 mandates the ECN, by notice in the Gazette, to issue a Code of Conduct for Political Parties. Section 152 provides for the deregistration of a political party for, among other things, contravention of, or failure to comply with, the Code of Conduct for Political Parties.

Article 28(2) of the Constitution stipulates that the President shall be elected by direct, universal and equal suffrage; and that no person shall be elected President unless he or she receives more than 50 per cent of the valid votes cast. If no candidate receives more than 50 per cent of the votes, a second ballot shall be conducted in which the two (2) candidates who have received the most votes in the previous ballot shall participate. The candidate who receives the most votes in the second ballot shall be duly elected. The election of members of the National Assembly, in terms of Article 49, shall be on party lists and in accordance with the principles of proportional representation.

Observations

The campaign environment

The Group observed some campaign activity and met with various stakeholders. As a result, we were able to make an assessment of the mood in the country. In general, despite at least one reported incident, the campaign was conducted in an orderly and peaceful manner. While we observed a number of billboards and posters for various candidates (but primarily the incumbent), we were struck by how low-key the campaign seemed to be. It must also be said that, except for ECN officials and members of the governing SWAPO, hardly anyone we spoke to during the campaign expressed full confidence in the electoral process.

We noted that these elections were the most competitive in the country’s electoral history. As noted previously, political competition was heightened by the candidacy of Dr Panduleni Itula, the independent candidate.

Issues in the campaign

An issue which emerged was the fact that the ECN advised the political parties that it would strictly interpret the provisions of Article 47(1)(e) of the Constitution relating to remunerated members of the public service being disqualified to sit as members of the National Assembly. This led to the withdrawal of a number of candidates from various party lists because such candidates were unwilling, especially due to the challenging economic environment, to risk being unemployed should they not be elected. Despite this being a provision in the country's Constitution, the general low-trust environment led to speculation that the ECN was being biased in its enforcement of the law. In addition, as a result of their dissatisfaction with the approach of the ECN, only two of the political parties signed the Code of Conduct for Political Parties. This was unprecedented. Despite this protest by some parties, the ECN still had the right to cancel the registration of political parties who were in violation of the code.

As noted above, the lack of a voter verifiable paper audit trail was a source of concern for several stakeholders with whom the Group met. The Electoral Act of 2014, which was passed in October 2014, introduced the use of electronic voting machines in elections. However, despite the passage of the Bill, section 97(3) on the simultaneous use of a paper trail, was saved in line with section 209(2), which states that different dates may be determined for the bringing into force of different provisions of the Act. As a result, just days before the 2014 elections, there was a court challenge to have the elections postponed due to the lack of a VVPAT. This challenge was unsuccessful.

Further to the foregoing, the loss of some EVMs loaned by the ECN to the SWAPO party for its internal elections was an issue that could have been better handled by the ECN. The commission's ineffective communication and engagement over the issue did not help with building overall confidence and trust in the integrity of the chain of custody of the machines. The dismissal of the case brought by Dr Itula, which sought to replace the EVMs with ballot papers, led to increased speculation about the integrity of the process.

Campaign and party finance

The issue of the financing of campaigns did arise in our meetings with various stakeholders. There is no statutory provision for state campaign finance in Namibia. Section 139 of the Electoral Act 2014 stipulates that political parties should submit a declaration of their assets and liabilities to the ECN. Sections 140 and 141 require political parties to keep records of any contribution, donation or pledge of contributions or donations, whether in cash or in kind, made to the political party; and to cause such records to be audited and an abridged version be made public. In addition, they require a disclosure of foreign or domestic donations to a registered political party, and provide for a limit on annual contributions. Sections 154 and 155 respectively establish the principle for the funding of political parties that are represented in the National Assembly, and outline the formula for such funding. In section 157, the Act stipulates what such funding cannot be used for. Political parties must account for these funds, which are paid from the consolidated fund.

