

# Election Watch X

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## DELIMITATION UNDERWAY



Members of the fourth Delimitation Commission, Dr. John Steytler, Judge Alfred Siboleka (chair), and Zed Ngavirue with President Pohamba (second from right).

On January 18 2013, President Hifikepunye Pohamba unveiled the fourth Delimitation Commission, to be chaired by Judge Alfred Siboleka with Dr. Zed Ngavirue and Dr. John Steytler as members.

At the event, the President said it would be necessary for the Delimitation Commission to decide on constituency and regional borders before the Electoral Commission of Namibia (ECN) embarks on compiling a new voters register in preparation for the National Assembly and Presidential Elections, which will take place in November 2014. He added that it was important for the Commission to complete its work on time – by the end of June 2013.

Many people do not know much about the role and importance of the Delimitation Commission.

This bulletin provides an overview of the Delimitation Commission and its functions and current activities, as well as its importance to the electoral process.

### About the Delimitation Commission

The Delimitation Commission is the body responsible for determining the boundaries of Namibia's regions and constituencies, and for deciding how many regional councillors should serve on each Regional Council.

The Commission was created under the Namibian Constitution, and was first set in motion by former President, Sam Nujoma, on 23 August 1990 (gazetted on 3 September 1990) in Proclamation No. 12 of 1990 titled "Establishment of the First Delimitation Commission and the Duties thereof". Its functions are also detailed in the Regional Councils Act.

Specifically, the Proclamation outlined the duties of the Delimitation Commission as follows:

- to determine the boundaries of the regions and, subject to the provisions of Article 102(4) of the Namibian Constitution, the boundaries of Local Authorities, into which Namibia is to be divided for the purposes of holding Local Authority

and Regional Council elections;

- to determine the number of persons of which each Regional Council shall consist;
- to determine the number of constituencies into which each region shall be divided; and
- to fix the boundaries of each such constituency.

In carrying out its work, the Delimitation Commission considers a number of important factors, including the number of eligible voters in a region, its geographical features, infrastructure, resources and means of communication, its socio-economic characteristics and circumstances, the boundaries of districts and the areas of local authorities and settlement areas.

**“The Constitution emphasises that the work of the Delimitation Commission in terms of setting regional boundaries is meant to be geographical only, without any reference to the race, colour or ethnic origin of the inhabitants of such areas.”**

Importantly, Article 102 of the Constitution emphasises that the work of the Delimitation Commission in terms of setting regional boundaries is meant to be “geographical only, without any reference to the race, colour or ethnic origin of the inhabitants of such areas.” The duties of the Commission are pivotal in the context of national and regional elections as they affect the registration of voters, determine the size of the Regional Councils, and affect the location and size of the various constituencies. Additionally, decisions of the Commission about constituency boundaries could influence how well a political party fares in an election. The independence of this important Commission is therefore critical.

The Delimitation Commission is an independent body composed of three members – a chairperson (who according

to Constitution should be a judge of the High Court or the Supreme Court), and two additional members. All three are appointed by the President with the approval of Parliament.

In carrying out the work of determining Namibia's boundaries for constituencies and regions, the Delimitation Commission has to take into account factors such as the number of people who ordinarily reside in the concerned areas and who are eligible to vote. The initial proclamation on the First Delimitation Commission also states that these boundaries must be fixed in a manner such that “the number of eligible voters residing in the various constituencies falling in the same region are as nearly equal as reasonably practicable”. Other considerations that the Commission may make include “the geographical features of a region, the demographical distribution of eligible voters within the regions, and the relevant infrastructure and resources in the region”.

According to the Regional Councils Act, upon completion of this process, a report has to be submitted to the President, noting the findings of the Commission, and including lists of the various regions, constituencies and local authorities determined by the Commission, and their recommendations with respect to their names and boundaries, as well as a map detailing these names and boundaries into which Namibia is to be divided.

### What is delimitation?

Boundary delimitation (or simply delimitation) is the process of fixing the boundaries of constituencies and regions. Boundaries are sometimes redefined from time to time by a Delimitation Commission often to reflect new population patterns. Attempts to fix boundaries in a discriminatory manner or to give advantage to a particular political party is called gerrymandering.

