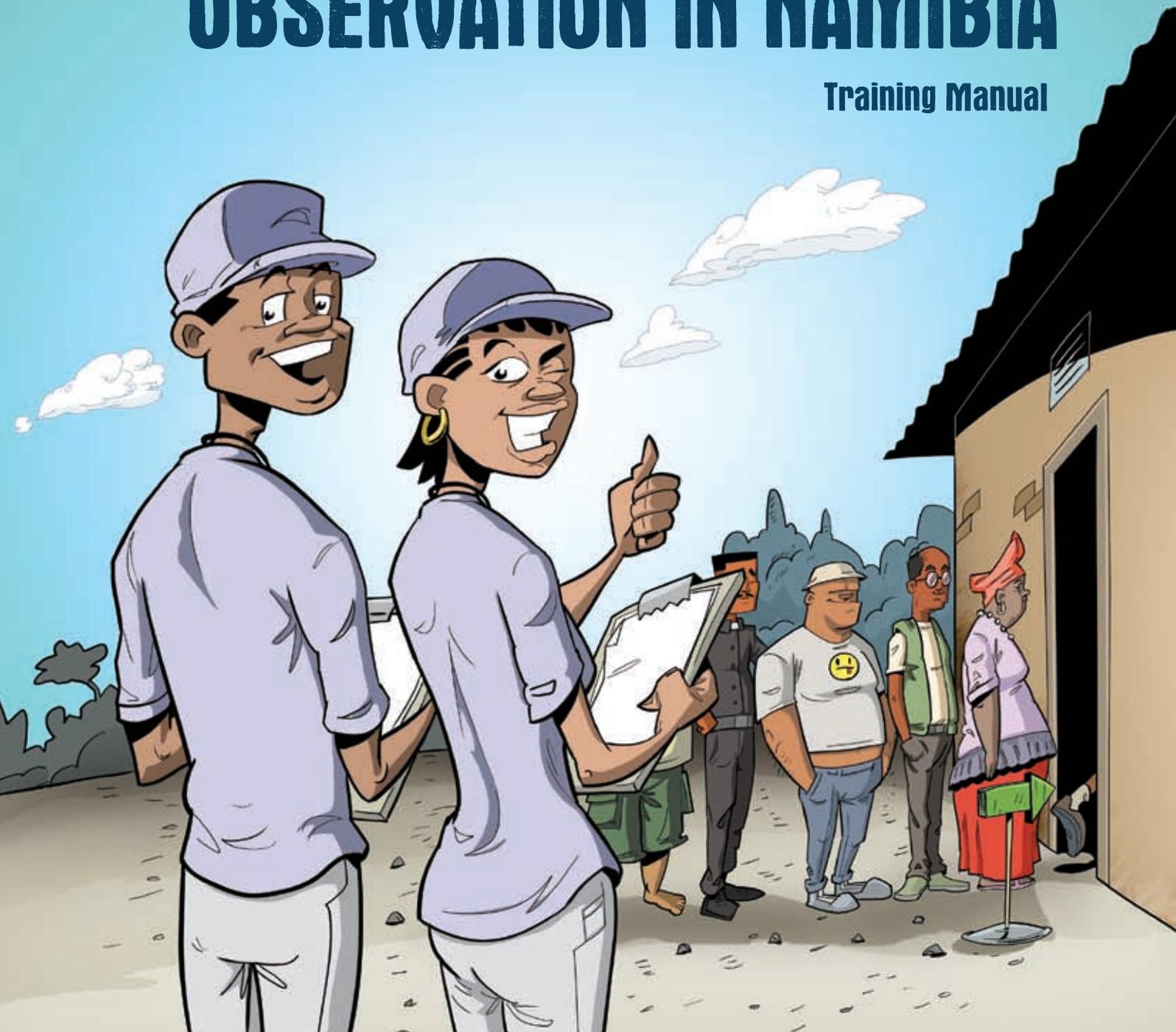


GUIDE TO ELECTIONS OBSERVATION IN NAMIBIA

Training Manual



GUIDE TO ELECTIONS OBSERVATION IN NAMIBIA

Compiled by

John Nakuta

Published by

Namibia Institute for Democracy

Copyright: 2009 Namibia Institute for Democracy

No part of this publication may be reproduced in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the permission of the publisher.

Design and Layout: DV8 Saatchi & Saatchi

Printed by: John Meinert Printing

ISBN

978-99916-860-8-0

This training manual was produced by the Namibia Institute for Democracy (NID) as part of a domestic civil society elections observation program conducted in conjunction with the Civil Society Elections Coalition.



