

# Election Watch X

Produced by the Institute for Public Policy Research (IPPR)

Issue No. 2 2013

## REFORMING NAMIBIA'S ELECTORAL LAW

Conducting an election is a monumental task and requires a robust legal framework that can help to guarantee credible elections. It has become clear over time that there are loopholes, inefficiencies and inadequacies in the current law. This has undermined confidence in Namibia's electoral management process. The High Court, the Electoral Commission of Namibia (ECN) and the Law Reform and Development Commission (LRDC) have pointed to the need for reform to ensure the trust of the Namibian people in the system. The International Institute for Democracy and Electoral Assistance (International IDEA) states that "Electoral reform is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. Its primary goal is to improve electoral processes by fostering greater impartiality, inclusiveness, transparency, integrity, and accuracy."

Following extensive consultations across the country, the LRDC, in a report written by Professor Gerhard Töttemeyer, last year made a number of recommendations for electoral reform, and is currently drafting legislation to this effect. The Institute for Public Policy Research (IPPR) engaged the Chairperson of the LRDC, Sacky Shanghala, in a Q&A on progress that has been made on the Electoral Law Reform to date.

**In April last year, a number of recommendations (59 in all) were made by the LRDC for electoral law reform following extensive consultations. What progress has been made since then?**

We have received quite a number of proposals. Some were discarded, some were welcomed and modified whilst others are still being taken on advisement with the relevant authorities and institutions. We are now reviewing draft 1 of the legal texts produced and will soon be workshopping such with the Electoral Commission.

**Several bills have been prepared by the LRDC based on (some of) these recommendations. Please provide a brief description of each of these Bills and what they seek to achieve.**

The Electoral Commission of Namibia Bill deals with the institution of the ECN, the appointment of Commissioners, their removal from office, assignment of tasks, the institutional matters relating to the staffing of the ECN, committees of the ECN, regional matters etc. The Electoral and Referenda Bill deals with the processes and conduct of elections and referenda. As you may be aware, referenda are provided for in the Namibian Constitution. However, no piece of legislation has hitherto been promulgated to deal with the matter per se. The Political Parties and Organisations Bill deals with the creation of political parties and organisations, their registration, funding, minimum conditions to be imposed in their constitutions, auditing etc. The Delimitation Commission Bill (which has since this interview been modified to a Namibia National Boundaries Commission Bill to consolidate the work of the Delimitation Commission, the National Boundary Commission, the Joint Boundary Commissions, and the Multilateral TransBoundary Resource Management Commission, for which legislation is currently being drafted) deals with the work of the Delimitation Commissions, institutional set up, staffing and the like. So far these are the stand alone statutes. There will be constitutional amendments recommended as well.

**The next elections are less than two years away, and some elements that are dealt with in the proposed reforms are already in full swing. Please provide an indication of the time considerations in bringing these Bills to fruition and how they might be affected by ongoing activity in preparation for the elections.**



Photo courtesy of Prime Focus Namibia

**Sacky Shanghala**

The processes are mutually exclusive and there is sufficient time. All that is happening is that the legislation is being broken apart and infused with the input gained from the public consultations, as well as the consultations with the political parties and the experts from the ECN. In the coming two months, the LRDC will table its recommendations to the Minister of Justice and the registered political parties, civil society and the public at large.

**The Electoral Act has already undergone nine revisions. How will the proposed bills/reforms change the face of**



**Namibia's electoral process? How was Namibia's democracy/electoral system compromised before this reform?**

This will be an overhaul. The electoral process has been credible from the get go. Mistakes are the result of the Namibian people who either work for the ECN or who do not work for the ECN and perhaps have a limited understanding of the greater picture arising from the various revisions - which is understandable as they are constructed in legalese. These efforts will infuse the lessons learnt over the years with the principles set down by the Courts in the determination of election challenges, so as to ensure a credible, transparent and fully understandable electoral process for all Namibians.

