State, Society and Democracy
A Reader in Namibian Politics

Edited by
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Acknowledgements

We proudly present the reprint of this publication, issued against the background of growing public demand for its availability in view of its ongoing relevance. The first edition was first published in 2000 and sold out quickly. It soon became a key resource and textbook for students and researchers from a variety of academic disciplines in Namibia and elsewhere, and received attention in political circles.

Since the book was first published on the occasion of the 10th anniversary of Namibia's independence, this reprint could be considered as a contribution towards Namibia's 20th anniversary in 2010. Although certain aspects of some of the contributions may seem outdated, they have remained highly topical.

Through this reprint it has also became possible to publish the book electronically on the Konrad-Adenauer-Stiftung (KAS) website (www.kas.de/namibia). In this way, the contents are accessible to a broad international readership, drawing more and worldwide attention to state, society and democracy in Namibia.

It is obvious that this book is a collective effort. The authors and those that commented on their work deserve a special word of appreciation for making themselves and their ideas available for this project. Appreciation goes to KAS for funding the publication and the workshop that preceded it. Dr Burkhard Dobiey, in his capacity as Resident Representative of KAS at the time, deserves a special mention for his support and patience.

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List of Abbreviations

ACN	Aksie Christelik Nasionaal
ACP countries	Africa, the Caribbean, and the Pacific
ANC	African National Congress
CASS	Centre for Applied Social Sciences, University of Namibia
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMA	Common Monetary Area
CoD	Congress of Democrats
COMESA	Common Market of Southern and Eastern Africa
DCN	Democratic Coalition of Namibia
DFI	direct foreign investment
DRC	Democratic Republic of the Congo
DTA	Democratic Turnhalle Alliance (now "DTA of Namibia")
EPZ	Export Processing Zone
EU	European Union
FCN	Federal Convention of Namibia
IFI	international financial institution
ILO	International Labour Organisation
IMF	International Monetary Fund
ISI	import substitution strategy
MNC	multinational corporation
MPLA	*Movimiento Popular para la Liberacão de Angola*
MUN	Mineworkers' Union of Namibia
NANGOF	Namibian Non-governmental Organisations Forum
NANTU	Namibian National Teachers' Union
NAPWU	Namibian Public Workers' Union
NDF	Namibian Defence Force
NDP1	First National Development Plan
NEF	Namibian Employers' Federation
NGO	non-governmental organisation
NIC	Newly-industrialised Country
NNF	Namibia National Front
NUNW	National Union of Namibian Workers
OAU	Organization of African Unity
PAC	Pan-African Congress
PLO	Palestine Liberation Organization
PSUN	Public Service Union of Namibia
RMS	Rhenish Mission Society

SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Co-ordination Conference
SWANU	South West African National Union
SWAPO	South West African People's Organisation (now "SWAPO Party of Namibia")
SWAPO Party	see SWAPO
TICAD II	Second Tokyo International Conference on African Development
TRC	Truth and Reconciliation Commission
UDF	United Democratic Front
UN	United Nations
UNAM	University of Namibia
UNAVEM	United Nations Angola Verification Mission
UNDP	United Nations Development Programme
UNITA	*União Nacional de Indêpença Total de Angola*
UNTAG	United Nations Transition Assistance Group
USAID	United States Agency for International Development
WRP	Workers' Revolutionary Party
WTO	World Trade Organization

Introduction
Christiaan Keulder

Namibia achieved its independence at a time when many other countries adopted democracy as an alternative form of rule to what at some point must have been regarded as firmly entrenched authoritarianism. This so-called "Third Wave" of democracy (Huntington 1991) started during the mid-1970s in southern Europe and spread to Africa during the 1990s.[1] On the African continent, the early 1990s were characterised by significant positive changes to existing non-democratic regimes. African politics after 1990 saw an increase in political competition and leadership turnover, as well as significant changes to the rules of the game (Bratton & Van de Walle 1997:7-8).[2]

Making a successful transition from authoritarian to democratic rule is but the first step toward consolidating it. Generally speaking, democracy must become institutionalised and among elites, organisations and ordinary citizens alike, it must become the "only game in town" (Lintz & Stepan 1997:15). As Diamond (1999:65) writes, –

> [I]t is the deep, unquestioned, routinized commitment to democracy and its procedures at the elite and mass levels that produces a crucial element of consolidation, a reduction in the uncertainty of democracy, regarding not so much the outcomes as the rules and methods of political competition.

