

# Election Watch X

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## Low turnout - a cause for concern

The fact that only 22 percent of registered voters cast their ballots in the recent Tobias Hainyeko by-election in Katutura rang alarm bells about the dangers of low turnouts at elections.

In fact, Namibia has occasionally had very low turnouts at by-elections before. At a Regional Council by-election in Wanaheda in 1999, only 23 percent of registered voters turned out for an election that pitted the DTA and United Democratic Front (UDF) against Swapo.

The last 15 by-elections (held since 2001) have produced an average turnout of 48 percent (see table 1). The lowest in that period were at Rundu Urban West earlier this year, when only 26 percent voted, and in Windhoek West in 2003 when only 29 percent of the registered electorate turned out.

There is a noticeable rural/urban divide when it comes to turnout figures in Namibia. Urban areas like Tobias Hainyeko tend to record lower turnouts than rural constituencies like Tsumkwe (which had a 74 percent turnout in a 2004 by-election). Also, closely contested seats, such as those won by Nudo in 2004, tend to produce higher turnouts.

Even though Tobias Hainyeko is an urban constituency and a Swapo victory was regarded by many as a foregone



conclusion, the low turnout figure remains a cause for concern. The turnout was almost half that recorded in Tobias Hainyeko in 2004 when Regional Council elections took place nationwide.

Just before the poll was due to be held on October 31, three political parties announced they were boycotting it in protest at the way the Electoral Commission of Namibia had organised the by-election (see page 4). It is not clear how this affected the turnout, but there were likely to

continued on page 2

## ELECTIONS EXPLAINED

**Article 1** of the Constitution establishes Namibia as “sovereign, secular, democratic and unitary State founded upon the principles of democracy, and the rule of law and justice for all.”

**Article 17**, part of the Constitution’s Bill of Rights, states that all citizens shall have the right to take part in peaceful political activity intended to influence the composition and policies of government. All citizens also have the right to form and join political parties. Every citizen over 18 can vote in elections, while citizens over 21 can be elected to public office.

**Article 21** entrenches the rights to freedom of expression, thought, and association – all fundamental to free political activity.

The essential details of Namibia’s electoral systems are also set out in the Constitution.

**Article 28** deals with the election of the President. A President can only be elected with more than 50 percent of the votes in a national presidential election. This is called a majoritarian system.

**Article 49** states that members of the National Assembly are to be elected via a party list system in accordance with principles of proportional representation.

**Article 106** states that to be elected as a Regional Councillor, a candidate has to receive the most votes in a constituency-based election. This is called a First-Past-The-Post or FPTP system.

## SETTING THE STANDARDS

The Southern African Development Community (SADC) adopted the SADC Principles and Guidelines Governing Democratic Elections at the SADC Summit in Mauritius in August 2004.

The SADC agreement on elections sets out the following basic principles for the conduct of democratic elections, which SADC Member States should follow:

1. Full participation of the citizens in the political process
2. Freedom of association
3. Political tolerance
4. Regular intervals for elections as provided for by the respective national constitutions
5. Equal opportunity for all political parties to access the state media
6. Equal opportunity to exercise the right to vote and be voted for
7. Independence of the judiciary and impartiality of the electoral institutions
8. Voter education
9. Acceptance and respect of the election results by political parties proclaimed to have been free and fair by the competent national electoral authorities in accordance with the law of the land
10. Challenge of the election results as provided for in the law of the land

Election Watch will look at the SADC Principles and Guidelines in more detail in future issues.

continued from page 1

be a number of other factors at play.

There are a number of possible explanations for low turnout at an election:

- Disenchantment with the political system and/or the ruling party can lead to voters staying away from the polls
- Conversely, contentment with the way the country and/or constituency is being governed may lead to a sense of indifference about the importance of voting
- A predictable result can mean that only core supporters turn out to vote for the dominant party expected to win while supporters of other parties see little point in participating
- Inaccurate and/or outdated voter registration data can lead to voters being turned away
- The perceived importance of an election. For example a local or regional election may not be seen as important as a national one
- Poor voter education and information
- Party boycotts
- Socio-economic factors, such as the poor feeling marginalised from political decision-making
- Practical factors such as residents being outside the constituency at work during voting hours and the accessibil-

ity of polling stations

- Violence and intimidation in the run up to an election can scare voters away
- A low-quality campaign, which includes a high level of mudslinging and little discussion of grassroots issues, can also turn voters off parties and candidates

### What can parties, electoral bodies and others do to minimise the possibility of a low turnout?

- Electoral bodies should ensure voters are fully informed in all the relevant languages and through various media about the election
- The electoral body should carry out supplementary registration to ensure residents have the right to vote
- The number, locations and opening hours of polling stations should facilitate as many voters as possible turning out
- Assistance should be available to disabled voters
- Political parties should adhere to official codes of conduct which bar intimidation and should educate their supporters about the need for tolerance
- Political parties should run energetic, positive campaigns and not indulge in negative campaigning. It is important to

