

NAMIBIA

Size: 823.000 square kilometers
Population: 2 million (1997)
GNP per capita: 2,220 US \$ (1997)

I- GENERAL STRUCTURE OF PUBLIC ADMINISTRATION

THE STATE AND ITS CONSTITUTIONAL BASIS

Constitutional and legal basis of public administration

Namibia is a sovereign, secular, democratic and unitary State, with the seat of governance in Windhoek. Article 28 of the Constitution provides that the President of the country is elected by direct, universal and equal suffrage every five years. Members of the National Assembly, from which the Prime Minister and Cabinet Ministers are appointed, are also elected on a proportional representation system every five years. The members of the Judiciary are appointed by the President on the recommendation of the Judicial Service Commission and the Constitution ensures their independence.

Article 102 of the Constitution provides that the country to be divided into regional and local units. In keeping with this constitutional requirement, the Regional Councils Act of 1992 and the Local Authorities Act of 1992 have been promulgated. Both Acts provide for, *inter alia*, the establishment of Regional and Local Authority Councils and define the rights, powers, duties and functions of such councils.

A common feature in respect of Regional and Local Authority Councils is that they both have substantial fiscal powers and have to adhere to established procedures, systems and regulations in the day to day handling of financial matters. Taxes and levies may be levied according to Sections 30 and 33 of the Local Authorities Act of 1992 and the Regional Councils Act of 1992 respectively.

1.1.2- The decentralization process

The 1992 elections, which introduced the regional and local government structures, marked the beginning of bringing government closer to the people. The bottom-up approach was accepted as the governing principle. In line with this, Cabinet adopted a deliberate policy on decentralization in 1996. Further to this decision, Cabinet reviewed the existing legislative framework of regional and local authorities and proposed the relevant amendments. Currently, ministries are being consulted to indicate which of their services could be decentralized to regional and local authorities. This is being done to ensure that the necessary resources and capacity are transferred and subsequently built at local levels.

Decentralization in the Namibian context should not be understood as a means of separating national governance from local governance. As an integral part of the system of government and administration, regional and local authorities will be entrusted with devolved responsibilities, functions and resources within the framework of the unitary State.

Principal legal basis for the decentralization policy in Namibia is provided by a number of legislative instruments as follows:

- Article 12 of the Constitution
- The Regional Councils Act of 1992
- The Local Authorities Act of 1992
- The Traditional Authorities Act of 1995
- The decentralization enabling bill

II- LEGAL DIMENSION OF PUBLIC ADMINISTRATION

2.1- CURRENT LEGAL SYSTEM

2.1.1- Over-regulation/deregulation

Namibia inherited colonial laws, many of which over-regulated the activities of government. Such over-regulations have not only proved cumbersome, but also caused delays in implementation. Due to these constraints, government at independence started off by commercializing some of its services with a view to bringing commercial efficiencies. For example, telecommunication services and postal services were allowed to operate as commercial entities giving them more freedom in deciding on how their business is conducted. Similarly, bodies like the Road Transport Authority, the Airport Company, Port Authorities, Water Utilities, Power Utilities and Wildlife and Resorts have been commercialized to allow them similar freedom. Commercialization is seen as a first step towards eventual privatization.

2.1.2- “Public bidding” practices and procedures

As for public bidding procedures in procurement, the Tender Board Act (Act No.16 of 1996) has been passed. This Act established an autonomous Tender Board of Namibia, which is vested with authority to adjudicate on tenders. Details on the procedures to be followed when adjudicating are provided for in the Act.

2.1.3- Legal system protecting the citizen against the decisions of the public authorities

Article 18 of the Constitution provides for a procedure for citizens who are aggrieved by decisions taken by administrative authorities. For example, the **Public Service Commission Act of 1990** gives the Commission the power to recommend to the Prime

Minister procedural fairness on appointments, promotions, transfers or dismissals of civil servants. Civil servants may lodge a complaint with the Public Service Commission should they feel aggrieved. Apart from the internal procedures of the public service, the **Ombudsman Act of 1990** gives powers to the Ombudsperson to investigate unfair practices in the country.

III- CIVIL SERVICE

3.1- CURRENT SITUATION

3.1.1- Legal basis

At independence in 1990, the civil service was largely composed of minority white people. At the same time, there were thirteen second-tier ethnic authorities. The new government had to transform all the thirteen second-tier authorities into one national government. Equally, people who were left out of the public service because of their colour, gender or political affiliation needed to be brought on board. This task was made somewhat difficult by Article 141 of the Constitution that did not allow for the removal of any of the inherited civil servants. The only alternative to balance the civil service was therefore to expand the civil service by bringing on board those who were left out in the past.