# Q & A

## ON THE DELIMITATION COMMISSION

**IPPR: How do you see the role of the Delimitation Commission in the election process?**

**DELIMITATION COMMISSION:** The Commission does not play a direct role in the election process. The Commission's tasks are stipulated in the Constitution of the Republic of Namibia, as well as in Section 5 of the Regional Councils Act. In terms of these two documents, the Commission's role is confined to making recommendations to the Head of State pertaining to changes to boundaries of existing regions or the creation of new regions; or the division or re-division of existing regions into constituencies. Once these boundaries have been demarcated, the Electoral Commission can then update the voters' roll to be consistent with the newly defined borders, constituencies and regions. However, the election process in Namibia is managed by the Electoral Commission. It is important to note that these two Commissions are independent of each other yet inter-dependent.

**IPPR: What are the main factors that you take into consideration when making decisions on constituency and regional boundaries?**

**DC:** The main criteria that the Commission considers in evaluation of proposals by concerned parties are stipulated in the Regional Councils Act and include the number of eligible voters resident in a particular constituency or region; the geographical features of a region or constituency; infrastructure, resources and means of communication in regions and constitu-

encies; the socio-economic characteristics and circumstances in a region or constituency; the effective exercise and performance of the powers, duties and functions of the regional council; and other considerations that concerned parties may raise during public hearing or in written submission. It is however important to note that in terms of the Constitution of the Republic, the Commission may not consider ethnic or tribal considerations in the demarcation of regions and constituencies.

**“The Commission is constituted only every ten years and if citizens do not express themselves, they will have to live with the boundaries of their regions and constituencies for the next ten years.”**

**IPPR: Based on your consultations in the regions that you have visited so far, what have your observations been?**

**DC:** The Commission has been very pleased with the consultations in the regions visited so far. There has been a strong interest in the work of the Commission in regions visited thus far. It is encouraging to note that people are exercising their democratic rights and have made a number of proposals that the Commission is currently in the process of evaluating.

**IPPR: Why is it important that the Namibian public participate in the consultations of the**

**Commission and provide their input?**

**DC:** It is important for citizens to exercise their democratic rights, and the Commission is pleased that interested parties have thus far shown tremendous interest in the work of the Commission. Ultimately, the demarcations of regions and constituencies may have an impact on the delivery of services. The Commission is constituted only every ten years, and if citizens do not express themselves, they will have to live with the boundaries of their regions and constituencies for the next ten years before there will be an opportunity again to express themselves on issues that may impact on service delivery. We must, however, note that the issue of service delivery goes beyond the creation of regions and constituencies, but this is one of the important platforms where concerned stakeholders can air their views and make suggestions for improvement.

**IPPR: How does the Commission deal with the possibilities of gerrymandering?**

**DC:** As mentioned earlier, the Commission is guided by a number of principles enshrined in the Constitution of the Republic as well as the Regional Councils Act. Over and beyond this, the Commission members deliberate extensively on proposals made by concerned stakeholders. The Commission also endeavours to prevent the possibility of gerrymandering by inviting the full participation of all stakeholders and having transparent public consultations with them.

### To date, Namibia has had four Delimitation Commissions. Their composition and the decisions made under each commission are captured in the table below.

**Composition of the Delimitation Commissions and the major decisions made from 1990 to the present.**

Commission	Commission Members	Decisions & Highlights
1 <sup>st</sup> (1990)	Judge President Johan Strydom Mr. Martin Shipanga Prof. Gerhard Totemeyer	In 1992, the Commission recommended that Namibia be divided into 13 regions and 95 constituencies. The Regional Councils Act of 1992 formally created 13 regions from the previous 26 districts. They were: Caprivi, Erongo, Hardap, Karas, Khomas, Kunene, Ohangwena, Okavango, Omaheke, Omusati, Oshana, Oshikoto, and Otjozondjupa.
2 <sup>nd</sup> (1998)	Judge J.P. Karuaihe Prof. Lazarus Hangula Dr. Samuel K. Mbambo	In 1998 the Second Delimitation Commission recommended several boundary changes and the renaming of the Okavango region to Kavango. The Commission also increased the number of constituencies from 95 to 102.
3 <sup>rd</sup> (2002)	Judge Peter Shivute Ms. Inge Murangi Mr. Peter S. Kauluma	In 2002 this Commission recommended that the number of constituencies be increased to 107. While it was supposed to finish its work in August 2002 to allow for voter registration to take place in August that year, it only completed its report in September, forcing the postponement of the voter registration drive, which only took place in 2003. This was despite a legal challenge from the Congress of Democrats (CoD) that the commission had been illegally instituted. This case was dismissed in 2003.
4 <sup>th</sup> (2013)	Judge Alfred Siboleka Dr. Zedekia Ngavirue Dr. Jonathan Steytler	The 4 <sup>th</sup> Delimitation Commission was appointed in January 2013, and began its regional consultations in mid-February. The Commission will complete the regional consultations on 23 April 2013, and will continue receiving written submissions until 30 April 2013. The Commission aims to have a report ready for consideration by the Head of State within six months of appointment, i.e. by the end of June 2013.