An important issue raised by civil society organisations was the lack of funding for their activities, which hampered effective participation in electoral processes, including the deployment of citizen observers. Non-governmental organisations (NGOs) conduct observation and civic education mainly through volunteerism, thereby reducing the numbers of persons engaged for such an important oversight task. During briefings, representatives of Citizens for an Accountable and Transparent Society (CATS) advised us of their intention to deploy some citizen observers. On Election Day, the COG met some citizen observers deployed under the Namibia Institute for Democracy. We encourage electoral stakeholders to support citizen observation for a more robust civil society participation and engagement.

The Media

There is provision in Article 21 of the Constitution for the right ‘to freedom of speech and expression, which shall include freedom of the press and other media’. As of 2019, Namibia had 5 commercial and 3 community television stations, 11 newspapers and 25 radio stations. The state broadcaster, the Namibia Broadcasting Corporation (NBC), gave all political parties the opportunity to pay for live coverage of their political rallies. Online media are mostly based on print publication contents. Namibia has a state-owned Press Agency, called NAMPA. Overall, more than 300 journalists work in the country.

Compared to neighbouring countries, Namibia has a large degree of media freedom. Over recent years, the country has usually ranked in the upper quarter of the Press Freedom Index of Reporters Without Borders, reaching position 21 in 2010, being on a par with Canada and the best-positioned African country.² As at December 2017, Namibia's internet penetration was over 30 per cent, with nearly 800,000 users. In addition, Facebook penetration was 22 per cent, and there were a number of fixed line and mobile telephone providers to provide internet connection. Wi-Fi connections were available at most business establishments.³

Media monitoring

Our observation was that the rights provided for in the Constitution were by and large respected throughout the campaign. We were pleased to see robust and balanced debates on television at various times throughout the day. Participants included members of the governing party, various opposition members, ECN officials, and a high number of individual experts and civil society actors.

In addition, social media, especially Facebook and Twitter, was very active. The hashtag #NamibiaVotes2019 could be found everywhere. The ACTION Coalition, a civil society actor established in 2012, was extremely active in seeking information on behalf of the public. It also held a press conference alleging that, *inter alia*:

- political parties had been slow to release their manifestos, which did not provide adequate time for voters to make informed choices as to the party they would vote for;

² Available at: https://en.wikipedia.org/wiki/Media_of_Namibia

³ Available at: <https://www.namhost.com/blog/namibia/definitive-guide-internet-namibia>

- information coming from various relevant authorities on election related matters, i.e. ECN was insufficient, unco-ordinated and confusing;
- it was clear that voter education informational activities were insufficient and clearly lacking;
- Presidential candidates should have engaged in debates in order for the electorate to get to know candidates and their platforms, while highlighting the recent Eagle FM debate, which included some opposition leaders, as a worthwhile exercise; and
- verbal attacks on journalists were highly concerning and should be condemned.

Fake news

Fake news, or political disinformation, has always been present on public discourse and more so, during a political campaign. The advent of social media makes every individual with access to the internet an unfiltered and real-time news producer, which has made 'fake news' prevalent and almost uncontrollable. As a result, exacerbating the low-trust environment were a significant number of video clips and voice notes circulating on various social media platforms. These served to encourage the doubt regarding, and opposition to, EVMs. In fairness, various television programmes and the ECN encouraged the populace to visit the ECN's various platforms for authoritative information. Unfortunately, this alone was not enough, especially when the ECN itself was viewed with suspicion.

Recommendations

- *The ECN is encouraged to develop mechanisms to regularly engage political parties, the media and other stakeholders in order to engender trust, eliminate suspicion and misunderstanding over the electoral process, and counteract the effects of fake news.*
- *We encourage the ECN, political parties, civil society and other electoral stakeholders to engage in post-election, inclusive dialogue on how to resolve the issue of the lack of a verifiable paper trail ahead of future elections.*
- *We encourage the Namibian government to consider introducing campaign financing for political parties in accordance with its regional commitments and best practice.*

Chapter 6 - VOTING, COUNTING AND RESULTS PROCESS

Polling was scheduled to take place from 07:00 to 21:00hrs. Fixed polling stations were mostly located in public facilities such as schools, with some in temporary tent structures. Mobile polling stations were also provided for.

