



PRELIMINARY STATEMENT

BY

**THE HEAD OF THE SADC ELECTORAL OBSERVATION MISSION
(SEOM)**

TO

**THE 27 NOVEMBER 2019 PRESIDENTIAL AND NATIONAL
ASSEMBLY ELECTIONS**

IN

THE REPUBLIC OF NAMIBIA

**HONOURABLE MRS OPPAH C. Z. MUCHINGURI-KASHIRI,
MINISTER OF DEFENCE AND WAR VETERANS AFFAIRS OF THE
REPUBLIC OF ZIMBABWE**

WINDHOEK, 29 NOVEMBER 2019

- Honourable Patrick A. Chinamasa, Alternate Head of the SADC Electoral Observation Mission to the Republic of Namibia;
- Your Excellency Ernest Bai Koroma, Former President of the Republic of Sierra Leone and Head of the African Union (AU) Electoral Observation Mission to the Republic of Namibia;
- Honourable Musa Mwenye, former Attorney-General of the Republic of Zambia, and Head of the Commonwealth Electoral Observation Mission to the Republic of Namibia;
- Mr Emmanuel Magade, Deputy Chairperson of the Zimbabwe Electoral Commission (ZEC), and Head of the Electoral Commissions Forum of SADC Countries (ECF-SADC) Election Observation Mission to the Republic of Namibia;
- Your Excellency, Dr. Stergomena Lawrence-Tax, the SADC Executive Secretary;
- Distinguished Members of the Troika of the SADC Organ on Politics, Defence and Security Cooperation;
- Members of the SADC Electoral Advisory Council (SEAC);
- Members of the International Electoral Observer Missions;

- The Chairperson of the Electoral Commission of Namibia (ECN);
- Representatives of Political Parties, civil society and Religious Organisations;
- Members of the Diplomatic Corps,
- Partners from the media,
- Ladies and Gentlemen,

I. INTRODUCTION

On behalf of SADC, it is my distinct honour to welcome you all to this important event where I will present the SADC Electoral Observation Mission (SEOM)'s Preliminary Statement on the conduct of the 2019 Presidential and National Assembly Elections in the Republic of Namibia.

Following my appointment as Head of the SADC Electoral Observation Mission by His Excellency President Emmerson D. Mnangagwa, who currently holds the rotational Chair of the SADC Organ on Politics, Defence

and Security Cooperation, I maintained close collaboration with members of the Organ Troika, currently composed of Zimbabwe, Botswana and Zambia. The Observation Mission also benefitted from expert advice from the SADC Electoral Advisory Council (SEAC).

The SEOM was made up of fifty – nine (59) observers who were deployed to all the 14 regions of the country. The Mission consulted key stakeholders, including political parties, the Electoral Commission of Namibia, government ministries, the Police, civil society, religious leaders, academia, members of the diplomatic corps and the media.

The Mission observed the 27 November 2019 Presidential and National Assembly Elections in Namibia in line with the *revised SADC Principles and Guidelines Governing Democratic Elections (2015)* and the relevant laws of the Republic of Namibia.

This Preliminary Statement covers the Mission's observations of the pre-election period and voting day activities. The Mission's final report will cover observations on the pre-election, voting and post-election phases.

Your Excellencies,

Ladies and Gentlemen

II. SUMMARY OF KEY FINDINGS

Let me now present the summary of the Mission's Preliminary findings:

(a) The Political and Security Environment

The political and security environment in the pre-election and election period was calm and peaceful, with no visible political and security risk that could adversely affect the conduct of the election. National Voter Registration for constituencies was completed and verified without incident.

The Mission observed campaign activities which included rallies, roadshows and other events by the contesting political parties and candidates. These campaigns were by and large conducted peacefully. The police maintained a visible and discrete security presence at all campaign events that the Mission observed and did not interfere with proceedings. Furthermore, events observed were

largely in compliance with the laws of the country save for a few isolated incidents reported by stakeholders.

The Mission received reports of one such incident involving supporters of one political party who allegedly blocked the Presidential convoy in Ondangwa and Oshakati, prompting the police to use tear gas to disperse them. In addition, there were reports of the defacing of posters by some stakeholders. However, the Mission observed that this did not impact on the overall atmosphere of peace and security prevailing in the country.