3.1.2- Recruitment and career

To operationalize the provisions of Article 32(g) of the Constitution, Parliament passed **the Public Service Act (Act 13 of 1995)** which provides for the establishment and management of the public service, employment regulations, conditions of service, discipline, retirement and discharge of staff members in the public service and other incidental matters. This Act provides for competitive entry criteria. When vacancies exist, they are advertised in the print media for a period of four weeks. Applicants are screened and short-listed based on their experience and qualifications. A Selection Committee is constituted to interview the short-listed candidates. Names of the first three successful candidates are forwarded to the Public Service Commission for its recommendation and subsequently for the approval of the Prime Minister or his delegated authority.

3.1.3- Retirement and pensions

Namibian citizens hold office until they reach the age of 60. Early retirement on reaching the age of 55 is also possible on the approval of the Prime Minister. Foreigners are appointed on two-year contract.

Retirement and pension benefits are provided for in the Pension Act of 1956. A pension fund has been established and is governed independently by the Government Institutions Pension Fund (GIPF). The employer and the employee contribute to this fund in the ratio of 2:1.

3.2- BASIC STATISTICS RELATIVE TO CIVIL SERVICE

3.2.1- Average academic preparation

There are 278 job categories for which entry requirements are laid down. No qualifications are required for the lowest grades. University degrees and professional qualifications are prescribed for more complex and professional job categories. The pay structure consists of a band grade system. Separate pay structures exist for the civil service, defense force, police, prison service and teachers.

3.2.2- Total aggregate numbers and male/female civil servants

A layout of the percentages of male and female members of the civil service including the teaching service but excluding the defense force and police force are as follows:

- No of civil servants: 29,152
- Teachers: 25,308
- Defense force personnel (including police force): 14,000
- Proportion of civil service wage bill (excluding teachers and security forces) as part of government budget: 22.57%.
- Size of civil service (excluding teachers and security forces) as percentage of population: 1.8%
- Male to female ratio at management level: 5.28:1
- Male to female ratio at non-management level: 0.83:1

3.3- DEVELOPMENTS IN PROGRESS

The Public Service Act provides for permanent employment in the public service, but it is now proposed that senior staff members' performance be evaluated every five years. Pay structures have been modified in line with the recommendation made by a Commission on Wages and Salaries appointed by the Prime Minister in 1995. An Efficiency Charter Unit has been established to enhance efficiency and effectiveness with a view to fully developing the concept of value for money.

IV- CIVIL SOCIETY CONFRONTING PUBLIC ADMINISTRATION

4.1- PUBLIC OPINION POLLS AND ATTITUDE OF THE MOST IMPORTANT MEDIA

Namibia is a liberal democracy where freedom of opinion, expression, the media and association are constitutionally guaranteed. Although no public opinion polls have yet been conducted, the pulse of the public is being gauged on an *ad hoc* basis through the contribution of callers to call-in radio programmes, through articles in the print media

and through regional visits by the President, the Prime Minister, Ministers and Public Service Commissioners, who meet with the communities to seek their opinion, expectations and demands. Cabinet Ministers and senior civil servants respond on feedback programmes to queries posed by callers to the call-in radio programmes. The Prime Minister also addresses queries on policy matters directed to him through a radio programme called *Prime Minister's Question Time*.

The Cabinet offers a weekly briefing session for the media, during which the opinion of the media is received. An example of this is that when Cabinet had resolved to consider offering retirement packages to ministers, the media dubbed the exercise a *Gravy Train* and vehemently opposed it. The government took heed of the opinion of the media and the decision never got implemented.

4.2- ROLE OF NON-GOVERNMENTAL ORGANIZATIONS (NGOs)

The Namibian civil society spectrum is composed of, first and foremost, an umbrella body known as the Namibian Non-Governmental Organizations Forum (NANGOF). Its membership varies from human rights NGOs (e.g., Legal Assistance Center) environmental NGOs (e.g., Save the Rhino), relief/welfare agencies (e.g., Red Cross), community-based NGOs (e.g., Nyae Nyae Foundation), agricultural associations (e.g., Namibia Farmers Union), education NGOs (e.g., Nkarapamwe), NGOs that deal with gender-related issues (e.g., Women Solidarity), lobbyists (e.g., National Democratic Institute), research NGOs (e.g., Centre of Applied Social Sciences), religious associations (e.g., Council of Churches of Namibia) and numerous others.