Each polling station was equipped with two EVMs, for the Presidential and National Assembly elections, respectively. The EVM consisted of two separate, connected units: a ballot unit placed in the voting booth and a control unit operated by the ballot issuer. Polling stations were managed by a Presiding Officer, supported by five other polling staff, each responsible for one of the procedures described below.

For the purpose of providing security at the polling stations, at least two police officers were deployed to each polling station.

Voting Procedure

Upon entering a polling station:

- *A voter had his/her hands checked by an ultra-violet controller to screen whether the voter had any traces of invisible and indelible ink.*
- *The voter then proceeded to have his/her voter ID card verified by a voter verifier. The voter verifier checked that the voter ID card belonged to the voter and that the identity of the voter was not questionable; and then used a voter verification device (VVD) to record on the electronic voter register the name of the voter, to register as proof that the voter had voted. If the VVD was unable to verify the ID card, the verifier then put his/her details manually into the VVD to confirm that he or she was on the register, and, if appropriate, asked him/her to fill in the Elect 27 form, which is a form required to be completed by voters voting outside their constituency. Manual checks were also to be carried out if needed. The voter ID card was returned to the voter, who was then directed to the inker.*
- *The inker assisted the voter to dip his/her fingertips (of both hands) in the invisible ink in the bowl. Indelible ink was then applied to the left thumb of the voter, or to another finger in the absence of the left thumb. The voter then proceeded to the ballot issuer for the Presidential election.*
- *The ballot issuer obtained the signature or thumbprint and voter ID number of each voter and issued a ballot by pressing the ballot button on the control unit, ensuring that the red busy light was on before directing the voter to the polling booth.*
- *The voter then voted by selecting the candidate of his/her choice with the green button, then registering the vote with the red registration button. The voter then proceeded to the ballot issuer for the National Assembly election, following the same procedure as for the Presidential election. Once the voter had voted, he/she was free to leave the polling station.*

Assessment of Opening and Voting

Before polling stations were due to open for voting, polling staff were to conduct a pre-poll test in the presence of party agents and the police at 06:00hrs. This occurred in polling stations visited. Most of the polling stations in the constituencies where the Group was deployed opened on time. However, in some cases, the pre-poll test was still going on at the 07:00hrs start time, and by the time polling staff themselves and electoral agents (i.e. party representatives) had voted, polling for the public did not actually start until about 07:30hrs.

In general, voting proceeded smoothly, despite very long queues and some issues with the electronic equipment: most notably the voter verification devices (VVDs). In many cases observed, the VVD would not scan the voter card, and the voter's details would have to be entered into it manually, causing further delays. It was explained to observers that the barcode on the card could become blurred or scratched if kept in a pocket or with other cards, making it more difficult to scan. The voting process in all visited polling stations was slow, due to both the malfunctioning of the VVDs, as described above, and the complexity of the procedures.

As a result of these delays, and further ones caused by the need to obtain additional supplies of the E27 Form as the afternoon wore on, voters had in some cases to endure very long waits to vote - in at least one case, as many as nine hours. On the whole, however, while the Group received numerous complaints about the delays, the people of Namibia must be commended for displaying a high degree of tolerance and patience as they waited in the long queues.

Another issue concerned the deployment of mobile polling stations, generally assigned to two or sometimes three different locations on a set schedule during the day. Because of the requirement for polling staff to admit all voters still in the queue at the end of the prescribed session, there were sometimes lengthy delays in moving the station from one location to the next. In one case observed, voters were still awaiting the arrival of a polling station due at 16:00hrs at 18:30hrs.

As indicated in Chapter 4, the Group noted with approval the practice in several polling stations of giving priority to pregnant women, mothers with babies, the elderly and the disabled; this sometimes involved establishing separate queues. However, this did tend to slow down voting in some polling stations, leading to further complaints from voters having to wait their turn in the normal way. The Group observed that in most polling stations, voters were generally familiar with the voting procedure - as described above.

The Group noted some inconsistencies in the application of voting procedures by the polling staff. There were also various different layouts adopted, some of which led to congestion, especially when smaller premises, such as tents, were used. Voters were not always asked to complete the E27 Form as required by the law - although this may have been a pragmatic decision by some Presiding Officers to deal with the shortage of supplies of the form.