**The recommendations call for a complete overhaul of the Electoral Commission, including "selection, composition, appointment, responsibility, etc", a better definition of its powers, and the continued but strengthened position of the ECN as an independent body. What are the most important ways in which these changes will increase public confidence/trust in the ECN?**

The process of the appointment of the ECN Commissioners will be more centered around the role of the democratic institutions of our land. Staff of the ECN will be ECN staff and not from any Office/Ministry/Agency. Suggested processes will enhance public confidence by making representations before a Court more casual and less intimidating. However, it is the right for respondents to come to Court with their more experienced lawyers and counsel, therefore, one needs to find a balancing act. All in all, the LRDC will be proposing reforms aimed at underscoring the right to vote.

### Electoral Reform defined

'Electoral reform' is a broad term that covers, among other things, improving the responsiveness of electoral processes to public desires and expectations. However, not all electoral change is electoral reform. Electoral change can only be referred to as reform if its primary goal is to improve electoral processes, for example through fostering enhanced impartiality, inclusiveness, transparency, integrity, or accuracy.

Source: The ACE Electoral Knowledge Network

### 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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# CREDIBLE ELECTIONS

The running of national elections is a mammoth task that demands a credible process that is “free, fair, transparent, trusted and responsible” (LRDC, 2012).

The International Foundation for Electoral Systems (IFES) notes that election management, electoral integrity and transparency, citizen participation, and inclusion and empowerment are the key elements of democracy. “A transparent, clear and open electoral process engages people by giving them a voice in the way they are governed and serves as a conduit to broader participation of citizens in their community and its economic and societal development.”

There have been nine amendment acts aimed at improving the original 1992 Electoral Act. The results of Namibian elections have been contested by opposition parties in 2004 and in 2009. The LRDC says that these cases “indicated a number of shortcomings in the electoral process”. In fact, in the High Court’s 2011 judgment on the matter in which the RDP and other parties contested the election process and the validity of the results, Judges Petrus Damaseb and Collins Parker noted some pressing concerns about the Electoral Law. They stated that:

“We have shown how in significant respects some of the allegations regarding irregularity in the conduct of the 2009 National Assembly (NA) election were premised on provisions that no longer have the force of law. In fairness to the applicants and their counsel, that is attributable to the fact that the law is very scattered. We had ourselves to wade through a myriad of amendments to ascertain

what the applicable provisions are. That is an unsatisfactory state of affairs and something must be done as a matter of urgency and before the next round of elections to consolidate the electoral law of Namibia.”

This statement has been cited by many as the impetus for the electoral law reform process currently underway, but hints at this need were also in the statements of some of the observers of the 2009 elections.

The Joint NANGOF Trust and SADC-CNGO Observer Mission, for example, which deployed 47 observers to various constituencies around the country, concluded that while the elections were generally peaceful and calm, a number of problematic issues remained. Amongst others, they noted concerns with the voter registration process, the lack of adherence to the legal requirement to post results at polling stations, the lack of transparency in the announcement of results, challenges over the tendered ballot system, and issues with “verification centres”. The joint observer mission concluded at the time that “the simultaneous announcement and rejection of the overall results has created a nationwide state of uncertainty. Based on our findings in the pre-election, election and post-election phases the mission has serious reservations about the freeness and fairness of the election process.”

While both the African Union (AU) Observer Mission and the Pan African Parliament Elections (PAP) Observer Mission declared the election to be credible, free and fair, the PAP Mission made it clear that Namibia could do better in conducting elections free of irregularities.

With the next elections set to take place in November 2014, the urgency for the law reform noted by Judges Damaseb and Parker, is even greater. Fortunately, both the Electoral Commission of Namibia (ECN) and the Law Reform and Development Commission (LRDC) have acknowledged this need, and the LRDC is working on a number of reforms – some of which may require changes to the Constitution.

While the ECN is an important player in ensuring the necessary reforms are implemented, the mandate for this reform essentially falls under the LRDC, a Commission which is to “undertake research in connection with and examine all branches of the law of Namibia and to make recommendations for the reform and development thereof” (Law Reform and Development Act, 1991).

