

IMPROVING THE QUALITY OF ELECTION MANAGEMENT

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The Electoral Process in Swaziland

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SWAZILAND**

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ELECTORAL PROCESS IN SWAZILAND

Swaziland is a democratic kingdom, which currently practices a non-party state democracy. The Draft Constitution Bill has been presented to both Houses of parliament for debate.). The present electoral process is founded on the three Laws, namely the Establishment of the Parliament of Swaziland Order, Elections Order and Voters' Registration Order, all of 1992.

TINKHUNDLA GOVERNMENT

The electoral process operates under the system of the Government called Tinkhundla. This system is an admixture of two systems i.e. Westminster and Swazi Law and Custom. It was established by the Establishment of Parliament Order 1978 and has been in operation since then, of course with amendments and modifications where necessary. (When it started in 1978 an Electoral College was used for election of the members of the House of Assembly (indirect representation) and in 1993 a direct representation electoral system was introduced, where by electorates nominate candidates and secretly cast their votes into secret ballot boxes as "one person one vote".

RIGHT TO VOTE

Every citizen of the Kingdom who has attained the age of 18 years is entitled to vote. However, a citizen could be restricted to exercise this right by reason of any of the following grounds:

- a) Being certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Swaziland
- b) Being convicted of certain specified criminal offences.
- c) Failure to prove/produce evidence as to age, citizenship or registration certificate as a voter.
- d) Being not a citizen of the Kingdom.

MANAGEMENT BODY

The Electoral Commission has not yet been established. There is a provision in the draft constitution to establish a fully fledged Independent Electoral Commission. The Chief Electoral Officer who is assisted by the Deputy Chief Electoral Officer who are both appointed by the Head of State is performing its function. The Elections' Office Order, 1998, established the office and it is independent. There is a permanent secretariat, which is headed by the Director which supports the Chief Electoral Officer and the Deputy Chief Electoral officer.

Section 5(1) Of the Order reads "The King in consultation with the Minister shall appoint the Chief Electoral Officer) and the Deputy Chief

Electoral officer for a period not exceeding five (5) years and on such other terms and conditions as the King may determine. The Other Electoral Officers, including the Registration, returning, Presiding, Polling and counting officers are deployed on a temporal basis from the Government Ministries, retired Civil servants and Teaching Service.

REGISTRATIONS

Sections 4 of the Voters Registration Order 1992 requires every Electoral Officer to prepare for each Inkhundla/Constituency in the area for which he has been appointed, a voter's list of persons who are entitled to vote.

HOLDING OF PUBLIC MEETING FOR REGISTRATION OF VOTERS

The chief Electoral Officer arranges publication of the notice in such a manner as he thinks necessary and publishes the dates, times and places of public meetings at which persons who qualify to be registered may attend. Following such notice, each Chief or Indvuna yeNkhundla of urban or industrial areas calls a meeting for the purpose of registration as voters.

Such meetings are held in each polling division, and the electoral or registration officers for such division publicly and orally receive all applications for registration. If the Electoral or Registration Officer is satisfied that an applicant is entitled to be registered as a voter, he registers the applicant. If the Electoral or Registration Officer is not satisfied that an applicant is entitled for registration he rejects the applicant at the public meeting at which it is made and the applicant may in the presence of such Electoral or Registration Officer completes and sign the approved form including the declaration set forth therein.

Whenever an Electoral or Registration Officer has come to a decision referred to above he, in the approved form, informs the applicant of the decision and the reason thereof. It is up to the applicant to pursue it in the Court of Law (Magistrates) up to the High Court when circumstances demand.

AMENDMENT OF VOTERS LIST

The law requires that whenever the Electoral Officer has decided to remove the name of any person from or restore or add the name of any person to any voter's list, or to correct any mistake or supply any omission therein, he shall clearly indicate the same and state the reason for the alteration opposite the name removed, restored or added. The law does allow abjection against amendment of voters list and states that, in the event, the Electoral Officer shall (unless he is satisfied that the grounds of the objection is not a ground on which a name could be

restored or removed or excluded from the list) by registered post forthwith, notify the person whose registration is objected to of the nature of the objection, and that he/she may make representation to the Electoral Officer in regard thereto within a period of twenty one days after the date of notice

A SUPPLEMENTARY VOTERS LIST

The voter Registration Order requires a supplementary list to be drawn up as a separate voters list provided that:

- a) The supplementary voters list prepared after any general registration of voters shall contain in alphabetical order the names of all voters registered since the last general registration of voters.
- b) Whenever the voter's list is printed in terms of this section, any supplementary voters list may be incorporated with the voters list framed in the course of a general registration.

VOTERS LIST CERTIFICATES

The order requires that at the end every voters list a certificate that the voter's list had been checked and correct shall be signed and dated by the Electoral Officer responsible for the compilation of the voters list. When an objection has been lodged, the Electoral Officer shall upon expiry of the 21 days determine the objection accordingly. If the objector is not satisfied with the decision of the Electoral officer he/she may within 14 days of being notified of the decision, appeal to a Magistrate whose decision shall be final. The Magistrate shall, at the request of the objector, transmit the statement of the case to the Register of the High Court to be submitted to a judge in Chambers. The judge may, if the statement to him/her is deemed to be defective, call for further information and may give such decision and make such order to costs as he/she may deem fit.