There were also variations in the way the police carried out their role. In some cases, they seemed to intervene directly in the voting process - for example, checking and reading out the serial numbers of seals. In some cases observed, both police officers were located inside the polling station, leaving the Presiding Officer to go out to marshal the crowd.

In general, only the major parties contesting the Presidential and the National Assembly elections were observed to be represented by 'electoral agents' at the polling stations. They played their part in the pre-poll testing of the EVMs; and in one case observed, an agent spotted that a voter had failed to register their vote on the machine - unnoticed by the polling staff. Some international observers were encountered at various polling stations, but relatively few from civil society ('citizen observers').

Assessment of Closing and Results Tabulation

The polls were scheduled to close at 21:00hrs. However, due to lengthy queues, voting continued up to midnight or the early hours of the following morning in some stations. In the stations where the Group observed closing, the Presiding Officers and the police marked the end of the queue at 21:00hrs and closed off the outer entrance. All voters who were already in the queue were allowed to vote, in accordance with the rules. In one case observed, however, the Presiding Officer did decide to admit two or three voters who had been left outside the gate.

Once voting had been completed, the closing and counting procedures were broadly complied with by polling staff in the polling stations observed. Reconciliation had to be carried out through cross-referencing the manual record of numbers of ballots issued with the figures provided by the control units of the respective EVMs for the Presidential and National Assembly elections. This was to be followed by the printing of the respective election results from the control units. The results were also entered manually into the relevant forms and signed by the Presiding Officer and all party agents present. According to the stipulated guidelines, the Presiding Officer was then supposed to have three copies of the printed results slip: the first to be signed and faxed to both the constituency collation centre and the central elections results centre in Windhoek; the second to be displayed at the polling station; and the third to accompany the EVMs to the constituency collation centre.

In one polling station, the printing of results was substantially delayed when the printer was discovered to be missing its cartridge - requiring another printer to be borrowed from a nearby polling station.

The Group visited collation centres to follow the results tabulation process. This seemed in general to be carried out professionally and transparently, with the fairly active participation of party agents.

Recommendations

- *The ECN is encouraged to consider ways of expediting the voting process, including the possibility of introducing additional polling streams within polling stations.*

- *The ECN is encouraged to draw up clear guidelines for the role of police officers at polling stations.*

Annex I: Biographies of Chairperson and Observers

Mr Musa Mwenye SC (Zambia) - Chairperson

Mr Mwenye is currently founder and senior partner at Messrs Mwenye & Mwitwa - Advocates. He is immediate past Attorney General of the Republic of Zambia, by virtue of which he was *ex officio* member of the Zambian Cabinet, principal legal advisor to the government and leader of the Zambian Bar. Mr Mwenye is also immediate past Solicitor General, having served as Solicitor General of the Republic of Zambia from 2011 until 2014, when he was ratified as Attorney General by the Zambian Parliament.

Mr Mwenye obtained his LLB degree from the University of Zambia and is a member of the Zambian Inner Bar (Silk). He is also admitted as a Solicitor of the Supreme Court of England and Wales. He is a Commissioner of Oaths and has in the past held judicial office as a Commissioner of the Small Claims Court of the Republic of Zambia. Mr Mwenye is a Notary Public in Zambia and was President of the Law Association of Zambia. He has chaired several committees of the Law Association of Zambia, including the Disciplinary Committee. He has also been Chairperson of the Zambia Institute of Advanced Legal Education (the only institution mandated to administer Bar Exams in Zambia), Chairperson of the Medical Council of Zambia Disciplinary Committee and Chairman of the Anti-Money Laundering Authority of Zambia.

Daisy Amdany (Kenya)

Daisy Amdany is the Executive Director of the Community Advocacy and Awareness (CRAWN) Trust. A governance and women's rights specialist with several years' experience working in the field, she is the co-ordinator of the National Women's Steering Committee (NWSC). The committee brings together more than 70 organisations, networks and individuals drawn from the national to the county levels, working in women's emancipation and advancement to harness their collective capacities and voices on one national platform.

