

AFRICAN UNION



**REPORT OF THE AFRICAN UNION ELECTION OBSERVATION MISSION TO
THE 27 NOVEMBER 2019 GENERAL ELECTIONS IN THE REPUBLIC OF
NAMIBIA**

REPORT



DECEMBER 2019

Table of Contents

ABBREVIATIONS/ACCRONYMS	3
EXECUTIVE SUMMARY	6
I. INTRODUCTION	8
II. PRE-ELECTION FINDINGS.....	10
a) General political context.....	10
b) Legal and Regulatory Framework	10
c) The Electoral System	11
d) Electoral Administration and Preparation	12
e) Civic and Voter Education	13
f) Voter Registration.....	13
g) Political party registration and nomination of candidates	14
h) Campaigns and Campaign Finance	15
i) Media.....	15
j) Participation of Women and Civil Society Organisations.....	16
k) Election Dispute Resolution.....	17
l) Special Voting.....	18
III. ELECTION DAY FINDINGS.....	19
a) Opening	20
b) Voting.....	20
c) Closing	21
IV. POST ELECTION PROCESSES AND ENVIRONMENT	22
a) Tabulation of Results.....	22
b) Announcement of results.....	22
c) Voter Turnout.....	24
d) Election Dispute Post-Election	24
V. CONCLUSION AND RECOMMENDATIONS.....	26
a) Conclusion.....	26
b) Recommendations.....	26

ABBREVIATIONS/ACCRONYMS

ACDEG	African Charter for Democracy, Elections and Governance
APP	All People's Party
AU	African Union
AUC	African Union Commission
AUEOM	African Union Election Observation Mission
CDV	Christian Democratic Voice
CERC	Central Elections Results Centre
CoD	Congress of Democrats
CRAN	Communications Regulatory Authority of Namibia
CSOs	Civil Society Organisations
CVE	Civic and Voter Education
DoP	Declaration of Principles for International Election Observation
ECF-SADC	Electoral Commissions Forum of SADC
ECN	Electoral Commission of Namibia
EISA	Electoral Institute for Sustainable Democracy in Africa
EMB	Election Management Body
EVM	Electronic Voting Machine
FPTP	First-Past-The -Post
IPPR	Institute for Public Policy Research
LPM	Landless People's Movement
NA	National Assembly
NBC	Namibian Broadcasting Corporation
NDP	National Democratic Party
NEFF	Namibia Economic Freedom Fighters
NID	Namibia Institute for Democracy
NPF	Namibia Patriotic Front
NUDO	National Unity Democratic Organisation
PAM	Pre-Election Assessment Mission
PAP	Pan African Parliament
PDM	Popular Democratic Movement
PEMMO	Principles for Election Management, Monitoring and Observation
PR	Proportional Representation
PWDs	Persons with Disabilities
RDP	Rally for Democracy and Progress
RP	Republican Party
SADC	Southern African Development Community
SRV	Supplementary Registration of Voters
SWANU	South West Africa National Union of Namibia
SWAPO	South West Africa People's Organisation Party of Namibia

AFRICAN UNION ELECTION OBSERVATION MISSION REPORT: NAMIBIA 2019

UDF United Democratic Front of Namibia
UPM United People's Movement
VVD Voter Verification Device
VVPAT Voter Verified Paper Audit Trail
WRP Workers Revolutionary Party

ACKNOWLEDGEMENTS

The African Union Election Observation Mission (AUEOM) to the Republic of Namibia expresses its appreciation to stakeholders and institutions whose support and cooperation contributed to the success of the Mission. The AUEOM is particularly grateful to the Government of Namibia and the Electoral Commission of Namibia (ECN) for their assistance during the Mission.

The AUEOM also appreciates the valuable leadership of its Head of Mission, His Excellency Ernest Bai Koroma, former President of the Republic of Sierra Leone.

Finally, the AUEOM would like to thank the technical team from the African Union Commission, the Pan African Parliament (PAP) and the Electoral Institute for Sustainable Democracy in Africa (EISA) and all observers for their invaluable contributions to the Mission.

EXECUTIVE SUMMARY

The Republic of Namibia held General Elections on 27 November 2019. These were the 6th consecutive elections after independence and represent consistent efforts by the Government and people of Namibia to hold credible, transparent and peaceful elections since independence. The ruling South West Africa People's Organisation (SWAPO) Party of Namibia won both the presidential and the legislative elections, although with reduced margins compared to previous elections. The outcome of the election was challenged by the main opposition over concerns that the Electronic Voting Machines (EVMs) lacked the Voter Verified Paper Audit Trails (VVPAT).

At the invitation from the Government of the Republic of Namibia and the Electoral Commission of Namibia (ECN), the African Union Election Observation Mission (AUEOM) was deployed to observe the elections from 21 November to 4 December 2019 in order to assess the state of preparedness for the elections. It was also to determine whether the necessary conditions existed for the conduct of transparent and credible elections in line with international standards and the national laws governing democratic elections.

Following its deployment, the AUEOM held consultations with key stakeholders and directly observed pre-election activities and Election Day operations. Based on its consultations and direct observation of the process, the AUEOM issued its Preliminary Statement on 29 November 2019 highlighting its initial key findings and conclusions on the conduct of the elections.

a) Summary of Key Findings

Based on its observations and consultations with stakeholders in Namibia, the AUEOM made the following findings:

The 2019 General Elections took place in a peaceful and calm political environment. The pre-election context was dominated by the emergence of an independent candidate, Dr. Panduleni Itula. Dr Itula contested the presidential election as an independent candidate and refused to renounce his SWAPO party membership, thus openly competing with the SWAPO party presidential candidate Mr Geingob. The 2019 political context was also shaped by growing unity amongst the opposition parties in terms of alliance formation.