PARTICULARS SHOWN IN VOTERS LIST

In terms of Section 7(1) the registration of Voters Order 1992, a voter's list shall show, in respect of all persons included therein:

- a) Their serial number, in numerical order if so prescribed;
- b) If so prescribed their surnames in alphabetical order and immediately thereafter their names and if their surnames are identical, their other names in alphabetical order, and
- c) Their residential address.

VOTERS LIST FOR INSPECTION

A copy of the voters' list for an Inkhundla (Constituency) shall be kept for inspection by the public at the Regional Administrative Officer and the sub-Regional Offices of every region and at the office of the Electoral Officer. Any person desiring to inspect or make copies, of, or take extract from, such voters list shall be entitled to do so without payment during office hours.

We do not have continuous registration of voters. Each time we have National Elections, we have to review our voters' list in order to accommodate those who have attained the age of 18 years and those who did not register during the last elections, also to remove the names of those deceased. However, endeavors are being made for the introduction of IDC, and also continuous registration system.

NOMINATION OF CANDIDATES

Section 5 of the Election Order 1992 clearly spells out the procedure to be followed on nomination that: On the day and the time and place specified in the writ of election and for the nomination of candidates in respect of Chiefdom, the Presiding Officer shall attend to receive nominations of candidates for election.

The number of candidates nominated by each Chiefdom or recognizable community shall not be less than four and not more than ten. The nomination of a candidate for election shall be endorsed with the consent of the candidate to nominate and be supported by not less than fifteen persons who are registered voters in the Inkhundla. The nomination of candidates shall be made on the approval Form no.12. A candidate shall at the time of his nomination deliver to the Presiding Officer a declaration on Oath on the approved Form No. 13 to his qualifications to be elected a member and also that he is not disqualified from being elected.

Following nomination a candidate shall present himself to the police for the purpose of getting a clearance certificate, which shall be delivered, to the Presiding Officer. No candidate may be nominated for election:

- a) For more than one Chiefdom or recognizable community
- b) In more than one Inkhundla
- c) Whilst he/she is a member of the House of Assembly.

A candidate may, before 4 O'clock of the afternoon of the nomination day and not afterwards, withdraw his candidature by giving notice to that effect to the Returning Officer signed by himself.

The Returning Officer shall forthwith cause notice of the withdrawal to be posted in a conspicuous position outside the place of nomination.

NATIONAL ELECTIONS

Section 4 of the Elections Order 1992 empowers the King to issue a writ of election of Members of the House of Assembly, addresses it to the Returning Officer of each Inkhundla for which members are to be returned.

The writ is forwarded to the Chief Electoral Officer for transmission to the Returning Officer.

RIGHT TO VOTE AT ELECTIONS

Section 6 of the Elections Order, 1992 state that:

- a) Any person who registered as a voter shall be entitled to vote at any election of a member of the House of Assembly, and shall be entitled to cast one vote at Primary and Secondary Elections.
- b) No person shall be entitled to vote if on the date prescribed for polling he/she is for any reason unable to attend in person at the place and time prescribed.
- c) No person shall vote at any election for a candidate who is not registered as a voter in that Inkhundla.
- d) The election of the members of the House of Assembly shall be done by secret ballot at both Primary and Secondary levels.

CIVIL SOCIETY AND ELECTORAL PROCESS

Swaziland being a non-party state, political parties do not play any role in our electoral process; however, candidates standing for election are allowed to campaign, also have agents and messengers who are allowed to watch the election process from Voter Registration, nomination of candidate up to the actual election including voting. Publications such as posters and leaflets are also printed and distributed throughout the country.

We believe our system of Tinkhundla caters for all sections of our community irrespective of one's status in society and that is why the elections are first done at the local level (grass roots) involving all the communities of a chiefdom so that the whole community can nominate and vote for people they believe can best represent their interests at the Inkhundla/Constituency and in Parliament respectively.

THE COST OF ELECTIONS

In developing countries, national elections expenses are normally met from the national budget. However, to meet the full cost it has to seek

donor funding from friendly countries and from agencies. Some of the Government who has diplomatic ties with Swaziland did assist our country to meet the costs of elections.

PRIMARY ELECTIONS

The Electoral Law States that:

- a) The elections for the members of the House of Assembly shall be conducted at Primary and Secondary levels.
- b) The Primary elections shall take place at chiefdoms and urban industrial areas designated by the Delimitation Commission.
- c) The secondary elections shall take place at Tinkhundla centers/constituencies at which the candidates shall be those persons who have been elected at the Primary level.
- d) Section 12 (4 of the Establishment of Parliament Order 1992 states: "Immediately after Primary elections and before secondary elections candidates are allowed to campaign freely, also to address the Inkhundla meeting on development and other issues they desire".

SECONDARY ELECTIONS

For the purpose of these elections the country was divided by the delimitation Commission into 55 Tinkhundla Centres (constituencies), 56 polling divisions and 257 polling stations. As mentioned above, only those candidates who won the primary elections contest in the secondary phase. Winners here go straight to the House of Assembly to represent their Tinkhundla as Members of Parliament.

PROTEST

In terms of the Election Order 1992 a candidate who is not satisfied with the outcome of the elections can challenge the elections in the Courts of Law. It is this democratic process that makes the system effective and efficient.