The Mission also noted divergent views on the deployment and naming of Joint Police and Military operations following an upsurge in the crime rate. While some stakeholders welcomed the joint operations, arguing that it had reduced the crime rate, others expressed discomfort at the deployment of the military during election period. They feared that the presence of the military in the streets would intimidate voters. However, the Mission did not encounter evidence

suggesting that voters were intimidated by the presence of the military.

The election landscape was also characterized by the emergence of an independent presidential candidate who was still a member of the SWAPO party, a female candidate and other political parties.

(b) Electoral Law and Electoral System

The conduct of elections in the Republic of Namibia is governed by its Constitution of 1990 as amended and the Electoral Act No.5 of 2014.

The Mission noted that in accordance with Article 28(2) of the Constitution of Namibia, the President is elected by direct, universal and equal suffrage and that the winning candidate has to obtain more than fifty per cent of the valid votes cast.

The Mission further observed that in terms of the Constitution, ninety – six members of the National Assembly are elected every 5 years, by direct and secret ballot, based on party lists, and in accordance with the principle of proportional representation.

The Mission also noted that the Electoral Act provides the general framework for the organization and conduct of

elections. It also provides for the use of Electronic Voting Machines (EVMs) through the Regulations Relating to Use of Voting Machines in Elections which were adopted in 2014.

In the Mission`s interaction with stakeholders, concerns were expressed by some that while the regulations provide for the simultaneous utilization of a verifiable paper trail for every vote cast, the EVM system did not have the component to provide a paper trail. The ECN explained that regulations regarding the Voter-Verifiable Paper Audit Trail (VVPAT) that would give effect to the pertinent provisions of the current Electoral Act had not yet been gazetted. Views were expressed by stakeholders that the lack of a paper trail could compromise the integrity of the electoral process.

The lack of trust in the EVMs was further compounded by the loss, under unclear circumstances, of EVMs which were lent to the SWAPO Party for their elective Elders Council in 2017. The Mission raised the matter with the ECN and the Police who indicated that it was receiving due attention. The Police also indicated that one machine had been found by a member of the public and handed over to the Police. Following further engagement with the

SWAPO Party, the Mission also learnt that the Party had been invoiced and paid the ECN for the loss of the machines.

The Mission also noted that the independent presidential candidate filed an urgent application at the Electoral Tribunal at Katutura Magistrate Court against the use of the EVMs without a verifiable paper trail in the November 27 election. The Mission further noted that the Court delivered its judgement on 25 November 2019 where it ruled that the application was not urgent and that the Court did not have the jurisdiction to review decisions taken by the ECN. The Mission also noted that pursuant to this ruling, the Electoral Tribunal dismissed the case. The independent candidate then filed an appeal in the High Court which was sitting as an Electoral Court. This appeal was also dismissed on the eve of the elections.

The Mission took note of some positive changes introduced by the Electoral Act in 2014, which included;

- the introduction of one (1) polling day for all elections;

- the establishment of Electoral Tribunals to adjudicate and decide on electoral disputes arising prior to the polling day and;
- the establishment of an Electoral Court to preside over appeals and all post-election disputes, except on issues relating to the Presidential election which falls under the competence of the Supreme Court.

(c) The Management of the Electoral Process

The Mission noted that according to the Electoral Act, the Electoral Commission of Namibia (ECN) has the sole and exclusive authority to administer all electoral processes and activities in the country. Furthermore, the Act guarantees the independence of the ECN in the exercise of its functions.

The Mission observed that, in accordance with Electoral Act, the ECN consists of five (5) members, who include at least two (2) women, all appointed by the President with the approval of the National Assembly.

The Mission also observed that 1, 358, 468 (*One Million, Three Hundred and Fifty-Eight Thousand, Four Hundred and Sixty – Eight*) voters were registered within and outside Namibia. Additionally, the Mission observed that

the ECN was well prepared for the elections and generally discharged its mandate in accordance with the Constitution and Electoral Law of Namibia. While the Mission noted allegations by some stakeholders that some members of the ECN were partisan, no substantive evidence was provided to support these claims. The Mission also noted complaints by some stakeholders who alleged that foreign nationals were being registered to vote in the villages. Similarly, no substantive evidence was provided to support these allegations.