Head Office:

7 a Love street
P. O. Box 11956
Windhoek, Namibia
Tel: +264 61 229117/8
Fax: +264 61 229119
hunter@nid.org.na

Regional Office:

1st Floor Woermann House
P. O. Box 2217
Swakopmund, Namibia
Tel: +264 64 401079
Fax: +264 64 462346
tkeulder@iway.na

FOREWORD

Establishing and maintaining a system of free and fair elections is a delicate and complex process. Although elections represent only a snapshot of a national political culture, they constitute one of the most sensitive times in the political life of a nation. Their conduct requires close cooperation between a country's government and civil society and their joint nurturing of public trust. Although the typical role of elections observers is to assess the outcomes of elections in the context of how they are conducted, the actual impact of election observation can be much more powerful.

Observation processes may contribute to discourage politically inspired violence, encourage transparency and lawfulness and ensure international political legitimacy. In this process, increasing attention is being paid to (i) the fairness and inclusiveness with which elections are prepared and organized, (ii) the actual conduct of those elections, and (iii) the professional and systematic nature of formal observation and monitoring of elections by qualified domestic and international observers. As more countries undertake elections in their transition to democracy, both local citizens and international organizations have become more assertive, more systematic, more professional, and better organized in insisting that those elections be free and fair.

In order to support the Electoral Commission of Namibia (ECN) in facilitating free and fair elections with results accepted by all participating parties, independent stakeholders such as civil society and the media will need to play an enhanced role during the pre-election and election period by engaging in observation of all aspects of the electoral process. The Namibia Institute for Democracy (NID) has therefore initiated a program to develop a broad-based, strong, long term domestic elections observation capacity in Namibian civil society and the media to ensure a transparent, fair, lawful, and balanced election process. This training manual was therefore developed to train elections observers from civil society who will subsequently be engaged in examining electoral legislation and regulations, examining the voters' roll, observing the registration and conduct of political parties

and candidates, the selection of electoral officials and the training of poll volunteers. Stakeholders will be engaged early on and remain engaged during the entire electoral process leading up to the elections and beyond.

A successfully completed electoral process that is viewed as free and fair by local observers, regional counterparts and the international community will not only contribute to Namibia's socio-political progress, but will also encourage overall progress towards democratic consolidation in the Southern African region as a whole.

Theunis Keulder
Regional Director
Namibia Institute for Democracy

ACKNOWLEDGEMENT

I would like to deeply thank the various people who provided me with useful and helpful assistance. Without their care and consideration, this manual would likely not have matured.

A word of thanks and sincere appreciation is extended to all the chapter contributors, for their dedication and interest. To Yvonne Dausab, Sam Amoo, Dr. Lesley Blaauw, Francois Bangamwabo, Dr. Mara Mberira, and Benedict Nakuta, who contributed with writings under heavy time pressure. And for all their patience throughout an editing and cross-reviewing process which constitutes a rather difficult balancing act.

In compiling this manual, the objective was not to re-invent the wheel. Excellent work in the area of election observation has been done by people and organizations that have acquired expertise in this field over time. The manual thus generously draws on work done by such people and groups. The manual particularly draws heavily on material from the Election Observation Training Manual 2004 (Ghana), Election Observation Manual of the Office of Democratic Institutions and Human Rights (ODIHR), Civil Society Coalition on Elections (Gambia), Handbook for Domestic Election Observers (ODIHR), work done by the Electoral Institute for Southern Africa (EISA) in particular the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO).

The contributions of member organisations of the Civil Society Elections Coalition (CSEC), the Council of churches in Namibia, Women's Action for Development, Urban Trust of Namibia, Namibia Paralegal Association Women's Solidarity in Namibia, criminal's return into society and the Namibia National Association for the Deaf is greatly appreciated.

I lastly also wish to thank the Namibia Institute for Democracy (NID) for their confidence in awarding me this assignment. It was a great but rewarding challenge.