- The constitutional and legal framework of the Republic of Namibia is in line with international, continental and regional norms and standards for the conduct of democratic elections. Notwithstanding, there are still opportunities

to further strengthen provisions to ensure that the law can provide direction in unforeseen situations, such as that of the independent candidate who ran whilst also being a political party member.

- Electronic voting is provided for by section 97(2) of the Electoral Act. The AUEOM noted that EVMs were used during the elections without the simultaneous use of the VVPAT as prescribed in the law.¹This followed the ECN's suspension of the clause that mandates the ECN to use VVPAT. The prolonged suspension of section 97(3-4), dating back to the 2014 general elections, raised heightened mistrust and controversy amongst stakeholders consulted. The AUEOM is of the view that the non-implementation of the VVPAT sows' mistrust amongst voters and it is therefore paramount for the law to be upheld.
- Fifteen political parties contested the National Assembly Elections. These were the; All People's Party (APP), Christian Democratic Voice (CDV), Congress of Democrats (CoD), Landless People's Movement (LPM), Namibia Economic Freedom Fighters (NEFF), Namibia Patriotic Front (NPF), National Democratic Party (NDP), National Unity Democratic Organisation (NUDO), Popular Democratic Movement (PDM), Rally for Democracy and Progress (RDP), Republican Party (RP), SWANU of Namibia (SWANU), SWAPO Party of Namibia (SWAPO), United Democratic Front of Namibia (UDF) and the Workers Revolutionary Party (WRP).
- In total, 1,358,468 voters were registered, of which 717,809 were female (52.83%) and 640,659 were male (47.17%). This figure is a significant increase compared to the 2014 elections which recorded 1,241,194 registered voters.
- CSO's also played an active role by producing quality publications targeted at educating and informing voters. As an example, the Namibia Institute for Democracy (NID) partnered with the ECN to produce '*Refresh your knowledge*' and the 3rd edition of '*Spot the difference.*' The Mission noted that Civic and Voter Education (CVE) was significantly affected by the austerity measures introduced by the national broadcaster, the Namibian Broadcasting Corporation (NBC), as well as the lack of funding for Civil Society Organisations (CSOs).
- On Election Day, the polling environment was peaceful and calm throughout the day and provided the opportunity to Namibians to exercise their rights to vote without any hindrance.
- Based on the results announced by the ECN on 30 November 2019, SWAPO won the elections with a significant decline in its support base. President Geingob won 56,25% of the total votes cast for the presidential elections. Dr

¹ Article 97 (3) of the Electoral Act, no 5 of 2014.

Itula, the independent candidate came second with 30,16% of the total votes cast followed by Mr McHenry Venaani of the PDM with 5,46% of the total votes cast.²

b) Conclusions

Based on its observations and the findings, the AUEOM concludes that the 27 November 2019 General Elections were conducted in compliance with the national laws of the country and in accordance with international standards. The elections afforded Namibians the opportunity to freely express their will.

c) Recommendations

The AUEOM made the following recommendations for improvement in future elections in Namibia:

- Allocate a sufficient budget to the public broadcaster to ensure full coverage of electoral activities;
- Consider amending the law with the aim of enhancing representation of special interest groups, including women, youth and Persons with Disabilities (PWDs) in the National Assembly (NA);
- Provide for continuous update of the voters' register in order to ensure that voters have valid voters' cards;
- Consider political party funding modalities with the aim of ensuring a level playing field;
- Limit the number of voters per polling station through considering the use of polling station segmented voters' register;
- Consider introducing the VVPAT component to the EVMs with the aim of improving transparency and building trust in the voting process;
- Hold consultative post-election dialogues with political parties in order to identify gaps in the legal framework and address issues arising from the 2019 general elections; and
- Consider adopting women friendly policies and practices in efforts to break down the barriers that make it difficult for women to contest internal party elections and national elections.

I. INTRODUCTION

At the invitation of the Government of the Republic of Namibia and the Electoral Commission of Namibia (ECN), the Chairperson of the African Union Commission (AUC), H.E. Moussa Faki Mahamat, deployed the African Union Election Observation Mission (AUEOM) to the country's General Election held on 27 November 2019. The

² <http://www.elections.na/PresidentialRace.aspx>

AFRICAN UNION ELECTION OBSERVATION MISSION REPORT: NAMIBIA 2019

AUEOM was led by H.E. Ernest Bai Koroma, former President of the Republic of Sierra Leone, and comprised 40 observers drawn from the Pan-African Parliament (PAP), African Ambassadors accredited to the African Union (AU), Election Management Bodies (EMBs), independent electoral and governance experts and Civil Society Organizations (CSOs) drawn from 23 AU Member States.³

The AUEOM had the mandate to observe the 2019 Elections in line with relevant AU instruments, especially (a) the African Charter on Human and Peoples Rights (1981) (b) the African Union Guidelines for Elections Observation and Monitoring Missions (2002); (c) the OAU/AU Declaration on Principles Governing Democratic Elections in Africa (2002); and (d) the African Charter on Democracy, Elections and Governance (2007), among others. This is also in line with Aspiration 3 of Agenda 2063, which envisions an “Africa of good governance, democracy, and respect for human rights, justice and the rule of law”.

The deployment of the AUEOM in Namibia was to demonstrate the AU’s commitment to supporting democratic, credible, inclusive and peaceful electoral processes in its Member States by providing an objective assessment of the process and the political environment within which the elections were conducted.

In order to achieve its objectives, the AUEOM undertook the following activities: (a) the deployment of the Short-Term Observers (STOs) was preceded by a two day briefing and orientation session during which the observers received briefings from various electoral stakeholders; (b) the leadership of the AUEOM also held meetings with electoral stakeholders, including the ECN, political parties and candidates, security agencies, Government officials and other international election observer groups; and On Election Day, the AUEOM observed polling processes at 107 polling stations in seven out of 14 regions.