Namibia's democracy is now ten years old. Against the backdrop of more than a century of colonial rule, democracy here is in its infancy. The fact that Namibia, as a modern political entity, has been under control of oppressive forces for a far l-onger time than that spent under democratic rule is a feature it shares with other Third Wave democracies on the African continent.

In this book, we take stock of Namibia's progress towards a consolidated democracy. In doing so, we look at the influence of two forces on democracy: the Namibian State and Namibian society. These two loosely represent our independent variables, and democracy our dependent variable. We reflect on both the institutional and normative aspects of consolidation, doing so against the backdrop of the country's colonial past.

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[1] A *wave of democratisation* is defined as a "group of [democratic] transitions that occur within a specified period of time and significantly outnumber transitions in the opposite direction during that period" (Huntington 1991:15).

[2] Bratton and Van de Walle (1997:7-8) list the following evidence: Between 1990 and 1995, 38 countries in sub-Saharan Africa held competitive elections as opposed to the nine that did so before1990. Secondly, ten leadership replacements in favour of opposition parties took place through elections between 1990 and 1994, compared with one such replacement before 1990; and finally, by 1994, not a single *de jure* one-party State remained in Africa.

The Three Key Concepts

State

A State requires citizens and a territory, as well as international recognition. A State exists because of its people and not the other way around. States regulate societies and societies interact with the State in either an organised or an unorganised format. Both States and societies are, hence, agents of social and political change and transformation. Most definitions of *State* emphasise three core elements: its institutional character, its functions and its recourse to coercion (see e.g. Migdal 1994:11). Rueschemeyer and Evans (1985:46-47) define *State* as follows:

> [The state is] a set of organisations invested with the authority to make binding decisions for people and organisations juridically located in a particular territory and to implement these decisions using, if necessary, force.

Stepan (1978, cited in Skocpol 1985:7) goes a little further:

> The state must be considered as more than the "government". It is the continuous administrative, legal, bureaucratic and coercive systems that attempt not only to structure relationships between civil society and public authority in a polity but also structure many crucial relationships within civil society as well.

The State differs from the Government in several important ways. Firstly, the State is more permanent than the Government, as the latter is used to refer only to the elected part of the State (i.e. the legislature or the Government-of-the-day). In other words, the State's tenure does not depend on the electorate. Secondly, the State is also much more than the Government: it includes the bureaucracy (from line ministries and central planning agencies to field offices), the coercive agencies (Police, army and courts) and, sometimes, even elements of society (e.g. traditional leaders, where they are paid to perform State functions).

The State is, however, neither omnipresent nor omnipotent. Migdal (1999:223) argues as follows:

> No matter how vaunted the bureaucracy, police, and the military, officers of the state cannot stand on every corner ensuring that each person stop at the red light, drive on the right side of the road, cross at the crosswalk, refrain from stealing and drug taking, and so on.

Broadly speaking, States require different types of capabilities: symbolic, extractive, coercive and incorporative. These capabilities are more often than not assumed to be present when we define *State*, as Migdal (ibid.) reminds us.

Over the past two decades, much has been made of the weakness of African States. Indicators of their weakness include their suspended nature, neo-patrimonial rule, clientelism and felonious activities within the civil service.[3] A student of the

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[3] The body of literature that deals with the African State (if there is indeed such a single entity) in one way or the other is voluminous. Some examples are Badie (2000); Bayart, Ellis & Hibou (1999); Bayart (1993); Chabal & Daloz (1999); Chabal (1986); and Hyden (1983).

African State would do well to find one that escapes the grip of what has now become a stereotypical set of weaknesses. This is because the main approaches to the study of the State in Africa suffer from at least three serious shortcomings.