John Nakuta

TABLE OF CONTENT

INTRODUCTION	01
---------------------------	----

SECTION ONE

What is an election?.....	04
What is election observing?	04
Why Domestic observing?.....	05
How do you observe?.....	06

SECTION TWO Elections and the Law

Introduction.....	08
Elections and fundamental human rights.....	08
Freedom of Speech.....	09
Freedom of Assembly.....	09
Freedom of Movement.....	10

Section Three Observing the Pre-election Phase

Observing the Election Administration.....	16
Observing the registration of candidates and political parties.....	17
Observing voter registration.....	20
Observing the registration of women.....	23
Observing the election campaign.....	25
Observing the security agencies.....	26

SECTION FOUR Observing the Election Phase

Preliminary Procedure for the observer.....	28
At the polling station before voting begins.....	28
General Condition.....	28
Authorized persons.....	28
Election materials.....	29
During Voting.....	29
After Voting.....	30

SECTION FIVE Observing the Post-election Phase

Introduction.....	36
Acceptance of Results.....	36
The PEMMO Guidelines recommend the following Principle regarding the acceptance of election results and outcomes.....	37
Reporting by National and Regional Observers.....	38
Incidents reports.....	40

SECTION SIX

The final report.....	42
Consolidation Exercise.....	42

CONCLUSION	43
-------------------------	----

FORMS

Form i: Pre-election form.....	44
Form ii: Election day reporting form.....	48
Form iii: Counting form.....	51
Form iv: Summary of election day observations.....	55
Code of conduct.....	57

INTRODUCTION



Who is the manual for?

The primary audience of this book is intended to be elections observers who will be selected and trained, by the Civil Society Elections Coalition (CSEC) as domestic Civil Society Elections Observers for the November 2009 Presidential and National Assembly elections in Namibia. However, the book is likely to attract a greater readership from those who have a general interest in democracy and elections in particular. Readers in this latter category are likely to include a variety of non-governmental organizations and groups from civil society working in the democracy and human rights sector. It will also be of interest to officials from the Electoral Commission of Namibia and the Directorate of Elections, politicians, members of Parliaments, teachers and students.

A set of clear principles.

The values of equality, non-discrimination, freedom, democracy, human rights and the rule of law, enshrined in the Namibian Constitution, are the starting point and frame of reference of this manual. These values and principles are not incidental to our constitutional set-up. They constitute the bedrock of the Republic. No wonder, the first article of the Namibian Bill of Rights (Article 5 of Chapter 3) places an unambiguous duty on the Executive, Legislature, Judiciary, all organs of state, juristic and natural persons, where applicable on them, to protect and uphold these rights, freedoms, principles and values. The right to participate in political activity, is one such right which must be respected, protected and fulfilled by the State and its organs. Each of the sections in this manual seeks to clarify these obligations in the context of this right.

A set of National and International standards acceded to:

The Namibian Constitution and the Electoral Act (No. 24 of 1992), are the key national legal instruments used to give national context and content to the right to peaceful political activity in this manual. These provisions are supplemented

by the various international conventions and agreements the Government ratified and acceded since they form part of our law in terms of article 144 of the Constitution. The most relevant provisions of these instruments at the international, continental and sub-regional level have thus being widely quoted and drawn-upon to further clarify the right to peaceful political activity.

Why observe elections?

Election observation is a valuable tool for improving the quality of elections. Observers help build public confidence in the honesty of electoral processes. Observation can help promote and protect the civil and political rights of participants in elections. It can lead to the correction of errors or weak practices, even while an election process is still under way. It can deter manipulation and fraud, or expose such problems if they do occur. Reports issued by observers can build trust in the democratic process and enhances the legitimacy of the governments that emerge from elections. Election observation by domestic groups also encourages civic involvement in the political process.

SECTION ONE

- What is an election?
- What is election observing?
- Why Domestic Observing?
- How do you observe?

What is an election?

An election is the process of actualizing representative democracy. It is a method of selecting representatives of the people to manage the affairs of the state. These elected representatives reflect their individual or group (political parties) intentions in terms of political programs and philosophies. When elected, the representatives have the mandate of the people and that mandate becomes the authorization of representation.

Elections are important in any democratic system because it is through elections that the formal allocation of power occurs. Elections give legitimacy to governments and democratic systems.

Elections encourage civic participation in democratic governance. In deeply divided societies, elections may be instruments of conflict resolution since a free and fair election is a reflection of popular opinion. In addition, elections are important milestones in democratic transitions.



They provide an opportunity for examining how institutions function and whether the tenets of good governance and democracy are being adhered to. Finally, elections serve as a means for people to have direct experience with pluralism and meaningful contests for power involving ballots rather than bullets. They are peaceful processes for making political choices in a democracy. An election is the sovereign right of the people and manipulating it is a violation of their sovereign right. This is what an election monitor and observer intend to prevent.¹

What is election observing?

Observation is the purposeful gathering of information regarding the elections, and the making of informed judgments on the conduct of such a process on the basis of the information collected, by persons who are not inherently authorized to intervene in the process and whose involvement should not be such as to jeopardize their main observation responsibilities. Observing an election can be divided into three phases: i.e. observing what occurs before, during and after the election.



