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## **MEDIA STATEMENT**

**On**

### **Press Conference on Concerning Issues Related to Access to Information (ATI) in the Context of the Campaigning for the 27 November 2019 National Assembly and Presidential Elections**

On Wednesday, 13 November 2019, representatives of ACTION Coalition member organisations held a press conference at the House of Democracy in Windhoek to shine a spotlight on specific issues that have emerged on the electoral landscape as the country moves towards elections on 27 November 2019.

In short, the issues raised were:

#### **On access to information and elections:**

- Access to information during elections remains the 'mother of all rights' in terms of effective exercise of all other rights and freedoms;
- Political parties have been slow to release their manifestos, which does not provide adequate time for voters to make informed choices as to the party they vote for. They also don't know where to access the manifestos;
- Insufficient, uncoordinated and confusing information coming from various relevant authorities on election related matters, i.e. ECN;
- It is clear that voter education informational activities are insufficient and clearly lacking;
- Presidential candidates should engage in debates in order for the electorate to get to know candidates and their platforms. Good example was the recent Eagle FM debate, which while only including some opposition leaders, was still a worthwhile exercise;
- Verbal attacks on journalists, the most recent being minister Tjekero Tweya's labelling of media as 'flies', are highly concerning and should be condemned. We urge politicians not to shoot the messengers.

#### **On legal and law enforcement issues:**

- Hilma Nicanor's appointment as special advisor not gazetted as required and therefore not valid;
- Day before nominations ECN states that those in public service must resign before being nominated – nominees arise from decision at electoral college, some may have decided not to run given their financial concerns, how will these nominees be replaced at such short notice?;
- Operation Kalahari Desert – crime fighting initiatives of the NDF and Nampol, excessive force cannot be condoned. While force is lawful, the level of force witnessed is unnecessary and disproportionate and could have a chilling effect on the public in confronting abuse of power;
- Examples of such excessive force during police and military operations – 2 persons were killed;
- Law says you can only take a life if you or others are faced with life-threatening imminent danger – being shot in the back would not qualify;
- LAC currently has 11 examples of such excessive force linked to these operations;
- Independent pre-election observers indicate that army on streets during elections could be viewed as an attempt at citizen or voter intimidation;
- ECN has said that military should be removed from streets during election period;
- President referred to these operations as a demonstration of Swapo government commitment to fight against crimes affecting life and dignity;
- Ironically, these operations have actually resulted in violating these very rights although President did note his regard for the 2 incidents where persons were fatally shot (one in the back);
- ACTION Coalition calls on crime statistics to be released as to pre- and post operations so that the public can assess for themselves whether crime has come down, as is being claimed;
- ACTION Coalition call on GRN to confirm that NDF will be removed from streets during election period.

### **On the electronic voting machines and conduct of the ECN:**

- The ECN has not handled information around the missing EVMs well and this conduct has fuelled already prevalent suspicions around the integrity of the EVMs;
- The ACTION Coalition, against the backdrop of numerous video clips circulating on social media, that are contributing to stoking opposition to the EVMs, about the hacking of EVMs, calls on the ECN to have a public hacking session to dispel damaging conspiracies about the hackability of the EVMs.

### **On election related disinformation, hate speech and incitement to violence**

- Some political actors are engaging in disinformation, hate speech and incitement to violence;
- Of particular concern were recent comments on radio by Swapo Party secretary general Sophia Shaningwa, in which she used language reminiscent of the language used to stoke genocidal activities in Rwanda in 1994;
- ACTION Coalition calls on political parties and related actors to refrain from engaging in negative campaigns that involve the production and dissemination of mis- / disinformation in furtherance of their political objectives.
- Additionally, they should actively discourage their supporters and associates from producing and sharing such content online;
- In order to avoid being accused of/perceived to be spreading such content online, political parties and related actors should ensure that their statements and pronouncements are factual, accurate and realistic, and their engagements civil, open and transparent;
- For more on this topic please see ‘What the Electoral Act of 2014 says ...’ (box below).

#### **On the Code of Conduct for political parties:**

- While it is clear that the code of conduct for political parties, which emanates from 1992, has become outdated, and that the ECN should’ve engaged with political parties and other relevant stakeholders to update the code of conduct for these elections, this does not negate the existing code.
- ACTION Coalition calls on all political parties and candidates to sign up to the code of conduct;
- While signing the code is voluntary, political parties and candidates are reminded that its provisions would still apply to them even if they have not signed it and transgress its provisions on the campaign trails. Parties can be deregistered by the ECN if they fail to comply with its provisions (Section 152 of the Electoral Act);
- For more on this topic please see ‘What the Electoral Act of 2014 says ...’ (box below).

#### **On the issue of misuse of state resources:**

While it is acknowledged that ministers and their deputies are allowed to use their government vehicles for personal use, they should be prevented from using them for election campaigning purposes and other party political uses. This could be done through a simple amendment to the rules regarding the use of official cars by political office bearers. This would be an important step towards levelling the playing field for political parties ahead of elections.

## **On Zero Tolerance for Corruption:**

President Hage Geingob has recently started using this phrase which can no longer simply be left as a rhetorical device but demands action. If there is zero tolerance for corruption then there should be no candidates on party lists who have been convicted of corruption. We know of three such people on the Swapo party list and there may be other corrupt candidates on other party lists. Article 47 of the Namibian Constitution states that members of the National Assembly must not have served jail sentences of longer than a year. However, this requirement should be seen as baseline and political parties should operate at a higher level – especially on the issue of corruption. If the zero tolerance phrase is to have meaning then no one who has been convicted of corruption should be in parliament ... period.

### **What the Electoral Act of 2014 says ...**

With regard to disinformation, hate speech and incitement to violence, political actors are remind of the following sections of the electoral law:

Section 180(1)(c) of the Electoral Act provides as follows:

“A 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 against;
- (b) inflicts or threatens to inflict any bodily or psychological injury, damage, hazard or loss, upon or against; or
- (c) 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 in any election or referendum, or on account of any person having voted or refrained from voting in the election or referendum commits an offence.”

(3) Section 180(2) of the Electoral Act provides as follows:

“A person who, directly or indirectly, by himself or herself or by any other person by any means contemplated in subsection (1) or any fraudulent device or contrivance induces, compels or prevails upon any voter to –

- (a) vote or refrain from voting in any election or referendum concerned;
- (b) vote in favour of a particular political party, organisation or candidate;
- (c) vote in favour of a particular answer in a referendum; or
- (d) impede, hinder or prevent the free exercise of the franchise by any voter in any election or referendum concerned, commits an offence.”

**Present:**

Mr Frederico Links – chairperson: ACTION Coalition

Mr Graham Hopwood – executive director: Institute for Public Policy Research (IPPR)

Ms Gwen Lister – executive chairperson: Namibia Media Trust (NMT)

Ms Toni Hancox – director: Legal Assistance Centre (LAC)

Ms Carola Engelbrecht – director: Citizens for an Accountable and Transparent Society (CATS)

**Issued by:**

Frederico Links

Chairperson: ACTION Coalition

15 November 2019

**About ACTION**

The ACTION Coalition was formed in July 2012 when a number of like-minded organisations and activists decided to focus their resources (human and financial) to foreground access to information (ATI) on the policy and governance agenda of the Namibian Government as part of its commitment to eradicate corruption through fostering good governance practices throughout the state. Since then, the ACTION Coalition has been instrumental in raising ATI's and freedom of expression's (FoX) profiles as political issues. The ACTION Coalition has campaigned and advocated forcefully for a formal and comprehensive ATI legislative framework to improve accountability and transparency across all sectors of Namibian society.