In April 2012, following extensive consultations with political parties, civil society, and the general public, the LRDC launched a report written by Prof. Gerhard Tötemeyer, titled ‘Revision and Reform of the Namibian Electoral Act (Act 24 of 1992)’ with 59 recommendations for enhancing the electoral law. The suggested reforms aim to enhance Namibia’s democracy through “quality elections”. The report further notes that “as far as making elections in Namibia more technically proficient and more qualitative, and thereby more meaningful, relevant, trustworthy and credible, there is definitely room for improvement.”

To date, the LRDC has taken a number of steps towards bringing these recommendations to life through national legislation. At an

ECN consultative workshop on electoral law reform, the Chair of the LRDC, Sacky Shanghala announced that the Commission has completed Draft 1 of the Electoral Commission of Namibia Bill, the Electoral and Referenda Bill, and the Political Parties and Organisations Bill. He also noted the LRDC was initially going to work on a Delimitation Commission Bill, but has decided to replace this with a ‘Namibia National Boundaries Commission’ for which legislation is still in the drafting process.

In addition to the LRDC’s recommendations, the ECN has added its voice to the dialogue on electoral law reform, and recently launched a concept paper with a number of propositions that “focus on trust building in election management and enhancing confidence in the ECN”. Their recommendations touch on a number of issues concerning the pre, during and post election periods, including issues such as the harmonization of the legal framework, voter registration, tendered ballots, party agents, political party funding, codes of conduct for both the political parties and for the media, and electoral dispute resolution.

Shanghala says that while this overhaul involves being critical of past practices, “the electoral process has been credible from the get go.” He adds that the proposed changes will essentially serve to incorporate lessons learnt from previous elections and will make the electoral process fairer, more credible and easier to understand. As a result, the aim is to ensure the trust of the Namibian people regarding the soundness of our democracy.

## THE ELECTORAL ACT SINCE 1992

The Electoral Act has already been amended nine times since it first became law in 1992. The current proposed revisions and reforms by the ECN and the LRDC suggest a complete overhaul of the electoral law is necessary. The table below highlights the major changes that have been made to the Electoral Act so far.

| No. | Amendment          | Major Amendments   |
|-----|--------------------|--|
| 1   | Act No. 23 of 1994 |  |
| 2   | Act No. 3 of 1997  | This amendments encompassed changes to the Local Authorities Act, 1992 “to provide that the second general elections for members of local authority councils shall be conducted according to the party list system instead of the ward system; to defer the first delimitation of local authority areas into wards until after such second general elections; to further regulate the powers and duties of a delimitation commission; to empower the President to refer any matter arising from a report of a delimitation commission in relation to the delimitation of a local authority area into wards back to the commission for reconsideration; to increase the maximum number of members of which municipal councils may consist from 12 to 15; to effect a consequential amendment to the Electoral Act 1992; and to provide for incidental matters.” |
| 3   | Act No. 30 of 1998 | This amendment made modifications to some of the definitions in the Electoral Act, 1992, provided for the establishment and constitution of a Selection Committee, and made additional provisions related to the establishment of the Directorate of Elections and the constitution of the Commission. It also provided for “the compilation of different voters’ lists and for the transmission to political parties of the voters’ lists, the voters’ register, the numbers allocated to ballot boxes and the serial numbers of ballot papers.” It also empowered the court “to order the opening of sealed packets containing certain ballot papers and the production and inspection of certain documents for the purpose of an election application”.   |
| 4   | Act No. 11 of 1999 | “To amend the Electoral Amendment Act, 1998, so as to insert transitional provisions relating to the Commission and the Director; and to provide for incidental matters.”  |
| 5   | Act No. 19 of 1999 | “To amend the Electoral Act, 1992 so as to make provision for the suspension of the process of continuous registration of voters when a general registration of voters is to take place; to make provision for the appointment of only one returning officer for polling stations outside Namibia; to make other provision for the verification and counting of tendered votes.”   |
| 6   | Act No. 20 of 2002 | “To provide for the period during which the second general registration of voters will take place; to withdraw a proclamation; and to provide for matters incidental thereto.”   |