Constituency	Region	Date	Winning party	Turnout %
Tobias Hainyeko	Khomas	2008	Swapo	22
Eenhana	Ohangwena	2008	Swapo	55
Rundu Rural West	Kavango	2008	Swapo	26
Otjinene	Omaheke	2004	Nudo	66
Omatako	Otjozondjupa	2004	Swapo	61
Okakarara	Omaheke	2004	Nudo	57
Aminius	Omaheke	2004	Nudo	67
Tsumeb	Oshikoto	2004	Swapo	51
Grootfontein	Otjozondjupa	2004	Swapo	56
Tsumkwe	Otjozondjupa	2004	Swapo	74
Windhoek West	Khomas	2003	Swapo	29
Kapako	Kavango	2003	Swapo	35
Rehoboth Urban West	Hardap	2003	DTA	36
Kapako	Kavango	2001	Swapo	34
Karibib	Erongo	2001	Swapo	34
Oshikango	Ohangwena	2001	Swapo	34

Table 1: Turnouts at Regional Council by-elections since 2001

continued on page 3

continued from page 2

concentrate on issues that affect residents in the constituency

- Political parties should organise GOTV (Get Out The Vote) activities to ensure

their supporters cast their ballots

- Civil society groups should assist with voter education and monitor the election

1989 CA	1992 LA	1992 RC	1994 NA	1998 LA	1998 RC	1999 NA	2004 LA	2004 NA	2004 RC
97%	82%	81%	76%	34%	40%	61%	44%	85%	55%

CA = Constituent Assembly; LA = Local Authority; RC = Regional Council; NA = National Assembly

Table 2: Election turnouts in Namibia since 1989

**Did you know?**

Turnout in the recent US presidential election was set to be just over 60 percent once absentee ballots had been counted – higher than the 55 percent in 2004 and 51 percent in 2000 – but still lower than Namibia which recorded a turnout of 85 percent at its last presidential election in 2004.

## Continuous registration of voters



In October the Electoral Commission of Namibia made the following announcement about the continuous registration of voters from all constituencies in the Omusati, Omaheke, Kavango and Erongo regions.

The Electoral Commission of Namibia (ECN) is embarking upon the continuous registration of voters in all the constituencies in the in the Omusati, Omaheke, Kavango and Erongo regions from 13 October 2008 to 10 December 2008. Registration points will be open from 08h00 to 19h00 during this period.

**Who should register this time around?**

Residents of constituencies in the Omusati, Omaheke, Kavango and Erongo regions who are Namibian citizens; who have turned 18 years of age after the last registration of voters; who moved from another constituency to the constituency

where she/he resides now; and whose voter registration cards have been lost, damaged or destroyed and those who adopted new names e.g. through marriage.

To register you need to prove your identity, age, and Namibian citizenship by producing the following documents:

1. New Namibian ID (Identity, Age and Namibian Citizenship); Green Valid Namibian Passport (Identity, Age and Namibian Citizenship); Namibian Birth Certificate (Age and Namibian Citizenship)
2. The following combinations: Citizenship Certificate and Old Namibian ID (if you were born outside Namibia); Namibian Birth Certificate and Namibian New Driver's Licence; Namibian Birth Certificate and two deponents (people who can make statements under oath that you qualify to vote in Namibia)

## VIOLENCE AND INTIMIDATION MONITOR

This regular feature in Election Watch will log cases of election-related violence and intimidation as reported in the media and by human rights organisations. Where the motives or causes of an incident are a matter of dispute, this will be noted in the log.

**Oct 18** – The police had to use tear-gas to disperse a crowd of about 150 Swapo supporters intending to stop an RDP rally in Katutura. At least six people were arrested and several pistols were confiscated.

**Oct 25** – A house belonging to the Secretary of the RDP's Women's League, Agnes Limbo, burnt down in Katima Mulilo. The police are investigating a possible case of arson. Two of Limbo's relatives died in the blaze. It is not clear if the fire was connected to Limbo's political affiliation.

**Oct 29** – A teargas canister was thrown into the yard of the RDP candidate for the Tobias Hainyeko by-election, Erasmus Hendjala, in Okuryangava, Katutura. No arrests were made.

**Nov 15** – A group of Swapo supporters prevented the All Peoples Party (APP) from holding a rally in Hakahana, Katutura.

**Nov 22** – Swapo supporters tried to prevent APP members from holding a meeting in Greenwell Matongo, Katutura

**Nov 22** – Several hundred Swapo supporters prevented the RDP from holding a rally at Outapi in the Omusati region

To register to vote in any local authority council election, remember to take along your Telecom or Municipal/ Town/ Village electricity and water bills for October 2007 and October 2008 to prove that you have lived in that local authority for 12 consecutive months. Alternatively, bring along one person who is a registered voter in that particular local authority area to make a statement under oath that she/he knows that you have lived there.