This final report reflects the AUEOM’s assessment of the 2019 General Elections in Namibia. The assessment is based on the observations made during the pre-election period, Election Day and the post-election period. The report includes recommendations for improvement of the electoral processes in Namibia.

³ Cameroon, Congo- Brazzaville, Ethiopia, Eswatini, Ghana, Guinea, Kenya, Liberia, Lesotho, Malawi, Mauritius, Nigeria, Rwanda, Saharawi Republic, Seychelles, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, The Gambia, Uganda, Zambia and Zimbabwe.

II. PRE-ELECTION FINDINGS

a) General political context

Namibia organised General Elections on the 27 November 2019 to elect a president and members of the National Assembly to run the country for the next five years. The Elections were the 6th consecutive elections⁴ since Namibia's independence in 1990 and considered the most competitive. All the previous elections were regarded as peaceful and took place within a calm political environment. Since independence, the ruling SWAPO party has won every election having won previous National Assembly elections with 60% margin in 1989 to 80% in 2014. Also, in 2014, the incumbent Mr. Geingob, won the presidential election with 86.73% of votes.

The political context of the 2019 General Elections was dominated by the emergence of an independent candidate, Panduleni Itula, who contested the presidential elections against the incumbent while remaining a member of the SWAPO party of Namibia. The elections were also characterised by unity amongst the opposition parties, leading, for instance, to an alliance between the Popular Democratic Movement (PDM) and the United People's Movement (UPM) allowing the PDM to appear on the ballot box. The alliance seems to have been successful given that the PDM received a total of 16.65% votes cast, resulting in an increase in the number of the party's seats from five seats in 2014 to 16 seats in 2019.

For the first time in the history of Namibia, the presidential candidates included a woman, Esther Muinjangu who ran on the ticket of the National Unity Democratic Organisation (NUDO) and obtained 1.45% of the total votes cast during the presidential election.⁵

Prior to the elections, and in order to ensure a peaceful electoral process, the ECN facilitated the signing of a code of conduct. Only seven out of 15 political parties contesting the 2019 General Elections, signed the code of conduct.⁶ Although the signing of the code of conduct is voluntary, it is considered a symbolic gesture of goodwill in an effort to maintain a level and fair playing field for all parties concerned and to minimise conflict among them. The AUEOM also noted the parties that did not sign the code of the conduct did so mainly because the ECN had not discussed its contents with them prior to the signing ceremony held on 29 October 2019.

b) Legal and Regulatory Framework

⁴ The first elections, which were UN assisted, were held in 1989. Other elections were held in 1994, 1999, 2004, 2009, 2014.

⁵ See Table 2

⁶ The parties that signed were: SWAPO Party, NDF, UDP, WRP, SWANU, NEFF and CDV

The legal framework for the 2019 General Elections includes the Constitution of 1990 (as amended), Electoral Act of 2014 (Act No. 5 of 2014), Regional Council Act of 1992 and the Local Authority Act of 1992. Other regulatory frameworks include the Code of Conduct for election agents and counting agents, the Guidelines for the conduct of political activities by political parties in respect of elections, the Code of Conduct governing persons accredited to provide voter education for or in respect of elections, and the code of conduct governing accredited observers and persons appointed by accredited observers. The Constitution of Namibia provides for fundamental rights and guarantees freedom of expression, association, assembly and movement. It also provides for the holding of periodic elections under universal adult suffrage and the establishment of an independent electoral body to manage elections.⁷

c) The Electoral System

Namibia uses a hybrid electoral system where a president is elected by absolute majority and should secure more than 50% of the total votes cast and, in the absence a first round win, a second round ballot is held between the two leading candidates. Article 28(3) of the Constitution and sections 72-76 of the Electoral Act of 2014 (Act no 5 of 2014) states that for a candidate to be eligible to contest in a presidential election, a candidate should be a Namibian citizen by birth or descent and be over 35 years of age. A president has a term limit of two five-year terms and is elected by direct universal suffrage. While the vice president is selected by the president from members of the National Assembly. The legal framework of Namibia allows independent candidates to contest presidential elections. However, the law is unclear on whether an independent candidate who is a member of a political party, should resign from his/her party before taking part in the election.

The National Assembly elections are conducted based on the proportional representation (PR) closed party list system, in accordance with Article 49 of the Constitution and the Sections 77-78 of the Electoral Act of 2014 (Act No. 5 of 2014). In the National Assembly, political parties contest for a total of 96 seats. The National Assembly has a five-year term limit, and should it be dissolved, the law calls for fresh presidential and national assembly elections to be held.

Section 97(2) of the Electoral Act provides electronic voting in Namibia though the use of Electronic Voting Machines (EVMs). In addition, section 95(3) of the Electoral Act stipulates that “the use of voting machines is subject to the simultaneous utilisation of a verifiable paper trail for every vote cast by a voter and the vote cast is verified by a count of the paper trail”. The AUEOM noted that the EVMs used during the 2019 elections did not have the Voter Verification Paper Audit Trail (VVPAT) as prescribed in the law,⁸ due to the suspension of subsection 3 and 4 of Section 97 of

⁷ Articles 21, 28, 49 and 94b.

⁸ Article 97 (3) of the Electoral Act, no 5 of 2014.

the Electoral Act of 2014 (Act No. 5 of 2014) by the former minister of regional and local government. The prolonged suspension of section 97(3-4) dating back from the 2014 General Elections, raised heightened mistrust and controversy amongst stakeholders consulted. The AUEOM is of the view that the non-implementation of the VVPAT sows' mistrust amongst political stakeholders.