| No. | Amendment         | Major Amendments   |
|-----|-------------------|--|
| 7   | Act No. 7 of 2003 | This amendment made changes and deletions to certain definitions, adjusted and further regulate certain provisions relating to voter registration; and removed all provisions relating to wards.   |
| 8   | Act No. 4 of 2006 | “To amend the Electoral Act, 1992, in order to provide that the returning officer for a local authority area in question shall forthwith declare, if only one political party has submitted a list of candidates in an election for members of a local authority council, and the persons whose names appear on the list have been declared duly nominated as the candidates of the political party in question, the persons whose names appear on that list to be the duly elected members of the local authority council in question; to insert a certain definition in the Local Authorities Act, 1992, and to provide for matters incidental thereto.”   |
| 9   | Act No. 7 of 2009 | This amendment provided for the establishment of temporary registration points outside Namibia; the appointment and remuneration of coordinators and assistant coordinators for registration purposes and for their powers, functions and duties and lines of reporting; and authorized parents and other persons to declare that a person who applies for registration as a voter has reached the age of 18 years. It also provided for “the publication, prior to registration of a political party, of certain particulars and for the objecting to such particulars and the hearing of appeals; to provide that staff members appointed by the Commission on the recommendation of the Minister of Foreign Affairs may hear appeals in relation to any refusal to register a person as a voter; to provide that the Commission may accredit persons to provide voter education in respect of elections; to provide for registered political parties to conduct voter education to members, supporters and sympathisers; to provide that in the case of an election for the President or for members of the National Assembly the poll at polling stations outside Namibia shall take place 14 days before the day determined upon which the poll shall take place within Namibia; to provide that the Commission may accredit persons to observe elections; to provide for voting by way of voting machines; to allow for the counting of votes at polling stations and for the posting of results at polling stations; to provide for the determination by lot of the result of an election of members of the National Assembly or of members of a local authority; to extend the offences relating to impersonation; to provide for additional offences; and to provide for matters incidental thereto.” |

# MAKING SURE ELECTORAL REFORM HITS THE TARGETS

During the election process, we often hear the buzz words “free” and “fair”. But what do they actually mean?

IDASA states that “The definition of a free and fair election is about more than just a smooth technical process, but also includes the respect for basic civil and political rights such as freedom of expression, of movement, of association and assembly; as well as the absence of barriers to the full participation of all citizens, without any form of discrimination; the absence of any form of intimidation; and the compliance overall with the rule of law.” Essentially, this points to the need for a human rights perspective in the electoral process, as the basis for inclusiveness, transparency, accountability and public confidence in elections. (NDI, 2008)

In the context of Electoral Law Reform, the National Democratic Institute (NDI) notes that “The process by which the legal framework is developed reflects the degree of political will to establish democratic governance”. This speaks to the reforms currently being drafted by the LRDC, wherein the ideals of inclusiveness, accountability and transparency are especially important. The notion of regaining public trust is pervasive throughout the language of the LRDC and the ECN in their respective recommendation papers, with the LRDC noting that “during the consultative process it has become evident that distrust, scepticism and little confidence exists amongst the public towards the Electoral Commission, the Directorate of Elections and the electoral process.”

So how do the LRDC’s recommendations promote democratic governance and “free and fair” elections along the ideals of inclusiveness, transparency and accountability?

## INCLUSIVENESS

The ideal of inclusiveness means ensuring the right and opportunity to vote, as well as the right and opportunity to be elected. In this regard, the LRDC makes numerous recommendations on issues such as voter registration, addressing challenges with the tendered ballot process, and the registration of political parties.

With regards to voter registration, for example, amongst several others, recommendations include ensuring that voter registration takes place at “neutral registration points”, that the “the national voter register be linked to the National Population Register”, and that “voter registration by sworn statements should be done away with and the national ID card should be the only legal document used when registering as a voter” to promote inclusiveness and enhance transparency. These recommendations are all important to ensuring that Namibians who are eligible to vote can easily register in a way that prevents any means for intimidation, and that ensures that loopholes in registration are transparently addressed.