Sources: Guide to Namibian Politics, *Namibian Sun*, Delimitation Commission

#### ABOUT ELECTION WATCH

Election Watch is a bulletin containing electoral analysis and voter education, which will appear regularly in the run up to the 2014 National Assembly and Presidential Elections. It is produced as a PDF download and as a printed newspaper insert. Election Watch is a project of the Institute for Public Policy Research (IPPR). It is produced with the support of the Canadian Fund for Local Initiatives (CFLI) and *The Namibian* newspaper. The content of this edition of Election Watch was written and compiled by IPPR Research Associate Nangula Shejavali. The content of Election Watch is the sole responsibility of the IPPR.

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# PREVENTING GERRYMANDERING

When attempts are made in the delimitation process to establish a political advantage for a particular party or group by modifying district boundaries to benefit the party in power, this is called "gerrymandering". This is an illegal practice both in terms of international norms and by implication in the Namibian Constitution. However, it has reared its head in a number of countries. In the United States, for example, three techniques to gerrymander districts have been used, all creating districts that have a goal of encompassing a certain percentage of voters from one political party.

They are the 'excess vote method' which concentrates the voting power of the opposition into just a few districts; the 'wasted vote method' which dilutes the power of the opposition across several districts; and the 'stacked' method, which involves "drawing bizarre boundaries to concentrate the power of the majority party by linking distant areas into specific, party-in-power districts."<sup>1</sup>

In Namibia, accusations of practices of gerrymandering have been flung at the Delimitation Commission in the past, and news coverage on the current process shows that some towns and constituencies still feel affected by previous boundary setting decisions.

In a recent news article, for example, the DPN's interim president, Salomon Isaacs, noted that "There are clear examples of where this has transpired, as with Khomasdal (in Windhoek), which was thrown in together with Katutura's Single Quarters to silence that area's voice. Another is Kronlein, outside the Keetmanshoop Urban Constituency, but which pays rates and taxes to the Keetmanshoop municipality."<sup>2</sup> Critics of gerrymandering note, most importantly, that "gerrymandering can have a deleterious effect on the principle of democratic accountability", because it often sets the outcome of electoral processes to favour incumbents or a certain political party. They note that "with uncompetitive seats/districts reducing the fear that incumbent politicians may lose office, they have less incentive to represent the interests

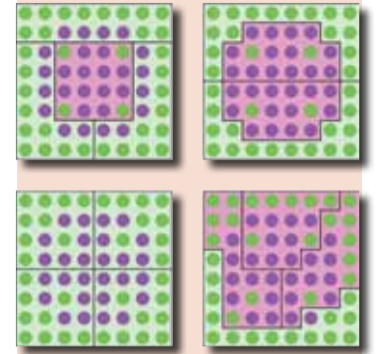
of their constituents, even when those interests conform to majority support for an issue across the electorate as a whole. Incumbent politicians may look out more for their party's interests than for those of their constituents." Others further argue for the depoliticisation of the redistricting process, "claiming that partisan redistricting is responsible for declining electoral competition and increasing legislative polarisation"<sup>3</sup>, although this position has been refuted by some researchers.

It is partly for this reason that the announcement of the 2013 Delimitation Commission ignited some debate within and outside the National Assembly, with some politicians cautioning against creating new regions and constituencies due to the cost and limited socio-economic impact of such moves, calling for an increased focus on decentralization efforts instead. News reports quoted APP President Ignatius Shixwameni as stating that the demarcation of constituencies was being politicised, and that there was a perception that the Commission was a "Swapo Party commission" instead of a "commission of the Namibian State."<sup>4</sup>

The table below presents some of the comments, concerns and suggestions raised following the President's appointment of the current Delimitation Commission.