The AUEOM noted that the constitutional and legal framework of Namibia is generally in line with international, continental and regional norms and standards for the conduct of democratic elections. Notwithstanding, there are still opportunities to further strengthen provisions to ensure that the law can provide direction in unforeseen situations such as the participation of independent candidates in elections whilst retaining their political party membership.

d) Electoral Administration and Preparation

The Electoral Act 24 of 2014 (Act No.5 of 2014) provides for the establishment of the Electoral Commission of Namibia (ECN) with the authority to direct, supervise, manage and conduct free and impartial elections and referenda. Other functions are to register voters, to conduct elections, supervise voter education and undertake boundary delimitation.

In preparation for the 2019 General Elections, the ECN recruited 13,638 officials and 2,273 presiding officers and established 2,277 polling teams and 4,241 polling stations. Of the 4,241 polling stations, 1,410 were fixed and 2,831 were mobile stations. Based on the list of official polling stations provided by ECN, there were more mobile polling stations than fixed polling stations. The official list of polling stations also provided a timetable by when the mobile polling station would open and close. Namibia being a sparsely populated country, the use of mobile polling stations allowed the ECN to reach as many voters as possible. The challenge with the mobile polling stations was that in cases where the polling staff arrived late, some voters having waited long hours in the scorching sun, left without voting.

The electoral staff were trained as stipulated in accordance with Section 65 (2A) of the Electoral Act of 2014 (Act No. 5 of 2014). The AUEOM commends the ECN for recruiting unemployed people, particularly women and youth, as polling staff. The staff complement observed at polling stations reflected that PWDs also formed part of the polling officials. An average of six polling officials were recruited per polling station.

The AUEOM was also informed by the ECN that the verification of the ballot paper for the EVM was finalized on the 1st of November 2019, in the presence of the representatives of political parties. All voting materials and equipment to be used were dispatched to the regions from the 1st of November 2019. It was brought to the attention of the AUEOM that in the run up to the General Elections, four control units and two ballot units went missing. The ECN confirmed the incident and explained that

the lost machines were serialized and it was not possible for anyone to use them during the elections.

e) Civic and Voter Education

The ECN has a legal mandate to undertake CVE. Other institutions such as political parties, CSOs, schools and churches are allowed to register with the ECN in order to conduct voter education and are thus legally required to sign a code of conduct prior to engaging in voter education activities. In fulfilling its mandate, the AUEOM noted that the ECN partnered with CSO's in delivering messages that sought to educate voters about the importance of voting whilst also providing basic information on the 2019 General Elections.

Voter education for the 2019 elections was largely conducted by the ECN through the various media outlets. The ECN included youth ambassadors in civic and voter education activities, as a strategy of sensitising and encouraging youthful voters to participate in the electoral process. CSO's also played an active role by producing quality publications targeted at educating and informing voters. As an example, the Namibia Institute for Democracy (NID) partnered with the ECN to produce '*Refresh your knowledge*' and the 3rd edition of '*Spot the difference.*'

The AUEOM noted that civic and voter education was significantly affected by the austerity measures introduced by the national broadcaster, the Namibian Broadcasting Corporation (NBC), as well as the lack of funding for Civil Society Organisations (CSOs).

f) Voter Registration

Part 2 of the Electoral Act of 2014 (Act. No. 5 of 2014) deals with registration of voters. According to Section 25 (1) of the Electoral Act of 2014 (Act No. 5 of 2014), the first general registration of voters should commence not later than 10 years after the enactment of the Electoral Act (as amended) and subsequent to that a Supplementary Registration of Voters (SRV) must be conducted in accordance with Section 38(1) of the Electoral Act of 2014 (Act No.5 of 2014). The ECN conducted the SRV from 8th to 27th July 2019 resulting in 271,193 new registrants. The provisional voters' register was displayed for inspection from the 2nd - 6th November 2019 and no objections were lodged with the Commission. The final voters register was published in the Government Gazette of the 6th November 2019 and copies shared with political parties and the independent candidate. Voters are supposed to vote in the constituency they registered. This is in accordance with Section 23(3) of the Electoral Act of 2014 (Act No. 5 of 2014).

In total, 1,358,468 voters were registered, of which 717,809 were female (52.83%) and 640,659 were male (47.17%). This figure is a significant increase compared to the past elections which recorded 1,241,194 registered voters.

The AUEOM commends the ECN for these efforts to ensure that eligible voters had the opportunity to register.

g) Political party registration and nomination of candidates

Political parties' registration is conducted in accordance with the Electoral Act of 2014 (Act no.5 of 2014) Section 136 (1). Section 72 of the Electoral Act deals with the registration of independent candidates. For the Presidential Elections there were 11 contestants from the following political parties including the independent candidate:

- United Democratic Front of Namibia – Hon. Apius Auchab
- SWAPO of Namibia – Dr. Hage Gottfried Geingob
- SWANU of Namibia – Hon. Dr. Tangeni Lijambo
- Republican Party of Namibia – Mr. Henry Ferdinand Mudge
- National Unity Democratic Organisation – Ms. Esther Utjua Muinjangu
- Namibian Economic Freedom Fighters – Mr. Epafras Jan Mukwilongo
- Rally for Democracy and Progress – Hon. Mike Ratoveni Kavekatora
- All People's Party – Hon. Shixwameni Ignatius Nkotongo
- Landless People's Movement- Mr. Bernadus Clinton Swartboo
- Popular Democratic Movement – Hon. McHenry Venaani
- Independent Candidate – Dr. Panduleni Itula

In total 15 political parties contested the National Assembly Elections. These were the All People's Party (APP), Christian Democratic Voice (CDV), Congress of Democrats (CoD), Landless People's Movement (LPM), Namibia Economic Freedom Fighters (NEFF), Namibia Patriotic Front (NPF), National Democratic Party (NDP), National Unity Democratic Organisation (NUDO), Popular Democratic Movement (PDM), Rally for Democracy and Progress (RDP), Republican Party (RP), SWANU of Namibia (SWANU), SWAPO Party of Namibia (SWAPO), United Democratic Front of Namibia (UDF) and Workers Revolutionary Party (WRP).