The Mission observed the following challenges that may require attention:

- (i) concerns surrounding the use of EVMs without a Voter Verifiable Paper Audit Trail and persistent perceptions, among the electorate and some political stakeholders, that the EVMs were not secure and could be hacked or manipulated;
- (ii) the need for conclusive and transparent investigations into the issue of the missing EVMs to allay any lingering doubts about the integrity of the system;

- (iii) need for voter education on the use of the EVMs and how the EVMs function; and
- (iv) address issues concerning the management of the results of early voting;

(d) Funding of Political Parties

The provision of political party funding is stipulated in the *revised SADC Principles and Guidelines Governing Democratic Elections (2015)* as an important factor in levelling the playing field for electoral contestants.

In this regard, the Mission commends the Government of the Republic of Namibia for remaining committed to funding political parties taking part in the elections in line with sections 154 – 159 of the Electoral Act. The Mission also notes that sections 140 – 142 of the Electoral Act sets out a framework for ensuring transparency and oversight in the financing of political parties by private individuals and entities.

The Mission however noted concerns raised by some stakeholders and political parties that the current system of allocating funding to Political parties based on their number of seats in Parliament deprived smaller parties

and those outside Parliament of the much needed funds to campaign for election. This is a domestic issue which needs consultations among all stakeholders.

(e) Access to Media

The SADC Principles and Guidelines Governing Democratic Elections enjoin member states to “*promote necessary conditions to foster transparency, freedom of the media; access to information by all citizens; and equal opportunities for all candidates and political parties to use the state media*”. The Mission noted that the Namibian Constitution provides for media freedom and freedom of expression which serves as a broad guidance for the conduct of the media.

The Namibian Broadcasting Corporation (NBC) has a policy according to which all political parties are allocated equal time slots with an option to purchase more time if they so desire. However, in the course of its interactions with stakeholders, the Mission received complaints by some that the ruling party was being favoured by the NBC, particularly in the coverage of its rallies on the main news. Consequently, the Mission engaged the NBC, which explained that coverage of electoral parties was divided into three categories, namely:

- Free to air time – where parties were allocated ten minutes of free air time on each of the 10 NBC radio stations to enable them to air their pre-recorded messages;
- Paid airtime - where parties were availed opportunities to broadcast their messages by buying air time at stipulated rates;
- General news- where parties were covered at the discretion of the NBC depending on the news worthiness of the event and availability of resources.

The NBC also indicated that it had established an Election Forum involving political parties whose objective was to determine the broadcasting schedule for the coverage of political activities during the election period. The Mission was further informed that some political parties had not taken up the free airtime slots offered by the NBC. It also learnt that a number of political parties were unable to take up paid slots on the state broadcaster due to financial constraints, opting instead to utilize social media platforms to disseminate their messages.

The Mission however, observed that the State-owned New Era newspaper appeared to grant coverage to all

political parties by publishing stories that straddled the political divide.

Additionally, the Mission observed that there was a multiplicity of print media, a positive step towards fostering transparency and freedom of the media.

(f) Participation of Women in Politics and Governance

The Mission noted that the principle of gender equality is enshrined in Article 10 of the Namibian Constitution and that article 23 (3) of the Constitution further provides for affirmative action for women.

The Mission was encouraged by the information given to it by ECN that 50% of the registered voters were female. The Mission also noted that 53% of the polling officers were women. Notwithstanding that there was only one woman Presidential candidate, there was however, an increase in the number of women who participated as National Assembly candidates.

III. OBSERVATIONS ON ELECTION DAY

Based on the Mission's observation of 183 polling stations in the 14 regions of the Republic of Namibia, the following was observed:

- The environment at the polling stations was generally peaceful;
- Police were present at all polling stations and generally conducted themselves in a professional manner;
- At some polling stations there was poor signage
- 62% of the polling stations observed opened on time; while 38 % did not for a variety of reasons, including inadequate ink, technical challenges, weather and late arrival of polling officers;
- 83% of the polling stations observed were accessible to persons with disabilities.
- In addition, persons with disabilities, the elderly, expectant and nursing mothers were given priority;
- 33% of the polling stations observed had posters educating voters on the voting process;
- Party / candidate agents and observers were present in 92% of the polling stations observed;

- In all the polling stations observed, seals on the carry cases of the EVMs and the serial numbers were verified;
- In addition, there was a pre-poll-test of EVMs conducted before opening of the polling stations;
- However, there were issues arising from EVMs in some areas, related to non-functional units, which delayed the opening or disrupted the voting and verification processes. These incidents were observed in several polling stations.
- Long queues were observed at most polling stations, and presiding officers complied with the law by allowing all those voters in the queue to cast their vote beyond 2100hrs;
- At least in 6% of the polling stations observed, complaints were lodged by aggrieved parties over a variety of issues;
- This notwithstanding, voting largely proceeded in an orderly manner;
- Most polling stations observed posted the results outside the station.