Recommendations in line with the tendered ballot system include making sure that the Electoral Act unambiguously states how tendered votes are to be counted and in respect of which constituency those tendered votes should be taken into account, and proposes that “tendered votes should

form part of polling station results where those votes were cast” if the tendered ballot system will continue to be used. Alternatively, it is recommended that the tendered ballot system be totally done away with as it is currently practiced, at the National Assembly and Presidential elections level. These are important considerations, as in the past, they have been a cause for much scepticism, given the room that tendered votes left open for manipulation.

In terms of the inclusiveness of political parties, the LRDC has completed a first draft



of the Political Parties and Organisations Bill, which is likely to “contain a number of salient features, including the provision for the registration, regulation, and funding of political parties.” The LRDC’s recommendations with respect to political parties also includes the prohibition of ethnic and tribal based parties from registering, the requirement that political parties “prove their national character”, “practice internal party democracy”, and “practice gender parity”.

An important consideration under the inclusiveness ideal that deserves mention, is that of gender representation in governance. With the Southern African Development Community (SADC) Gender Protocol’s 2015 deadline for 50/50 representation just around the corner, the LRDC recommends that “all future local authority elections should continue to be held on a party (organisation, association) list system (proportional electoral system) with provision for gender-balanced lists”, adding that “the ‘zebra’ method of nomination when candidates are nominated for elections at national and local level should be legalised. If the first candidate on the list is a male person, then the next candidate should be a female person and vice versa.”

## TRANSPARENCY

The NDI states that “the basis for the requirement for transparency in electoral processes is the freedom to seek, receive and impart information, which is integral to the right to freedom of expression.” This includes information concerning the electoral contestants, the exercise of electoral rights, the electoral process, and openness to election monitoring and observation.

With regards to voter education, the

LRDC recommends that “the Directorate of Elections should institute a permanent division of voter education and information in the directorate and enhance the activities of such body”, and that “voter education and information should be an intensive process and should particularly address the young population which forms the majority of the electorate”. The recommendations also focus on the competence of officials tasked with voter education, the registration (with the EC) of foreign organizations carrying out voter education in Namibia, ensuring sufficient funding for voter education and information dissemination, and the printing of voter information material in Braille for blind voters.

Election monitoring and observation is also an integral part of ensuring transparency in the electoral process. In this vein, the LRDC’s recommendations for Electoral Law Reform include ensuring that “Independent observation, by both domestic and international observers, must be free of control and interference by the EC as long they adhere to the laid-down rules as stated in the Code of Conduct.” It is also recommended that these observers be allowed to “observe all stages of the electoral process, such as the preparations of the elections (e.g. training of electoral officials) and not only the voting, counting, variation of election results, and announcement of election results”, and that they be obliged to prepare observation reports within a month of the elections.

Importantly, “the legal framework is key to ensuring that all elements of the election process are open to monitoring” and that Namibians can trust that they have all the information necessary to carry out their duties as voters, and to be confident in the election having been conducted in a transparent manner. Essentially, the ‘transparency’ ideal speaks to voter education before, during and post the elections, and it is promising that the LRDC addresses this rather extensively in its recommendations.

## ACCOUNTABILITY

The accountability ideal includes several components. According to the NDI, these include “the need to provide effective remedies to citizens for violations of electoral related rights; the need to create administrative accountability for those organizing elections and those conducting governmental activities related to elections; and the need to bring to account those who conduct criminal acts that affect electoral related rights.”

By March this year, the first drafts of the Electoral Commission of Namibia Bill and the Electoral and Referenda Bill had been completed. While they were not yet available for public consumption, the LRDC’s recommendations point to making a number of changes to ensure greater accountability of the electoral system in a way that ensures that Namibians, political parties, civil society, etc, have sufficient recourse to address problems and concerns.