In accordance with Section 72, 73 and 77 of the Electoral Act of 2014 (Act no.5 of 2014), the nomination of candidates contesting on the ticket of political parties took place from 1 - 8 October 2019 while the nomination of independent candidates took place on the 16th October 2019. The submission of party lists by registered political parties intending to take part in the election for the members of the National Assembly is also conducted in line with Section 77 of the Electoral Act of 2014 (Act No.5 of 2014)

The AUEOM noted that during the nomination process, the ECN enforced Article 47 (1)(e)(f) of the Constitution which disqualifies public officials from becoming members of the National Assembly by the ECN.

h) Campaigns and Campaign Finance

The electoral laws in Namibia do not provide a specific period for the starting and ending of campaigns except that on Election Day no campaigning can take place within a 500 metre radius of a polling station. There is a code of conduct for political parties that governs their behaviour during public meetings.⁹ The Electoral Act of 2014 (Act no.5 of 2014) governs the political activities of parties and candidates during the elections and further stipulates an array of offences and penalties applicable¹⁰.

The AUEOM noted that campaigns took place peacefully and that parties and candidates were able to campaign freely in all constituencies without restrictions. The campaigns were in the form of rallies and meetings across the country. The AUEOM commends the holding of peaceful campaigns by political stakeholders.

Funding of political parties is in accordance with Sections 140,141,151 – 161 of the Electoral Act of 2014 (Act no.5 of 2014). These sections stipulate which parties qualify for funding, the formula for allocation of funding proportionally to political parties represented in the National Assembly and the accounting of these funds by political parties. The AUEOM received concerns from stakeholders regarding the allocation of funds to political parties. Some parties expressed dissatisfaction with the funding formula. Some stakeholders raised concerns about certain security operations during the campaign period such as “Operation Kalahari”, which was considered as an attempt to intimidate party supporters during the period. On the other hand, the increased visibility of security personnel was seen by other stakeholders as a positive step toward combating crime. Generally, the security forces carried out their duties in a professional and discreet manner and the AUEOM noted that there were no reported incidents of heavy handedness during the pre-election and Election Day periods.

i) Media

The conduct of the media in Namibia is guided by the Constitution which provides for media freedom and freedom of expression (Section 21(1a)). The media is regulated by the Office of the Media Ombudsman. The Media Ombudsman is independent and self-regulated. Through a Code of Ethics, the Namibian journalists bind themselves to report in line with international best practices. There is also the Communications Regulatory Authority of Namibia (CRAN) which plays a vital role in terms of issuing broadcasting licenses to private media houses operating in Namibia.¹¹

⁹ Section 145 of the Electoral Act no 5. of 2014.

¹⁰ Section 173-191 of the Electoral Act no 5. of 2014.

¹¹ Remmert, D. 2019. ‘Namibia’s Media: Facing the digital challenge’

The country enjoys a diverse media landscape made up of public and private media. As at January 2019, there were five private daily newspapers and several weeklies. There were two publicly owned newspapers, namely the *Southern Times* and the *Namibian*. In addition, there were over 30 radio stations which include 10 Namibian Broadcasting Cooperation (NBC) language service stations, 10 privately owned stations and 10 community stations. There were also three television channels, including the national broadcaster, the NBC.

The NBC is government-funded and can reach over 78% of the Namibian population and thus plays a huge role in public information dissemination. The AUEOM noted that the NBC has a policy which provides for allocation of equal airtime to all candidates and political parties contesting elections. The policy further provides for purchase of additional airtime if needed. At the initial stages of the elections, the NBC allocated equal broadcast airtime to all political parties contesting the 2019 elections. However, this changed at a point in the electoral process citing austerity measures. Instead political parties were expected to buy airtime on the NBC, and this disadvantaged political parties that were not well funded.

The AUEOM noted the introduction of austerity measures which cut back on broadcast time at the national broadcaster, the NBC. Broadcast time was reduced from 24 hours to 12 hours and may have impacted on the role of the media to undertake civic and voter education. The AUEOM noted that the media in Namibia operated in an environment of press freedom, which is guaranteed in the Constitution.¹²

j) Participation of Women and Civil Society Organisations

The Constitution of Namibia provides for equality and freedom from discrimination for all its citizens¹³. The country is also a signatory to various regional and international treaties for protection of rights of various special interest groups¹⁴.

There are however no legal provisions which promote representation of special interest groups, including women, youth and PWDs in the National Assembly.

¹² Article 21 (1) of the Constitution of Namibia, 'All persons shall have the right to a) freedom of speech and expression, which shall include freedom of the press and other media'.

¹³ Article 10 provides that 'All persons shall be equal before the law and that No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.

¹⁴ These include International Covenant on Civil and Political Rights (ICCPR 1966), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW 1979), Convention on the Rights of Persons with Disabilities (CRPD), the African Charter on Human and Peoples Rights, and the 2010 SADC Protocol on Gender and Democracy.

The AUEOM noted that women's representation in the National Assembly had been advanced through the implementation of voluntary quotas by political parties. These quotas are however not grounded on party policy documents. Consequently, Namibia enjoys high representation of women in the National Assembly. For instance, following the 2014 elections, women constituted 41.3% of Members of National Assembly. Of these, 40 were from the party lists while three were appointed by the President.