4.3- DEVELOPMENT IN PROGRESS CONCERNING NGO ACTIVITIES

A **legal framework** is provided under *Section 21 of the Companies Act, (Act 61 of 1973)* which permits the formation of associations that are not for gain. However, it is being considered whether an NGO Act would serve this sector more effectively. Discussions are in progress within the context of the Southern African Customs Union to exempt NGOs from paying taxes on donated goods or purchased items that they utilize in the furtherance of their aims. NGOs are today exempt from general income tax obligations.

V - ETHICS AND PUBLIC SERVICE

5.1- THE REPUTATION OF THE CIVIL SERVICE

In certain circles, a perception is held by white-owned newspapers that the public service is inherently corrupt. This perception seems not correct. In fact, according to *Transparency International*, Namibia is rated the second least corrupt society in Africa,

after Botswana. Globally, Namibia is ranked forty-second. The government, however, is not taking the perceptions lightly and is committed to establishing an independent body to which all public servants will be obliged to declare all their assets and interests. This initiative is expected to bear fruit in the second half of 2000.

5.2- THE LEGAL BASIS

Section 17 of the Public Service Act compels all staff members and members of the services to place their time at the disposal of government. This section also emphasizes that civil servants should conduct themselves in such a manner that will not embarrass government. To this end, a code of conduct has been developed for the civil servants.

Sections 25-29 of the Public Service Act defines misconduct and the procedures to be followed when a member of the public service is found guilty of misconduct. **The Public Service Charter** aims to help public service deliver prompt and efficient services.

5.3- MAIN ISSUES OF RECENT REFORMS

Recently, **individual ministries have drawn up their own charters** to further gear their services towards courteousness and helpfulness. These charters are based on the following principles:

- ***Standards:*** Setting, monitoring and publishing clear standards of service that individual members of the public can reasonably expect.
- ***Information:*** Providing information about public services in a straightforward and open manner that is readily understandable.
- ***Courtesy and Helpfulness:*** Providing a courteous and helpful service suitable to the convenience of those entitled to the service. Such services are being provided by public servants who can be identified readily by their customers as they would be wearing name badges.
- ***Consultation and Choice:*** Ensuring that there is regular consultation and communication with those who use services and, having taken their views and priorities into account, providing a choice wherever possible.
- ***Accountability:*** Providing details of performance against targets and identifying who is responsible.
- ***Openness:*** Disclosing how public services are managed and the cost and performance of specific services.

- Non-discrimination: Ensuring that services are available and applied equally to all.
- Quality of Service: Publicizing straightforward complaints procedures with independent reviews where possible. Providing, where errors have been made, an apology, full explanation and early correction of the error.
- Value for Money: Providing efficient and affordable public services.

VI- MANAGEMENT AND GOOD GOVERNANCE

6.1- IMPORTANCE OF THE USE OF MANAGEMENT INFORMATION TECHNIQUES IN PUBLIC ADMINISTRATION

The government has realized that information and communication technologies can be used in enhancing efficiency within the public service and to this end, the government has set up a **Public Service Information and Technology Management Unit (PSITM)** within the Office of the Prime Minister to coordinate the information technology initiatives of the government.

Individual ministries and agencies of the government are increasingly using *computers* for their internal budgeting exercises; for communication (with e-mail; accessing the Internet for broader information spectrum); to process payments; to facilitate procurements; for archiving; for statistical and economic analysis (e.g., treasury and planning) and for the general administrative tasks (e.g., secretarial work).

Various offices, ministries and agencies are now busy integrating the content to make IT an effective management tool. In fact, the government's *intranet* already makes a number of databases accessible to authorized persons.

Workshops are currently being conducted under the auspices of the PSITM *to have a central web page* designed for the government and to create individual web pages for each ministry/agency to be run by web masters. The entire Cabinet has also been undergoing training on information technology to prepare itself properly for this new information age. Thus, computer linkage is progressing well within the public service, and their utility has undoubtedly increased as more public servants have become e-literate.

6.2- INTRODUCTION OF MARKET-ORIENTED PROCEDURES IN PUBLIC ADMINISTRATION

Public service inevitably needs to render its services and gear its performance in a market-oriented manner. To that extent, where services are better rendered by the

private sector, services are contracted out via a tender bidding system (e.g., certain IT facilities, administration of the Medical Aid Scheme of the government). Other services that are sourced out include the provision of electricity (Northern Namibia Electricity), the provision of bulk water (Namwater), refuse removal and some specialized artisan works. The Public Service Charter prescribes a **value for money approach** and it is the underlying premise in the planning and consideration of administrative decisions in the public service. Ideas of **rightsizing the government** and improving fiscal control are underpinned by this approach.

The Prime Minister, as head of the civil service meets with the civil service at the beginning of each year and sets the agenda for the year ahead. In all such gatherings, he calls upon the civil service to adopt a customer-oriented approach to their work so as to give the taxpayer value for money.