The very first of the 59 recommendations within the report speaks to the operational effectiveness of the Electoral Commission by calling for a clear definition of the powers

of the Electoral Commission, while the second recommendation states that “a complete overhaul of the Electoral Commission in its selection, composition, appointment, responsibility and working and other matters has become a matter of urgency, principle, independence, efficiency and legitimacy”. This overhaul, the LRDC notes, is intended to restore confidence in the electoral system.

In further addressing the accountability issue, the LRDC stresses the independence of the Electoral Commission – noting that “independence is strongly related to the credibility of the EC”, and recommends the “separation in responsibility and task performance between the EC and the Directorate of Elections”, whose aim should be “quality management and administration, transparency, trustworthiness and accountability towards the government and the public.”

In terms of accountability, recommendations are also made regarding various codes of conduct, the assessment of the electoral process, the institution of an electoral court/tribunal, and issues around mediation and conflict resolution.

With regards to the Electoral Court/Tribunal, the LRDC’s recommendations are in line with the IPPR’s submission in the consultative process, which noted: “Namibia should look to introducing an Electoral Court to hear election challenges/applications within a prescribed time limit. The Electoral Court would be constituted of dedicated judges drawn from the High Court bench. Cases should be considered urgent and not be subject to general delays of the court system.”

## ENHANCING PUBLIC CONFIDENCE

The ideals of inclusiveness, accountability and transparency are imperative components of the electoral law, in order to ensure public trust and confidence in the electoral process. Past court cases contesting the elections have shown that the electoral system has not been sturdy enough, and both the ECN and the LRDC have noted the need to ensure public confidence in the electoral process, through a complete overhaul of the electoral law.

The recommendations made by the LRDC in the Töttemeyer report show positive signs for an electoral law that will move Namibia towards a more credible electoral process that embodies the ideals of a free and fair election. The resulting draft legislation is expected to be ready by the end of May 2013.

### NEW ELECTORAL LAWS PROPOSED BY THE LAW REFORM AND DEVELOPMENT COMMISSION

- Electoral Commission of Namibia Bill
- Electoral and Referenda Bill
- Political Parties and Organisations Bill
- Namibia National Boundaries Commission Bill

## ECN'S MAIN RECOMMENDATIONS FOR ELECTORAL REFORM

### Constitutional Protections and Independence

The ECN proposes that the Constitution be amended to include the establishment and independence of the Electoral Commission of Namibia as a constitutional body.

### Executive Authority

The ECN recommends that in being independent, the ECN should maintain 'exclusive authority' in the management of elections, including the appointment of the Director; and that a fulltime Commission with a fulltime Chairperson and two fulltime Commissioners complemented by part-time Commissioners be established. Further, it recommends that no Commissioner may serve in the capacities of both a public official and a Commissioner.

### Voter Registration

Amongst others, the ECN recommends the amendment of the Constitution to remove s 111(3) regarding proof of residence. It also proposes the abolition of sworn statements (with additional mechanisms being set in place to deal with objections). Further, the ECN proposes the development of a single voters' register that will be applicable for all elections.

### Tendered Ballots

The ECN recommends that the tendered ballot system be retained, but suggests that the administrative process be amended. It also notes the need to explore ICT mechanisms to allow for the use of a national register at each polling station. With regard to voting abroad, the ECN calls for the provision of a single foreign embassy polling station/constituency where all votes cast abroad will be collated and tabulated together.

### Codes of Conduct

The ECN recommends drawing up codes of conduct for political parties and the media, which encourage gender equality, parity, and inclusiveness.

### Electoral Dispute Resolution

The ECN agrees with the LRDC's recommendations in the Töttemeyer Report, noting that an electoral dispute resolution system would prove useful.

**Source:** Electoral Commission of Namibia (ECN) Electoral Law Review Concept Paper (Feb 2013)

# FUNDAMENTAL VOTERS' RIGHTS AND DUTIES

As an Annexure to the Electoral and Referenda Bill, the LRDC will propose Fundamental Voters' Rights and Duties, "a standard by which the Namibian voter can hold the electoral process to, and to which the Namibian voter must comply as the most basic and minimum requirement for all to observe." (Shanghala, 2013). The draft content of this annexure is presented below, and it is anticipated that this will complement the various Codes of Conduct that will form part of the LRDC's reformed legislation.