The participation of CSOs in the electoral process was limited. The Mission was informed that this was as a result of lack of funding following the placement of the nation as an upper middle-income country. Donors were therefore reported to have shifted their focus from human rights to development support. CSOs consulted by the Mission reported limited information sharing by the ECN, whom they alleged to have focused more on political parties as the key stakeholders.

k) Election Dispute Resolution

The AUEOM noted that Namibia has in place conflict prevention mechanisms to address election related dispute including the use of legal processes.

The legal framework in Namibia makes provisions for conflict resolution mechanisms. Specifically, the regional court magistrate constitutes the Electoral Tribunal. The Electoral Tribunal is mandated to hear all pre-election disputes and must reach a judgement within five days from the date of conclusion of the hearing. Appeals arising from decisions of the Electoral Tribunal must be lodged at the Electoral Court.¹⁵ The Electoral Court must conclude all appeals before polling day.

The Electoral Court enjoys the status of a high court and has the mandate to address appeals arising from the decisions of the Electoral Tribunal. The Court is mandated to hear all post-election disputes with a time frame of seven days. In the case of challenges to presidential electoral outcomes, the Supreme Court is the court of first instance and final recourse to hear all disputes arising¹⁶. The Supreme Court must reach a decision with 14 days after conclusion of the hearing.

The AUEOM noted that the Electoral Tribunal and Electoral Court were engaged by the aggrieved parties during the pre-election period. A case (*Itula vs the Electoral Court of Namibia*) was lodged against the ECN's mishandling of the EVMs and its intent to use the EVMs without the VVPAT component for the 2019 General Elections. The complainant, Dr. Itula, petitioned the Electoral Tribunal to charge the Chairperson of the ECN for negligence in the case of the EVMs that went missing in July 2017. The EVMs had been loaned to the SWAPO Elders Council to conduct their internal elections and were transported in an open trailer when they fell off the truck. The complaint also asked the Court to stop the ECN from using EVMs for the 27

¹⁵ Section 162-166 of the Electoral Act no 5 of 2014.

¹⁶ Section 172 of the Electoral Act no 5 of 2014.

November 2019 elections. On 25 November 2019, the Electoral Tribunal dismissed the case on the basis of technicalities and advised the complainant that it did not have jurisdiction to rule on the matter and that the Electoral Court should have been the court of first instance in this regard. The AUEOM learned that the complainant had lodged an urgent appeal to the Electoral Court a day before Election Day. As a result, the Electoral Court was not able to deal with the appeal owing to the short time frame and EVMs were deployed without the VVPAT for the second time.

Although the law establishes legal avenues for handling electoral disputes throughout the electoral process, the time frame given for handing down judgements remains short and has an impact on the ability of the courts to effectively handle appeals that arise. In addition, the law is not clear on what happens in situations where the courts are not able hear appeals on an urgent basis in line with the requirement for them to deal with all cases based on their respective jurisdiction before the pre-election, election day and post-election periods.

Overall, the AUEOM commends the people of Namibia and electoral stakeholders for using the existing legal avenue to peacefully resolve election related disputes. It further calls for continued efforts to ensure that the courts function efficiently in order to increase trust in the available dispute resolution mechanisms.

I) Special Voting

In line with the legal framework, the ECN had to organise special voting prior to the Election Day, 27 November 2019. Consequently, special voting was held for military personnel, police officers, sea goers, correctional services officers and Namibians in the diaspora on the 13th November 2019. Overall, the ECN established 154 polling stations across 121 constituencies to with Namibia to facilitate voting. The ECN also established 34 polling stations at Namibia's foreign missions to facilitate voting by Namibians abroad.

III. ELECTION DAY FINDINGS

The AUEOM visited a total of 107 polling stations where they observed opening, voting, closing and counting procedures. Seventy-Five percent (75%) of stations visited were in urban areas whilst 25% were in rural areas. Seventy-Five percent (75%) of the voting stations visited were fixed and 25% were mobile.

Besides the AUEOM, other international observers, namely, the Southern African Development Community (SADC) and SADC-Electoral Commissions Forum (ECF) observer groups were present in polling stations visited. The AUEOM noted with concern the low presence of citizen observers in a few of the polling stations visited as a result inadequate funding.¹⁷

The AUEOM observed that the polling environment was peaceful and calm throughout the day. Security agents were present throughout the day and their conduct was described as professional and discreet. Their presence and conduct contributed to a peaceful, secure and conducive environment where the voters were able to securely exercise their right to vote.

For most part of the day, there were long queues in most of the polling stations visited and were well controlled. The AUEOM observed that priority was given to the elderly, PWDs, and pregnant and nursing mothers in line with international best practices.

In line with the Electoral Act, political party agents averaging of six per station, four of whom were female, were present in all the polling stations visited representing mainly the SWAPO Party, the independent presidential candidate, the PDM and the LPM.

The AUEOM observed efforts by the ECN to promote transparency and the right of access to information during the polling process. Party agents, international and citizen observers were able to perform their duties without interference or restrictions and were provided with information upon request.

For all stations visited, the required number of six polling staff per polling stations were present. They were generally judged as competent in carrying out their duties, thus facilitating the right and opportunity of Namibians to vote. Out of the six polling staff present an average of four were female. The AUEOM commends the ECN and political parties for deploying large numbers of women and youth as polling officials and party agents.

¹⁷This was made known to the AUEOM during the stakeholder consultations.

a) Opening

The AUEOM noted that the majority (78%) of the polling stations visited opened on time. In cases where they opened late, it was due to the pre-poll test which took longer than the anticipated one hour before polls opened. In a number of polling stations, presiding officers reported that opening was delayed because of late arrival of party agents.

b) Voting

The AUEOM observed that application of procedures for voting proceeded according to prescribed guidelines. Compliance with the procedures contributed to the credibility of the voting process. Secrecy of the vote was guaranteed in the majority (89%) of polling stations visited. The remaining 11% indicated that secrecy of the vote could have been compromised because of inadequate space.