1 www.geography.about.com/od/politicalgeography/a/gerrymandering.htm  
 2 Isaacs, D. 2013. DPN calls for transparent boundary settings. *The Namibian Sun*, 4 January 2013. Retrieved from <http://www.namibiansun.com/content/national-news/dpn-calls-for-transparent-boundary-settings> on 11 March 2013.  
 3 Seth E. Masket, Jonathan Winburn and Gerald C. Wright (2012). The Gerrymanderers Are Coming! Legislative Redistricting Won't Affect Competition or Polarization Much, No Matter Who Does It. *PS: Political Science; Politics*, 45, pp 39-43.  
 4 Sasman, C. 2012. Three names proposed for new delimitation commission. *The Namibian*. 19 November 2012. Retrieved from [http://www.namibian.com.na/index.php?id=28&tx\\_ttnews\[tt\\_news\]=104405&no\\_cache=1](http://www.namibian.com.na/index.php?id=28&tx_ttnews[tt_news]=104405&no_cache=1) on 7 March 2013.

## ILLUSTRATION OF THE PRACTICE OF GERRYMANDERING



This figure illustrates how 'gerrymandering' can influence the result of elections in a non-proportional system. In each case there are 36 green and 28 purple dots in total. Depending on how the 4 districts/regions are designed, there can be a 3:1 or a 4:0 win for the greens, a 2:2 tie, or even a 1:3 win for the state-wide minority party (purple).

Source: Gazillion, 2008. [http://commons.wikimedia.org/wiki/File:Gerrymandering\\_36-28.png](http://commons.wikimedia.org/wiki/File:Gerrymandering_36-28.png)

### Concerns raised in Parliaments and in the media during the debate on the President's appointment of the 4th Delimitation Commission:

MP or Party Representative	Party	Reported Comments
Phillemon Moongo	DTA	Stressed that the Commission must not create "tribal boundaries" and must act in good faith in the public interest.
Paulus Kapia	Swapo	Said the Commission should consider redrawing the boundaries of towns that were "cut in half" during previous exercises.
Angelina Muharukua and Doreen Sioka	Swapo	Advocated for parts of Caprivi and Kunene previously alienated from those regions to be given back to them.
Ignatius Shixwameni	All People's Party (APP)	Said that constituency demarcation was being politicised, and that there should not be the perception that the Delimitation Commission is a "Swapo Party commission". He added, "It must not be a partisan commission; it must be a commission of the Namibian State... Cautioned against establishing more regions and constituencies, and questioned the socio-economic impact that would have. He said the creation of more regions and constituencies would fragment smaller regions, and suggested that more regional governors and councillors would cost the country more than what is prudent.
Salomon Dawid Isaacs	DPN	"Firstly, our party does not have any issue with any of the people nominated per say, but the current process leaves too much power in the hands of the State president... There must be a separate act of Parliament that spells out the process for nominating the Delimitation Commission. Otherwise we open the country up to all kinds of gerrymandering."

Sources: *The Namibian*, *New Era*, *Namibian Sun*

## ORIGINS OF GERRYMANDER

The term, gerrymander, was inspired by the Governor of Massachusetts, Elbridge Gerry (1744-1814), who in 1812 signed a bill that legalised the manipulation of the boundaries of an electoral district in Massachusetts allowing his party to win. The boundaries of the district had been so distorted that it had assumed the shape of a salamander (Gerry's salamander), therefore the word gerrymander.

### REGIONAL MAP OF NAMIBIA



### NAMIBIA'S POPULATION BY REGION

Name	Capital	Area (km <sup>2</sup> )	Population (1990 Census)	Population (2001 Census)	Population (2011 Census)
Caprivi	Katima Mulilo	14,785	90,422	79,826	90,100
Erongo	Swakopmund	63,539	55,470	107,663	150,400
Hardap	Mariental	109,781	66,495	68,249	79,000
Karas	Keetmanshoop	161,514	61,162	69,329	76,000
Kavango	Rundu	48,742	116,830	202,694	222,500
Khomas	Windhoek	36,964	167,071	250,262	340,900
Kunene	Opuwo	115,260	64,017	68,735	88,300
Ohangwena	Eenhana	10,706	179,634	228,384	245,100
Omaheke	Gobabis	84,981	52,735	68,039	70,800
Omusati	Outapi	26,551	189,919	228,842	242,900
Oshana	Oshakati	8,647	134,884	161,916	174,900
Oshikoto	Omuthiya	38,685	128,745	161,007	181,600
Otjozondjupa	Grootfontein	105,460	102,536	135,384	142,400
Namibia	Windhoek	825,615	1,409,920	1,830,330	2,104,900