Ms Amdany is also actively involved in championing women's full inclusion in leadership positions and political processes. She encourages women across the country to get involved in political and governance processes at every level, from the grassroots to the national levels, especially in decision-making organs. She is also a consultant and facilitator and is frequently engaged as a technical adviser and trainer at several women's, governance and human rights organisations, at the grassroots, national, pan-African and international levels. She trains organisations, institutions, women's leaders, female political aspirants and others aspiring for leadership and decision-making positions. Ms Amdany is also a civic educator, educating citizens on constitutional rights and responsibilities. She is also a member of the Global Pan African Movement, as well as a Certified Life Coach.

Mr Henry Hogger (United Kingdom)

Mr Henry Hogger is a former British diplomat who spent most of his career in the Arab world, finishing as Ambassador in Syria and then Governorate Coordinator for Basra in post-war Iraq. Since retiring from the foreign service in 2004, he has undertaken election observation missions for the European Union (EU) in several African and Latin American countries; and for the Commonwealth in Zambia (2006), the Autonomous Region of Bougainville (2010), Papua New Guinea (2012), Pakistan (2013), Mozambique (2014) and Malawi (2019). He is currently Senior Consultant with Middle East Consultants International Ltd.

Mr Basil Waite (Jamaica)

Mr Basil Waite holds a BSc. in Mathematics from the University of the West Indies, Kingston, Jamaica and a Master's in Public Policy from the John F Kennedy School of Government, Harvard University. He is Deputy General Secretary of the People's National Party in Jamaica. He is also Executive Chairman of Tastebuds Agro-Processing Limited. Prior to this, Mr Waite served as a Senior Policy Advisor to the Minister of Local Government and Community Development, and was previously appointed as a Senator and Shadow Minister of Education.

Internationally, Mr Waite has worked as an Associate in McKinsey & Company's Washington, DC, Office, where he worked primarily in the areas of strategy development, change management, supply chain management and risk management for major Fortune 100 companies in the energy and electric power sectors. He also worked as a staff research assistant focusing on policy development at the World Bank, and the Jamaican government.

Mr Waite, a Jamaican Issa Scholar, was President of the People's National Party Youth Organization (PNPYO). He was appointed as a member of the Prime Ministerial Advisory Council, and also served on the boards of the Jamaica Racing Commission and the Micro Investment Development Agency, among others. At Harvard, he served as Co-Chair of the Black Student Caucus. He was also a member of Harvard's delegation to the Academy of Achievement Summit hosted by the Catherine B Reynolds Foundation.

Annex II: Arrival Statement



The Commonwealth

COMMONWEALTH OBSERVER GROUP

2019 NAMIBIA PRESIDENTIAL AND NATIONAL ASSEMBLY ELECTIONS

Statement by Chair

Musa Mwenye, Former Attorney General of Zambia

23 November, Windhoek, Namibia

It is our singular honour and privilege to have been requested by the Commonwealth Secretary-General, The Rt Hon. Patricia Scotland QC, to observe the Presidential and National Assembly Elections in Namibia scheduled for 27 November 2019 at the invitation of the Electoral Commission of Namibia.

The Observer Group, which arrived on 22 November and will be in Windhoek until 3 December, is composed of the following members:

- Mr Musa Mwenye (Chair), Former Solicitor General and former Attorney General, Zambia,
- Ms Daisy Amdany, Community Advocacy and Awareness Trust, Kenya,
- Mr Basil Waite, Former Senator and current Deputy General Secretary of People's National Party, Jamaica, and
- Mr Henry Hogger, Retired Diplomat, United Kingdom.

The members of the Group are drawn from various Commonwealth regions with backgrounds ranging from the political, civil society, diplomacy and the legal field. Our presence here affirms the Commonwealth's continuing solidarity with the people of Namibia.

Our mandate is to observe and evaluate the pre-election environment, polling day, as well as the post-election period. We will consider various factors in respect of the electoral process as a whole, and report on whether it has been conducted in accordance with national, regional, Commonwealth and international standards to which Namibia has committed itself.