## 1. Every Namibian voter has the right to –

**1.1** A free, fair and credible voting process and to have non-discriminatory and equal access to the electoral system.

**1.2** Receive and cast a ballot paper that:  
(a) Is valid and written or displayed (considering voting machines) in a form and manner that allows the clear identification of candidates and/or political parties (some people may only choose to cast their votes in either the presidential or national assembly elections); and

(b) Accurately records the voter's preference in the selection of candidates and/or political parties.

**1.3** Have questions concerning voting procedures answered, if need be, in a language of their choice (considering blind and mute voters), and to have an explanation of such procedures written and posted in a clearly visible place at the polling station;

**1.4** Vote without being intimidated, threatened or coerced by election officials or any other third party;

**1.5** Vote on election day and if the voter is waiting in line at his/her polling station to vote, as far as possible, before the designated closing time of the polling station, provided that the voter has not already cast a vote in that election;

**1.6** Return a spoiled ballot paper and to receive another ballot paper in its stead;

**1.7** Request for and receive assistance of an individual of his or her choice, who is a Namibian citizen eligible to vote and a registered voter, in voting, if necessary, in any Namibian language other than English language;

**1.8** A polling booth constructed in such a manner possible for physically disabled voters to cast a vote;

**1.9** In the case of ballot papers, a sample ballot paper, which is accurate, informative and delivered in a timely manner. In the case of electronic voting, to receive instruction in the use of the equipment for voting during election training, early voting or on election-day;

**1.10** A uniform, state-wide standard for



counting and recounting of all votes casts accurately;

**1.11** Lodge, in accordance with relevant procedures, complaints and challenges about the general conduct of elections and the election process and to have such complaints and challenges, so lodged, resolved by a relevant authority, a competent Court or Tribunal fairly, efficiently and timeously.

## 2. Every Namibian voter has the duty to–

**2.1** Respect the political will and decision of any person, no matter the relationship with such person (friend, mother, father, son, daughter, cousin, guardian etc.) and refrain from coercing or offering any monetary or other kinds of inducements to any person so as to influence their vote. Political education is permitted within reason.

**2.2** Not interfere unjustifiably or in bad faith with the duties of election officials.

**2.3** Refrain from dressing in any political party colours and regalia anywhere near polling stations and other electoral centres.

**2.4** Refrain from the abuse of alcohol and not to attend to voting whilst under the influence of alcohol or other stupefying drugs, which may impair the ability to act with a sense of responsibility and dignity.

**2.5** Ensure that peace and order prevail at all times during elections and to refrain from instigating, participating and involving in any conduct which may result in causing any infringement upon any other voter's right to participate in elections without fear or favour.

**Source:** Adapted from the LRDC annexure to the proposed Electoral and Referenda Bill

## Article 21 of the Universal Declaration of Human Rights

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## FURTHER READING:

### National Democratic Institute for International Affairs (NDI)

[www.ndi.org](http://www.ndi.org)

Merloe P. 2008. Promoting Legal Frameworks For Democratic Elections - An NDI Guide for Developing Election Laws and Law Commentaries. National Democratic Institute for International Affairs.

### Institute for Democracy in Africa (IDASA), [www.idasa.org](http://www.idasa.org)

### International Foundation for Electoral Systems (IFES)

[www.ifes.org](http://www.ifes.org)

### Law Reform and Development Commission

Töttemeyer, G. 2012. Revision And Reform of the Namibian Electoral Act (Act 24 Of 1992) Report. Law Reform and Development Commission (LRDC)

Available at: <http://www.nid.org.na/pdf/publications/Report%20-%20Recommendations%20for%20Electoral%20Law%20Reform.pdf>

## Election Watch is supported by

Activity supported by the  
Canada Fund for Local Initiatives  
Activité soutenue avec l'appui du  
Fonds canadien d'initiatives locales

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## 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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