**Important numbers associated with the Delimitation Commission**

**3**

**Commissioners:**

Judge Siboleka, Dr. Zed Ngavirue,  
Dr. John Steytler

**3**

**Additional Staff:**

Secretariat, Cartographer, Land surveyor

**13**

Regions

**107**

Constituencies

**2**

Reliable vehicles

**1,300,000**

Namibia Dollars budgeted for the activities of the 2013 Delimitation Commission

**30-6-2013**

Deadline for the work of the Delimitation Commission to complete its activities and submit its findings and recommendations to the President

**PRESIDENT HAS THE FINAL SAY**

**W**hat happens after the Delimitation Commission has completed its recommendations? According to the Regional Councils Act:

1. The Delimitation Commission submits a report to the President with the particulars of its recommended changes (and the recommended names for any new constituencies/regions), a map illustrating these changes, and any other necessary details.
2. The President may refer back to the DC for further considerations and final recommendations on any matters in the report.
3. Where recommended changes to constituency/regional boundaries are accepted by the President to, these changes must as soon as possible be made public through a proclamation in the Government Gazette (including the definition of these changes, and the names of new regions/constituencies allotted by the President).
4. The proclamation comes into operation "in relation to the next general election for members of regional councils held after the date on which that proclamation is published".

**How to get involved**

**E**nsuring that all considerations are taken into account in deciding on the boundaries of constituencies and regions requires extensive consultation with the people affected. The Delimitation Commission is conducting nationwide consultations with the traditional authorities, registered political parties, councillors and all interested persons to ensure that the voice of the Namibian public is heard in the decision-making process. The Commission is also taking written submissions, and these must reach the Commission by 30 April 2013. The members of the Commission "would like to encourage concerned stakeholders to attend public meetings and express their views freely and without fear of intimidation". They note that any submissions or proposals "must be well motivated, and should contain the following aspects: what should be changed, how it should be changed, and why it should be changed."

On the right is the Delimitation Commission's timetable for the public meetings being conducted across the regions. Meetings take place from 08h00 to 13h00 and 14h00 to 17h00 on the dates noted.

Region	Regional Capital	Venue	Dates in 2013
Kavango	Rundu	Auditorium Hall	12-13 February
Erongo	Swakopmund	Regional Council Chamber	19 February
Caprivi	Katima Mulilo	Ngweze Hall	26-28 February
Kunene	Opuwo	Gender & Child Welfare Hall	5 March
Khomas	Windhoek	Kovambo Nujoma Community Hall	11-12 March
Omaheke	Gobabis	Ben van der Walt Hall	14 March
Otjozondjupa	Otiwarongo	Orwetoveni Community Hall	19 March
Oshana	Oshakati	Oshana Regional Council Hall	26 March
Ohangwena	Eenhana	Regional Council Chambers	28 March
Omusati	Outapi	Regional Council Hall	3-4 April
Hardap	Mariental	Persianer Hall – Mariental Show Grounds	9 April
Karas	Keetmanshoop	W.K. Rower Hall	16-17 April
Oshikoto	Omuthiya	Regional Council Chambers	23 April

Source: 4th Delimitation Commission

Contact details for the Delimitation Commission: T: 061 236139 & 061 230707 • F: 061 229425 • P. O. Box 9872, Eros, Namibia

**Articles in the Namibian Constitution with a reference to the Delimitation Commission**

**Article 104 The Delimitation Commission**

1. The Delimitation Commission shall consist of a Chairperson who shall be a Judge of the Supreme Court or the High Court, and two other persons to be appointed by the President with the approval of Parliament.

2. The Delimitation Commission shall discharge its duties in accordance with the provisions of an Act of Parliament and this Constitution, and shall report thereon to the President.

**Article 105 Composition of Regional Councils**

Every Regional Council shall consist of a number of persons determined by the Delimitation Commission for the particular region for which that Regional Council has been established, and who are qualified to be elected to the National Council.

**Article 106 Regional Council Elections**

1. Each region shall be divided into constituencies the boundaries of which shall be fixed by the Delimitation Commission in accordance with the provisions of an Act of Parliament and this Constitution: provided that there shall be no fewer than six (6) and no more than twelve (12) constituencies in each region.