As independent observers, we shall remain objective and impartial in discharging our mandate. The Group's assessment will be its own and not that of the Commonwealth Secretariat or any Commonwealth member country.

Over the next few days, we will receive briefings from relevant stakeholders including election management officials, representatives of political parties, civil society groups, the police, members of the international community and citizen and international observers.

On 25 November, our observers will deploy to selected regions, where we will observe the pre-election environment. Subsequently, we will observe the opening of polls, voting, counting and the management of results from Election Day until our departure from Namibia. We will issue an Interim Statement of our preliminary findings shortly after 27 November. Our Final Report will be submitted to the Secretary-General of the Commonwealth and will then be made available to the public.

Annex III: Deployment Plan

TEAM	REGION	LOCATION	NAMES
1	KHOMAS	Windhoek	Mr Musa Mwenye Ms Segametsi Mothibatsela Mr Koffi Sawyer Ms Musu Kaikai
2	ERONGO	Walvis Bay	Ms Daisy Amdani Mr Basil Waite
3	OSHANA	Oshakati	Mr Henry Hogger

Annex IV: Interim Statement



The Commonwealth

Namibia Presidential and National Assembly Elections 2019

**Interim Statement by Mr Musa Mwenye,
Former Attorney General, Republic of Zambia,
Chair of the Commonwealth Observer Group**

29 November 2019

The People of Namibia,
Your Excellencies,
Fellow Heads of Election Observation Missions,
Members of the media,
Ladies and Gentlemen,

On 27 November 2019, Namibians reaffirmed their commitment to our shared values of democracy by exercising their right to vote in the sixth multiparty elections in the country's political history.

The voting process was conducted in a largely peaceful and orderly manner. The Commonwealth Observer Group commends the voters, polling staff and all other electoral stakeholders for the patience, commitment and tolerance demonstrated on election day. It is our singular honour to have been given the opportunity to observe and support Namibia's democracy.

Our Group was constituted by the Secretary-General of the Commonwealth, The Rt Hon. Patricia Scotland QC, following an invitation from the Electoral Commission of Namibia to observe these elections. We arrived on 22 November and will depart Namibia on 2 December.

Our preliminary findings will be shared in the following manner: I will first provide our key findings on the pre-election environment, after which I will focus on our observations on election day. Finally, I will share our impressions of the post-election stage so far, mindful that the results process is ongoing, and then conclude.

This holistic manner is in line with our mandate, underscored in the Arrival Statement we issued on 23 November 2019.

Let me state that in accordance with this mandate, we will be assessing this election according to the national, regional, Commonwealth and international standards to which Namibia has committed itself.

The following is our initial assessment:

Key Findings

The pre-election environment

Since our arrival in Windhoek on 22 November, we have met with a range of stakeholders including the Electoral Commission of Namibia, political parties, civil society organisations, the police and members of the diplomatic community. We also observed some final rallies last weekend in Windhoek, prior to the deployment of some of our members on 25 November 2019. On the same day, I paid a courtesy call on President Hage Geingob, to convey the Commonwealth Secretary-General's best wishes to the people of Namibia ahead of the polls.

We note that the 2019 Presidential and National Assembly elections, the sixth multiparty elections since Namibia's independence, were the most competitive in the country's electoral history. Political competition was heightened by the candidacy of Dr Panduleni Itula, a card-carrying member of the governing SWAPO party, who, as an independent candidate, decided to challenge the party's candidate, incumbent President Hage Geingob, in the Presidential election. The internal dynamics of this phenomenon prompted some stakeholders to express concern that one of the unintended consequences could be the perception of an attempted entrenchment of tribalism in Namibian politics.

The participation of an independent candidate and the candidacy of a woman, NUDO's Esther Muinjangue, for the Presidential election, were unprecedented developments in the country's electoral history, which augur well for the robustness of its democracy.