Election materials were available in adequate quantities in the majority (93%) of the polling stations visited, enabling voting to proceed uninterrupted throughout the day.

The AUEOM noted the following challenges regarding to the use of technology: the voter verification process took more time and impacted on the average time to process a voter. The delays were attributed to the failure of the Voter Verification Device (VVD) to automatically scan the voter's card. Polling staff had to resort to a manual search of the names on the device, thus contributing to the long queues observed during the voting. The polling process was further delayed in cases where polling staff had to search for the name of voters on the hard copy of the voters' register. The delays, resulting from long queues might have led to some voters leaving before casting their ballot.

In 13% of the polling stations visited, observers noted that voting stopped as a result of EVM malfunctioning or voters tripping on the cables of the machine. In 4% of the polling stations visited, the EVMs were unlocked because the buttons had been pressed too hard by a voter. The AUEOM also observed that unlocking the EVMs and rebooting did not lead to any memory loss and that the total votes cast remained the same.

In the polling stations visited, the right to vote was guaranteed. All voters who presented legally acceptable identification documents were allowed to vote without restrictions. AUEOM observed voters being turned away in 16% of the polling stations visited because their voters' cards were invalid. There was a reported incident of a few voters being assisted, in mobile station 307 Ninette Farm, as voters were not familiar with the process.

The AUEOM noted with concern the influx of voters towards the end of voting which resulted in long queues at 21:00, the official closing time of polling stations. This

resulted in some polling stations completing the polling process hours after the official closing time. This influx of voters can be attributed to the fact that the voters' registers are constituency based and allow for voters to move from one polling station to another within the same constituency.

c) Closing

The AUEOM observed that 55.6% of the polling stations visited did not close on time as there were voters on the queue at closing time and that voters that were in the queue by 21:00, were allowed to cast their votes. This ensured that all voters were given an opportunity to exercise their democratic right.

The lack of printers in some polling stations visited resulted in delays in the closing of polls.

Counting of the ballots took place at the polling station. Most polling stations visited had adequate lighting during counting.

The AUEOM noted that ballot reconciliation was done in all polling stations visited and that there was no discrepancy in reconciliation of total votes issued and total votes cast. The AUEOM also noted that in polling stations visited, results were released according to procedures, political party agents provided copies of results forms to sign and copies of the results were posted at the polling station.

IV. POST ELECTION PROCESSES AND ENVIRONMENT

a) Tabulation of Results

After the counting process is completed, all presiding officers in the constituency are required to report their results and deliver EVMs to the respective Returning Officers at constituency tabulation centres. The Returning Officers collate polling station results by connecting the control units of the voting machine received from the presiding officers to a tabulator. Constituency results for both President and National Assembly elections were announced, and copies of the constituency results were provided to party agents.

Returning Officers then transmit constituency results to the Central Elections Results Centre (CERC), where they are collated to obtain the final national results, which are thereafter verified, audited, officially announced and published.

The AUEOM noted that the lengthy polling process, which led to delays in closing of the poll in most polling stations, resulted in delayed tabulation of results. Delays were also caused by electronic equipment connectivity issues. In a statement issued on 29th November 2019, the ECN announced that they had experienced unexpected connectivity challenges in certain constituencies.¹⁸ The ECN provided regular updates to the public, through its website, on constituency-based results upon their verification.

b) Announcement of results

Election results are announced in line with section 109 and 110 of the Electoral Act (No.5) of 2014. Accordingly, the Chairperson of the ECN, Adv. Notemba Tipueja, announced the results for the Presidential and Parliamentary elections on 30th November 2019, 72 hours after close of polling. In her address, she acknowledged the delay in announcement, noting that it was necessary to ensure that any discrepancies were identified and rectified before announcement of the results. The delay in announcement of results led to anxiety with some opposition leaders raising concerns that the delay opened the process to manipulation.

Dr. Hage Geingob of SWAPO received 464,703 (56.3%) of the 826,198 total votes cast and was declared the winner of the presidential election, for a second term. This was a decline from the 772,528 (87%) total votes he received in the previous election held in 2014. In the National Assembly Elections, SWAPO lost its two-thirds majority after securing 63 seats, down from 77 seats in 2014. Dr. Panduleni Fillemon Bango Itula and McHenry Kanyonokere Venaani came in second and third with 242,657 (29,4%) and 43,959 (5.3%) of the total votes cast respectively.

¹⁸ These were Opuwo rural, Etayi, Ogongo, Ondobe, Eengodi, Moses Garoeb, Windhoek West and Windhoek East constituencies.

AFRICAN UNION ELECTION OBSERVATION MISSION REPORT: NAMIBIA 2019

Tables 1 and 2 provide a detailed breakdown of the Presidential and National Assembly election results.

Table 1: Results of the Presidential Election

NO.	Candidates	Votes Received	% Support
1	Geingob, Hage Gottfried	464 703	56.3
2	Itula, Panduleni Fillemon Bango	242 657	29,4
3	Venaani, McHenry Kanyonokere	43 959	5.3
4	Swartbooi, Bernardus	22 542	2.7
5	Auchab, Apius	22 115	2.7
6	Muinjangu, Esther Utjua	12039	1.5
7	Iijambo, Tangeni Cornelius	5 959	0.7
8	Mudge, Henry Ferdinand	4 379	0.5
9	Kavekatora, Ratoveni Mike	3 515	0.4
10	Shixwameni, Ignatius Nkotongo	3 304	0.4
11	Mukwilongo, Jan Epafras	1026	0.1
Total votes cast 826,198			

Source: <https://www.ecn.na/wp-content/uploads/2019/12/PRE-ELE-RESULTS-2019.pdf> accessed 21 January 2020