IV. BEST PRACTICE

a. Inclusion of Youth and Persons with Disabilities in the Electoral Process

The Mission noted the inclusion of unemployed youth and persons with disabilities as voter educators and electoral officers as a commendable practice. This consolidates democracy by fostering ownership of the electoral process and gives them practical experience in the organisation and execution of democratic elections.

b. Diaspora Voting

The Mission also noted the continued implementation of diaspora voting as an important element in expanding citizen participation consistent with the provisions of the *Revised SADC Principles and Guidelines Governing Democratic Elections (2015)*.

c. Women Representation

Additionally, the Mission noted the existence of gender quotas and other such mechanisms at the party level as a commendable way to promote increased women representation in governance.

d. Compliance with the Electoral Law and the Electoral System

The Mission noted that the ECN generally complied with the country's electoral laws and the electoral system in the execution of its duties. Furthermore, political parties generally showed respect for the country's electoral laws and conducted their campaigns with due regard to the rule of law.

e. Peaceful Environment

The Mission noted a general commitment to maintaining a peaceful environment by all stakeholders.

f. Voting by Prisoners

The Mission noted that Article 17 of Namibian Constitution grants every Namibian citizen above the age of 18 the right to vote. The Mission further noted that in accordance with this provision, prisoners in Namibia were able to exercise their right to vote on 27 November 2019.

V. RECOMMENDED IMPROVEMENTS IN THE ELECTORAL PROCESS

At this juncture, allow me to recall that the SEOM is continuing the process of electoral observation in the post-election phase. As such, the Mission will not be rendering comprehensive recommendations or qualifications of the election at this stage. However, the Mission has observed the following areas of the electoral process and system that relevant stakeholders may wish to consider improving:

The Management of the Electoral Process and the EVM system:

Special Voting

The Mission recommends that the National Assembly considers amending the Electoral Act to ensure that the votes from special voting are counted together with those from the main election in order to minimise speculation and undue influence on voters . The Mission also recommends that special voting takes place closer to the date of the main election.

a. The Electronic Voting Machines (EVMs)

Given the concerns surrounding the use of the EVMs without a verifiable paper trail as provided for in the Electoral Act, the Mission recommends that the relevant authorities take the necessary steps to give effect to the provisions of the Electoral Act. Based on the Mission's interactions, this may contribute to increasing public confidence in the electoral system, and in the use of EVMs in particular.

The Mission also recommends that the ECN considers expanding voter education particularly around the use of the EVMs. The broad involvement of civil society and faith-based organisations in these initiatives could further strengthen civic and voter education.

The Mission also recommends that there be a process of training and technology transfer to build local capacity for supporting the EVM system. This would increase capacity and enable timely interventions in the event of technical challenges.

b. Strengthening the Political Party Liaison Committee

The Mission encourages the ECN and political parties to strengthen the consultative process of the Party Liaison Committee to promote dialogue on matters of mutual interest to include a code of conduct for political parties.

c. Access to the Central Results Centre

The Mission further encourages the ECN to continue complying with the provisions of Schedule 4 (5) that provides for all participating political parties and candidates to be represented at all material stages of the electoral process including the Central Election Results Centre.

d. Introduction of multiple voting streams

In view of the long queues experienced at polling stations, the Mission recommends that ECN considers introducing multiple voting streams at each polling centre.

(v) CONCLUSION

In conclusion, the Mission observed that the pre-election and voting phases of the 2019 Presidential and National

Assembly elections were generally peaceful, well organised and conducted in a professional manner which enabled voters to express their democratic right. The Mission also observed that those who were seeking office were generally able to campaign freely.

In the event of any electoral disputes, the Mission appeals to all contestants to channel them through legal procedures and processes. Furthermore, the Courts are called upon to deal with the disputes expeditiously.

Finally, the Mission commends the Namibian people for maintaining political maturity and for their peaceful conduct during these elections.

The Mission will release its final report thirty days after the validation and proclamation of final results, as provided for in the *revised SADC Principles and Guidelines Governing Democratic Elections (2015)*.

Thank you very much

Muito Obrigado

Merci beaucoup

Asante sana