2. Each constituency shall elect one member to the Regional Council for the region in which it is situated.

3. The elections shall be by secret ballot to be conducted in accordance with the provisions of an Act of Parliament, and the candidate receiving the most votes in any constituency shall be the elected member of the Regional Council for that constituency.

4. All Regional Council elections for the various regions of Namibia shall be held on the same day.

5. The date for Regional Council elections shall be determined by the President by Proclamation in the Gazette.

**Article 137 Elections of the First Regional Councils and the First National Council**

1. The President shall by Proclamation establish the first Delimitation Commission which shall be constituted in accordance with the provisions of Article 104 (1) hereof, within six (6) months of the date of Independence.

2. Such Proclamation shall provide for those matters which are referred to in Articles 102 to 106 hereof, shall not be inconsistent with this Constitution and shall require the Delimitation Commission to determine boundaries of regions and Local Authorities for the purpose of holding Local Authority and Regional Council elections.

3. The Delimitation Commission appointed under such Proclamation shall forthwith commence its work, and shall report to the President within nine (9) months of its appointment: provided that the National Assembly may by resolution and for good cause extend the period within which such report shall be made.

4. Upon receipt of the report of the Delimitation Commission the President shall as soon as reasonably possible thereafter establish by Proclamation the boundaries of regions and Local Authorities in accordance with the terms of the report.

5. Elections for Local Authorities in terms of Article 111 hereof shall be held on a date to be fixed by the President by Proclamation, which shall be a date within six (6) months of the Proclamation referred to in Sub-Article (4) hereof, or within six (6) months of the date on which the legislation referred to in Article 111 hereof has been enacted, whichever is the later: provided that the National Assembly may by resolution and for good cause extend the period within which such elections shall be held.

6. Elections for Regional Councils shall be held on a date to be fixed by the President by Proclamation, which shall be a date within one (1) month of the date of the elections referred to in Sub-Article (5) hereof, or within one (1) month of the date on which the legislation referred to in Article 106 (3) hereof has been enacted, whichever is the later: provided that the National Assembly may by resolution and for good cause extend the period within which such elections shall be held.

7. Elections for the first National Council shall be held on a date to be fixed by the President by Proclamation, which shall be a date within one (1) month of the date of the elections referred to in Sub-Article (6) hereof, or within one (1) month of the date on which the legislation referred to in Article 69(2) hereof has been enacted, whichever is the later: provided that the National Assembly may by resolution and for good cause extend the period within which such elections shall be held.

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**CHANGES IN THE WORKS?**

**I**n April last year, the Law Reform and Development Commission (LRDC) made a number of recommendations for Electoral Law Reform, and many of these recommendations are currently being incorporated into Bills. One of these Bills was going to be the Delimitation Commission Bill, which would deal with the work of the Delimitation Commissions, its institutional framework, staffing and so forth. At a recent Electoral Law Reform workshop by the Electoral Commission of Namibia (ECN) however, LRDC Chair Sacky Shanghala announced that instead of a Delimitation Commission Bill, the LRDC is drafting legislation to create a Namibia National Boundaries Commission.

In this regard, Shanghala noted that the proposed legislation would "consolidate the work of the Delimitation Commission, the National Boundary Committee, the Joint Boundary Commissions (such as the

Okavango River Commission, the Kunene River Commission, the Zambezi Watercourse Commission and the Orange River Commission), and the Multilateral Transboundary Resource Management Commission." He also noted that unlike the current Delimitation Commission, the proposed Namibia National Boundary Commission would not be chaired by a judge, as LRDC consultations with the judiciary had "yielded their request to be distanced from these bodies which they may have to review."

Both the LRDC recommendations and the ECN have pointed to the need to better align the work of the Electoral and Delimitation Commissions, and it is expected that a final draft of the Bill will be presented to the Minister of Justice and the National Assembly by May 2013.

**WHAT IS THE IPPR?**

The Institute for Public Policy Research was established in 2001 as a not-for-profit organisation with a mission to deliver, independent, analytical, critical yet constructive research on social, political and economic issues which affect development Namibia. The IPPR was established in the belief that development is best promoted through free and critical debate informed by quality research. The IPPR is independent of government, political parties, business, trade unions and other interest groups and is governed by a board of seven directors. Anyone can receive the IPPR's research free of charge by

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