The government has also been **commercializing some of its services**. This ensures that the service is rendered in competition with other service providers in the private sector on a value for money basis, i.e., in the most efficient, yet cost-effective, manner.

VII- SENSITIVE BRANCHES OF PUBLIC ADMINISTRATION

7.1- EDUCATION

Provision of education is a priority of the government and therefore 30% of the national budget goes to education. This high level of expenditure is necessitated to repair the damage done by the discriminatory practices of the apartheid regime. The government has had to restructure the education system and has now transformed it into a learner-centered education that is truly a capacity-builder as opposed to the previous racially stratified curricula. Government has put in place two ministries--one dealing with basic education and the other concentrating on tertiary education and vocational training. Basic education in Namibia is free.

7.2- ENVIRONMENT

Namibia is proud that it has laid a constitutional basis for environmental protection as listed under the Principles of State Policy, Article 95(l) of the Constitution. As it is incumbent upon the government to maintain the fragile ecosystem of our country, the **Ministry of Environment** sees to it that necessary action is taken through the introduction of legislation that *protects the forests, fragile swamp areas*, endangered species and the desert areas. Previously, communities were displaced to create game parks and resorts without any direct benefit to the displaced communities. The government has resolved to empower communities and has promoted community-based tourism in the

creation of conservancies. In this exercise, the communities earn revenue and maintain their environment on a sustainable basis. Recently, however, Namibia has seen a clash between developmental programmes and cultural rights as it sought to take the Epupa dam project further. The government hopes to resolve this matter constructively.

Another sensitive environmental sector is the *fishing industry*. At independence, an exploitative regime was inherited that was not only detrimental to the marine environment, but also drained state coffers of a great deal of revenue. The government has now promulgated laws to exploit marine resources in Namibia's territorial waters sustainably. A regime of fishing quotas has been put in place. Under these laws, culprits illegally fishing in Namibian Exclusive Economic Zone have been dealt with and the efforts have demonstrably been successful. Although no specific agency administers the allocation of fishing quotas and attendant matters, procedures have been laid down for the Ministry of Fisheries and Marine Resources to provide the necessary checks and balances for the carrying out of this task.

7.3- SOCIAL POLICIES

Overcoming social deficits created by the apartheid regime is one of the preoccupations of the government. The government has repealed discriminatory laws, especially those that promoted gender discrimination. As a matter of fact, affirmative action is an aspiration contained in the Constitution (Article 23) and to that effect the government has passed the **Affirmative Action Act of 1999** to cater for furthering the cause of all categories of previously disadvantaged groups. These continuing efforts have had a very positive impact within the short period of just ten years.

VIII- GLOBALIZATION

Governance mechanisms in Namibia are undergoing a transformation and the concept of partnership of all the stakeholders is being encouraged. Increasingly, the world is turning into a single market place and globalization and free market economy are new orthodoxies. The government appreciates that capacities need to be built and policies need to be put in place to prepare our economy for participation in the global arena. To participate meaningfully, the government has entered into a **working partnership with the private sector** and all role-players to build a cohesive team that will represent Namibia's interest in a globalized world.

Equally, the government has striven to meet other requirements essential for the country's meaningful participation in a globalized world. Government has maintained peace and tranquillity and has put in place investor protection regimes that deal with, among other things, repatriation of profits. Where disputes arise, the relevant

legislation provides for binding arbitration, giving the investor confidence when investing.

Namibia is a member of a number of regional and global bodies, such as SADC, SACU, COMESA, OAU and UNO. Our interactions with other States have reaped enormous successes, with the most recent bilateral cooperation being between Namibia and South Africa, and Namibia and the World Bank for preparing our IT systems for Y2K compliance.

IX- THE MOST IMPORTANT CHALLENGE

Apartheid created enormous regional and racial disparities. Wealth was largely concentrated in the hands of whites. Though the majority of the people were poor, per capita income was high. As a consequence, Namibia was and continues to be considered a middle-income country and is therefore not eligible for concessional loans.

The government had to correct this inequity by raising the standard of living of people. Considerable progress has been made in this area. Today, the relatively high net worth population has expanded from 4% to some 14%, and attempts are being made to improve services, facilities and access to opportunities in all the regions, particularly in rural areas. In order to build the new knowledge society, one must overcome the rural urban digital divide. Therefore, education is being emphasized, and infrastructure, such as provision of electricity, is being expanded to rural areas. It will also be necessary to build digital villages in order to expose our citizens, young and old, to new opportunities in a new milieu. Through these diverse efforts, the government hopes to bring the marginalized people and areas into the market economy.