The lack of a voter verifiable paper audit trail (VVPAT) has been a source of concern for several stakeholders with whom the Group met. The loss of some electronic voting machines (EVMs) loaned by the ECN to the SWAPO party for its internal elections, and minimal communication and engagement over the issue, did not help with building overall confidence and trust in the machines. On 25 November, two days before voting day, the Electoral Tribunal dismissed an application by the independent presidential candidate to replace electronic voting machines with ballot papers. The Tribunal ruled that it had no jurisdiction to adjudicate on matters that involve reviewing the Electoral Commission of Namibia, while also stating that the application lacked urgency.

Despite the competitive nature of the elections, the Group observed that the electoral environment was largely peaceful. All political parties and candidates were generally able to engage in campaign activities without restrictions. However, we

understand that some youth supporting one of the candidates attempted to block the Presidential convoy in Oshana Region on 16 November, leading to the intervention of the police and the use of teargas to disperse them. There were also a few reports of posters of opponents being torn down, although this did not appear to be systematic and widespread.

We encourage Namibians to continue to exhibit the culture of political tolerance and social harmony for which the country is known.

An important issue raised by civil society organisations is the lack of funding for their activities, which hampers effective participation in electoral processes, including the deployment of citizen observers. NGOs conduct observation mainly through volunteerism, thereby reducing the numbers of persons engaged for such an important oversight task. During briefings, representatives of Citizens for an Accountable and Transparent Society (CATS) advised us of their intention to deploy some citizen observers. On Election Day, the COG met some citizen observers deployed under the Namibia Institute for Democracy.

We encourage electoral stakeholders to support citizen observation for a more robust civil society participation and engagement.

Election Day

On the eve of the elections, members of the Group in regions of deployment met with local police, returning officers, political party officials and other observers. They did not report any major logistical challenges, except for a few cases where shortages in some important operational items were reported. These were eventually received at 6:00am on Election Day.

Though there is always room for improvement in electoral efficiency, the Commonwealth Observer Group would like to commend the staff of the Electoral Commission of Namibia, polling officials and all other institutions who worked tirelessly to ensure that electoral materials and equipment were in place in readiness for Election Day.

On election day, polling stations generally opened on time, despite some delays observed, mainly as a result of pre-polling testing of electronic voting machines, which testing was conducted in the presence of party agents and observers. Such inclusive pre-testing was a good confidence and trust-building measure. Polling stations were equipped with requisite polling staff and materials. Although there were some variations in the sizes of polling stations, layout was generally the same and, by and large, preserved the secrecy of the vote.

The procedures for the opening of the polls were followed. We were impressed by the professionalism, confidence and enthusiasm of polling officials, a significant number of whom were young men and women.

Police presence at polling stations was generally visible, including in queue management, but their presence was non-threatening, although in some cases, they

appeared to be actively involved in electoral processes, such as recording serial numbers of seals. As best practice, there is a need for a clear delineation of the roles of polling staff and police officers at polling stations, to avoid possible confusion of roles.

In most polling stations we visited, party agents were present, and they performed their duties unhindered. In a case observed in Windhoek, all party agents could not be accommodated in the polling station due to the limited space in the tent. On the contrary, in the Karibib constituency in the Erongo region, a mobile team stationed at the police station had to set up and conduct voting activities under a tree, sometimes under the glare of the sun.

We encourage the Electoral Commission of Namibia to consider increasing the size of tents and ensure that they are properly ventilated given the heat at this time of the year.

We observed that the processing of voters remains slow, thereby resulting in an arduous polling experience for many voters, with lengthy queues and voting extending well beyond close of polls. All voters who were still in the queue at close of polls at 9:00pm were allowed to vote, in accordance with the law.

The average time for processing of a voter is approximately four minutes. In this respect, we encourage the ECN to explore practical options to expedite the process, without undermining electoral integrity.

Observers noted that in some cases, the voter verification devices for voter authentication did not immediately pick up the serial number on the voter's card when scanned. This process had to be done manually in such instances, which further slowed the process.

Despite a few glitches with printers, closing procedures were transparent, with Presiding Officers conducting the process in a careful manner and in accordance with prescribed procedures. Results were thereafter displayed at polling stations.

Post-election

The day after the elections, our observers in the field met with district election officials, the police and other stakeholders to receive their feedback on the process, and to follow up on the ongoing result transmission stage.