**Section 104 of the Electoral Act**

**Undue influence**

Any person who, directly or indirectly, by himself or herself or by any other person-

**(a)** makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens to inflict any bodily or psychological injury, damage, hazard or loss, upon or against, or does or threatens to do anything to the disadvantage of, any person in order to induce or compel any person to vote or to refrain from voting at any election, or on account of any person having voted or refrained from voting at the election; or

**(b)** by any such means as aforesaid or any fraudulent device or contrivance induces, compels or prevails upon any voter to vote or refrain from voting at any election in question or to vote in favour of a particular political party or candidate, or impedes, hinders or prevents the free exercise of the franchise by any voter at any election in question, shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$20,000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

# Politicians yet to appear in court

**O**n the evening of October 30 the police arrested four opposition party activists – Clara Gowases, Vice Chairperson of Republican Party (RP), Acting RP Secretary General Cap Gaeseb, RP youth leader Ignatius Semba and RDP candidate for the Tobias Hainyeko by-election, Erasmus Hendjala.

The politicians had been distributing flyers on the eve of the by-election calling on voters to boycott the election. They were detained for four hours and charged with contravening Section 104 of the Electoral Act.

At the time Election Watch was published, the Office of the Prosecutor General had not yet decided whether to prosecute the four politicians. Although they were detained for four hours on October 30, the four political activists had not appeared in court on a charge by November 24.

In response to the arrests, two political parties laid charges of illegal arrest against the police, the Electoral Commission of Namibia (ECN) and the Director of Elections, Moses Ndjarakana. RP and Nudo, which had supported the boycott call, wanted the police to investigate why the opposition leaders had been deprived of their freedom of movement and expression while distributing the flyers.

In a comment on the arrests, the Legal Assistance Centre's Director, Norman Tjombe, said calling on people not to vote in

an election was not an illegal act. He added it was an exercise of the fundamental human rights of freedom of association, political participation and freedom of expression, all of which are guaranteed by the Namibian Constitution and under international law (*New Era*, November 3 2009).

Final result of Tobias Hainyeko by-election

Name	Party	Votes
Zulu Shitongeni	Swapo	5529
Sevelinus Sinungu	APP	164
Spoilt ballots		71

Election Watch reproduces the section of the Electoral Act under which the arrests were made and the text of the flyer on this page. The case would appear to hinge on whether the text of the opposition parties' flyer could be construed as carrying any threat of harm aimed at inducing voters not to vote; whether any fraudulent means was used in an attempt to stop voters going to the polls; or whether there was any attempt to hinder or impede voters in exercising their right to vote.

The flyer uses strong and at times intemperate language and is highly critical of the ECN and its chairman Victor Tonchi. However, it is difficult to see how the text actually contravenes Section 104 of the Electoral Act.

**The text of the election boycott leaflet produced by the Republican Party, Rally for Democracy and Progress and Nudo of Namibia:**

We urgently call on all registered voters in the Tobias Hainyeko Constituency to boycott the by-election on Friday, 31st of October 2008! ENSURE THAT DEMOCRACY STAYS IN YOUR HANDS!! LET US UNITE!! PROVE YOUR POINT – DO NOT GO AND VOTE!!

We are sick and tired of the mismanagement and rigging of elections by the Electoral Commission under the Chairmanship of Victor Tonchi. This so-called chairman of the Electoral Commission declared the recent scandalous Zimbabwean elections free and fair and through doing that, became an international political joke and embarrassment, not only for Namibia but the whole of Africa! Through this he did not only disqualify himself to continue as Chairman but also compromised his ability (if he has any) to oversee free and fair elections in Namibia and should therefore resign. He is not to be trusted! Period! Enough is enough! We must make a stand in the Tobias Hainyeko by-election and send a clear signal to the Swapo-controlled Tonchi-clique. Responsible citizens are not interested and will never be accomplices in elections of which the results are fore-



gone conclusion. The results were predetermined by machinations in favour of and support in the aims of Swapo to abuse the democracy to create a dictatorship. An election process that was characterized by deliberate mismanagement, intimidation and political violence should not be supported! Do not vote! Boycott this fraudulent election! Do not legitimize this undemocratic and illegal process. Stand up for your Constitutional rights! Reject Swapo and its puppet Electoral Commission! Your boycott will ensure that democracy stays in the hands of the people. Your boycott will serve as a reminder and warning to appointed authorities that they are ultimately responsible to us, the people and not their puppet bosses! The unregistered voters who were deliberately excluded from the registration process will, through the boycott be assured that their votes indeed count as fellow residents and citizens. ONLY PUPPETS and those OPPORTUNISTIC LEADERS who don't care about basic democratic rights and fear challenge and change to development, will turn up at the polls. DO NOT VOTE! BOYCOTT THIS FRAUDULENT ELECTION!

## About Election Watch

This is the first edition of Election Watch, which will be published on a monthly basis in the run up to the 2009 National Assembly and Presidential elections. Election Watch will:

- Provide a vehicle for voter education
- Provide briefing information for civil society activists, journalists, students, and voters in general
- Provide a platform for civil society's and citizens' views of the electoral process
- Provide 'early warnings' of possible problems in the electoral process
- Point out positive examples and experiences within the democratic process
- Promote Namibian, African and international benchmarks on elections and democracy