¹ Election Observation Training Manual – Election 2004, Coalition of Domestic Election Observers (CODEO), Ghana, 2004

Observing the pre-election period includes all activities that occur before the actual day of voting. By using the provided legal framework and documents such as the Constitution, the Electoral Act and Regulations, observers monitor the media, membership of the electoral machinery, political party campaign/rallies, voter education and delimitation of constituencies, etc.

Election Day observation covers all activities that occur on the day of actual voting: i.e. logistics, accreditation, the process of voting, conditions and atmosphere around the polling stations, electoral officials and party agents and their activities, counting and collation of votes; and the announcements/publication of results.

Observing the Post-Election period includes all activities that occur after the actual elections. For instance, the resolution of election disputes, petitions and the formation of the newly elected government.²

Why Domestic Observing?

The primary purpose of an independent observation program is to encourage openness and enhance transparency in the election for the benefit of all. It also:

- promotes public confidence in the electoral process;
- deters those who would want to engage in improper practices or fraudulent activities;
- reduces opportunities for frivolous or misguided allegations of impropriety; and,
- provides information which lawmakers, election officials, and activists can use to assess the process and plan for future improvements.

These fundamental objectives are imperative even when the election occurs in an old, new or transitional democracy.³

The role of the election observer is more precarious in transitional democracies. To be sure, observers play significant roles in reassuring the public about the importance of the electoral process and the relevance of each voter's participation.

Publicity surrounding the formation of an observation operation, coupled with the pre-election activities of observers and their presence at polling stations on Election Day, enhances public confidence and encourages citizens' involvement in the process.

Public statements and reports issued by observing groups may lead to changes in policies that promote fairness in the election process. The presence of observers at polling stations may deter fraud, intimidation as well as reduce voting irregularities. In addition, when observers monitor the counting process, they provide an unbiased source for verifying official results.

Finally, a post-election report by an independent observation group also influences the positions taken by electoral contestants regarding the overall legitimacy of the process. A relatively positive assessment should encourage acceptance of the results by all parties. In contrast, a negative critique may lead to rejection of the results if the process is suspected to be illegitimate.



² Ibid

³ Civil Society Coalition on Elections – The Gambia: Pooling forces to sustain democracy, Election Guide for Domestic Observers, The Gambia.

Accreditation of observers.

The recent amendments made by Parliament to the Electoral Act (No. 24 of 1992) now make provision for the accreditation of local observers to observe elections in Namibia. Accreditation of observers will be done by the ECN. In terms of the amendments, accredited observers will have the right to observe the proceedings concerning voting, the counting process, and the determination and announcements of results. Accredited observer must comply with all the lawful instructions of election officials (i.e. returning officer, presiding officer, polling officer or counting officer) including that of a member of the security services acting on the instruction of an election official. If an accredited observer contravenes or fails to comply with the conditions of the accreditations his/her accreditation may be cancelled or suspended by the Commission.

To sum up, it is important to observe elections for the following reasons:

1. To increase the integrity of the election process;
2. This in turn increases public/voter confidence in the process and encourages higher voter turnout and citizen's involvement.
3. To deter fraud, voting irregularities, violence, and intimidation.
4. To verify the results.
5. To provide a basis for assessing and reporting on the fairness of the election.⁴

How do you observe?

Election observation is a sensitive activity in which the observer must be vigilant. In order to achieve this, the observer must keep to certain standards of operations, behavior and attitude. In all these, s/he measures his/her assessments against accepted international standards, the national constitution, national electoral laws and regulations as well as the general principles of democratic governance. In short, election observing is an instrument of checks and balances within the electoral system.

The Observer is equipped with his/her eyes, ears and sense of judgment. S/he watches every phase of the election; puts his/her ear to the ground to collect information and uses his/her best judgment in volatile situations. Put simply, an observer is an election information-monger. Through information and documentation, s/he serves a dual purpose of analysis and quality control.⁵ The observer observes each phase of the electoral process and watches all acts and decisions and assesses their impact on the election outcome.

What are the fundamental principles for election observation?

The following pointers are regarded as the basic principles for electoral observation:

- The election observer must recognize the authority and mandate of the electoral management body (EMB) i.e. the ECN;
- Election observers must be nonpartisan and neutral;
- Election observers must be comprehensive in their review of the election, considering all relevant circumstances;
- Election observation must be transparent;
- Election observation must be accurate.⁶



⁴ Ibid

⁵ Ibid

⁶ Fact Sheet- The Basics of Elections, International Institute for Democracy and Electoral Assistance, retrievable at www.idea.int/./other/./The-Basics-of-Election-Observation-Factsheet.pdf