Regional officials confirmed that there were no major incidents reported.

We encourage all Namibians, especially political parties, candidates and supporters, to remain patient and tolerant, while the Electoral Commission of Namibia concludes the results processes.

Conclusion

We wish to commend and congratulate all the voters for turning out in significant numbers on Election Day to exercise their franchise. We also commend the ECN and polling staff, political parties, civil society, and the media and security forces for their respective roles in ensuring the success of the electoral process thus far.

We were particularly impressed by the large numbers of women and youth who participated in the electoral process as candidates (including through party lists), voters, polling staff, party monitors and citizen observers. While these groups' participation was commendable, we do encourage further action to enhance their effective participation in political and state institutions.

It is our hope and expectation that as the results process reaches its crucial finalisation phase, that Namibia's tradition of peaceful electoral processes will continue to be jealously preserved.

Our Final Report will now be prepared and submitted to the Commonwealth Secretary-General, who will forward it to the Government of the Republic of Namibia, the Electoral Commission of Namibia, leaders of political parties, and thereafter to all Commonwealth governments. It will also be made available to the general public.

As we conclude, we encourage the ECN, political parties, civil society and other electoral stakeholders to engage in post-election, inclusive dialogue on how to resolve the issue of the lack of a verifiable paper trail ahead of future elections. The ECN's ongoing and consistent engagement with political parties is an incredibly critical part of building and maintaining confidence in the electoral process.

The ECN should also lead efforts towards investing more in voter education and encouraging the public to become better acquainted with the EVMs, enhancing communication with stakeholders and building overall confidence in the use of the EVMs. The ECN should enhance its collaboration with civil society groups and other stakeholders so as to carry out continuous civic education.

Finally, it is our hope that by bringing this electoral process to a successful conclusion, Namibia will continue to serve as an inspiration for the rising tide of democracy throughout Africa and the wider Commonwealth.

Thank you.

*Windhoek, Namibia
29 November 2019*

Annex V: 2019 results

Presidential election results:

CANDIDATES	VOTES	%
Hon. Apius Auchab (UDF)	22 115	2.7
Dr. Hage Gottfried Geingob (Swapo Party of Namibia)	464 703	56.3
Hon. Dr. Tangeni Iijambo (SWANU)	5 959	0.7
Dr. Panduleni Fillemo Bango Itula (IC)	242 657	29.4
Mr. Henry Ferdinand Mudge (RP)	4 379	0.5
Ms. Esther Utjiua Muinjangue (NUDO)	12 039	1.5
Mr. Epafras Jan Mukwilongo (NEFF)	1 026	0.1
Hon. Mike Ratoveni Kavekotora (RDP)	3 515	0.4
Hon. Shixwameni Ignatius Nkotongo (APP)	3 304	0.4
Mr. Bernadus Clinton Swartbooi (LPM)	22 542	2.7
Hon. McHenry Venaani (PDM)	43 959	5.3
TOTAL	826 198	100

National Assembly elections results

PARTY	TOTAL VOTES	%	SEATS
All People's Party (APP)	14 644	1.8	2
Christian Democratic Voice Party (CDV)	5 841	0.7	1
Congress of Democrats (CoD)	4 654	0.6	0
Landless People's Movement (LPM)	38 956	4.7	4
Namibia Economic Freedom Fighters (NEFF)	13 580	1.7	2
Namibia Democratic Party (NDP)	4 559	0.6	0
Namibia Patriotic Front (NPF)	1 785	0.2	0
National Unity Democratic Organization of Namibia (NUDO)	16 066	1.9	2
Popular Democratic Movement (PDM)	136 576	16.6	16
Rally for Democracy and Progress (RDP)	8 953	1.1	1
Republican Party of Namibia (RP)	14 546	1.8	2
SWANU of Namibia (SWANU)	5 330	0.6	1
SWAPO Party of Namibia (SWAPO)	536 861	65.5	63
United Democratic Front of Namibia (UDF)	14 644	1.8	2
Workers Revolutionary Party (WRP)	3 212	0.4	0
TOTAL VOTES	820 227	100	96