Table 2: Results of the National Assembly Election

NO.	Parties	Votes Received	% Support	Seats in 2019	Seats in 2014
1	SWAPO		65.55	63	77
2	Popular Democratic Movement (PDM)	136 576	16.6	16	5
3	Landless Peoples Movement (LPM)	38 956	4.7	4	New (0)
4	National Unity Democratic Organisation (NUDO)	16 066	1.9	2	2
5	All Peoples Party (APP)	14 664	1.8	2	2
6	The United Democratic Front (UDF)	14 644	1.8	2	2
7	Republican Party (RP)	14 546	1.8	2	1
8	Namibia Economic Freedom Fighters (NEFF)	13 580	1.7	2	0
9	Rally for Democracy and Progress (RDP)	8 953	1.1	1	3

AFRICAN UNION ELECTION OBSERVATION MISSION REPORT: NAMIBIA 2019

10	Christian Democratic Voice Party (CDV)	5 841	0.7	1	0
11	SWANU	5 330	0.6	1	1
12	Congress of Democrats (CoD)	4 654	0.6	0	0
13	Namibia Democratic Party (NDP)	4 559	0.6	0	0
14	Workers Revolutionary Party (WRP)	3 212	0.4	0	2
15	Namibia Patriotic Front (NPF)	1 785	0.2	0	-
Total votes		820,227	100	96	95 ¹⁹

Source: <file:///H:/South%20Africa%202019/NA-ELE-RESULTS-UPDATE-2019.pdf> accessed 21 January 2020.

c) Voter Turnout

According to the ECN Election Day statistics, voter turnout for the Presidential Election was 826 198 (60.8%) out of the 1,358, 468 registered voters. For the National Assembly, the voter turnout was 820 227 (60.4%). On disaggregating voters, the ECN determined that 700,648 (52%) voters were youth. Compared to the 2014 elections, there was a slight decrease of voter turnout for the Presidential and National Assembly elections from 893,643 and 890,738 respectively, in 2014.

d) Election Dispute Post-Election

Following the declaration of the final results, Dr. Panduleni Fillemon Bango Itula, an independent candidate and member of the ruling SWAPO party of Namibia, petitioned the Supreme Court to annul the election results based on the fact that the EVMs used for the 27 November 2019 general elections lacked the VVPAT component. Section 97(2) of the Electoral Act of 2014 (Act no.5 of 2014) provides electronic voting in Namibia through the use of EVMs. The use of voting machines in the elections is covered in Section 97 of the Electoral Act of 2014 (Act no.5 of 2014). In addition, Section 95(3) also stipulates that “the use of voting machines is subject to the simultaneous utilization of a verifiable paper trail for every voted cast by a voter and the vote cast is verified by a count of the paper trail”. The AUEOM noted that the EVMs used during the 2019 general elections did not have the VVPAT as prescribed in the law,²⁰ as a result of the suspension of subsection 3 and 4 of Section

¹⁹ The United Peoples Movement (UPM) which participated in the 2014 and won 1 seat formed a coalition with the PDM for the 2019 elections. The coalition had one list for candidates to the National Assembly under the banner of PDM

²⁰ Article 97 (3) of the Electoral Act, no 5 of 2014.

97 of the Electoral Act by the former minister of regional and local government. The prolonged suspension of section 97(3-4) dating back to the 2014 General Elections, raised heightened mistrust and controversy amongst stakeholders consulted. The AUEOM is of the view that the non-implementation of the VVPAT sows mistrust political stakeholders. In its ruling on the 5 February 2020, the Supreme Court ruled that in future the use of the EVMs should include paper trails. The Court however upheld the results of the 27 November General elections on ground that the lack of paper trail in the EVM did not lead to widespread irregularities.

V. CONCLUSION AND RECOMMENDATIONS

a) Conclusion

The AUEOM congratulates the Government and people of Namibia for the conduct of peaceful General Elections. Based on its observations and the findings, the AUEOM concludes that the 27 November 2019 General Elections were conducted largely in compliance with the national laws of the country and in accordance with international standards. The elections afforded Namibians the opportunity to freely express their will. The AUEOM commends the Namibian Government for ratifying the African Charter on Democracy, Elections and Governance as recommended by the AUEOM following the 2014 General Elections.

b) Recommendations

Based on its observations and findings, the AUEOM offers the following recommendations for improvement in future elections.

The Parliament:

- Allocate a sufficient budget to the public broadcaster to ensure full coverage of electoral activities; and
- Consider amending the law with the aim of enhancing representation of special interest groups, including women, youth and PWDs in the National Assembly.

The Electoral Commission of Namibia:

- Provide for the continuous update of the voters' register in order to ensure that voters have valid voters' cards;
- Ensure transparency in the nomination process through regular and timely interface with political parties whenever the conduct of the process deviates from previously established processes;
- Consider political party funding modalities with the aim of ensuring a level playing field;
- Limit the number of voters per polling station through considering the use of a polling station segmented voters' register;
- Consider introducing the Voter Verifiable Paper Audit Trail (VVPAT) component to the EVMs with the aim of improving transparency and building trust in the voting process;
- Familiarize voters with the EVMs through increased voter education that allows for regular interface with the voting machines; and
- Hold consultative post-election dialogues with political parties in order to identify gaps in the legal framework and address issues arising from the 2019 general elections.

The Political Parties:

- Consider adopting women friendly policies and practices in efforts to break down the barriers that make it difficult for women to contest internal party elections and national elections;
- Participate in the review of the code of conduct to ensure that it remains applicable to the changing political landscape;
- Continue to engage the legal avenues available on a continuous basis in order to address issues arising well ahead of election day;
- Lobby collectively in order to ensure that political party funding is disbursed in a manner that encourages a level playing field for all contestants; and
- Review internal party laws and structures in order to address any possible gaps in line with the ever-changing political landscape.