The first of these shortcomings in the literature concerns treating the State in Africa as a homogeneous entity across all African countries, i.e. that all African States are essentially the same. Not only are scholars rarely selective in terms of the cases from which they derive their observations, they also tend to reach untenable conclusions based on those observations. A case in point is the volume by Chabal and Daloz (1999). Their primary concern involves what is usually called "Black Africa". For Chabal and Daloz (1999:xxi), Black Africa comprises "the former European colonies lying south of the Sahara", which excludes the countries of North Africa (from Morocco to Egypt). Chabal and Daloz (ibid.) also leave aside South Africa, "whose history is so distinct as to make comparison difficult at this stage". Furthermore, they state, they are –

> ... aware that some parts of our analysis do not apply as well to the Horn of Africa, where areas like Ethiopia, Eritrea, Somalia and Northern Sudan have dissimilar social structures and have had a different political experience. We do not, therefore, intend the generic term "Africans" to be understood as a blanket statement about all the inhabitants of the African continent. Our use of the term "continent" thus refers to the area defined above.

After eliminating the obviously "difficult" or "different" cases from their scope, they conclude that (1999:162) "*... there prevails in Africa a system of politics inimical to development as it is usually understood in the West*" (emphasis added).

It is difficult to understand the ease with which these broad brushstrokes are applied. For example, the scope of institutionalised corruption in Nigeria is surely different from that in Botswana – or Namibia for that matter. Similarly, the collapsed States of central Africa are very different from those found in much of southern Africa. The States that preside over the Democratic Republic of the Congo (DRC) or Rwanda and Burundi are in no way the same as those that preside over Namibia, Botswana or even Uganda. Why put them in the same (African) hat if they seem to share little more than the fact that they preside over societies and territories located on the African continent?

Even if they do indeed share some features with other States on the continent, such features should not be treated as the defining characteristics of all African States. Institutionally and culturally, States in Africa differ as much from each other in important respects as the States of Latin America, southern Europe or south-east Asia do.[4]

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[4] The Southern African Democracy Barometer is a recent endeavour that highlights important differences and similarities in the political cultures that prevail in six southern African countries (see Mattes, Bratton, Davids & Africa 2000).

A second shortcoming in the literature is that it treats the State as a monolith: solidly uniform in terms of all aspects comprising the institutional set-up. This approach assumes no difference in the motivations, methods or experiences among those at the top of the chain of command or among those at the bottom of it. In terms of this approach, the State is client-based as a whole, weak as a whole, or corrupt as a whole.

According to Migdal (1999), a third shortcoming is that many of those that study the State treat it as an isolated independent variable: they first study the State, and only then see how it fits in with other structures. Migdal (ibid.:211), for example, maintains the following:

> If we are to understand the inherent limitations of states we must develop a focus on process, one that starts with the web of relationships between them and their societies. At the heart of the modern state's successes and failures, especially in its ability to gain obedience, is the nature of its relationship to those it claims to rule.

To understand the relationships between State and society, one needs to disaggregate both: different strokes for different folks. One should look at who needs the State and why; and conversely, why the State engages with some bodies and groups but not others. It is also important to identify who in the State engages with whom in society, and vice versa. Hyden's (1983:16) acclaimed study on the peasantry in Tanzania is a good example of how a specific social grouping does not need to interact with the State:

> The state is not linked to the system of production in the same way as it is in other modes. The basic units of production are not only socially independent of each other but also of the state. It plays no necessary role in production. Appropriations by other classes through such instruments as taxation are simple deductions from an already produced stock of values. The peasants do not need the state for their own reproduction. They would prefer to be without its interventions. On the other hand, it is impossible to conceive of other social classes reproducing themselves without access to state power.

Thus, not all segments of society interact with or need the State, whether in part or in its entirety. Similarly, the State does not interact with or need all of society, nor does it interact with or need certain parts of society. To disaggregate the State and to look at the various levels and components and their relations and networks with the society, as a whole or in part, is what Migdal (1999) refers to as the "State-in-society" approach.

Society[5]

The previous section establishes the importance of society for our understanding of politics. This is not a new idea. The notion of *society*, and the forces that regu-

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[5] For the first section, a very brief overview of Western thinking on the notion of *(civil) society*, I rely heavily on the excellent book by Steven DeLue (1997).

late and shape it, have occupied academic minds for a very long time. More specifically, it is the idea of a *civil society* that has filled the pages of many scholarly pursuits in this regard. As a backdrop to our discussion and application of this important concept, an overview of the dominant (classic Western) tradition is provided, followed by the responses to this tradition. In a later section, the notion of *society* as it used in this volume is clarified.

(Civil) Society: The Classic Western Tradition

As far back as Plato's *Republic* (see DeLue 1997:33), we find evidence for the need among individuals to form societies. People cannot secure their survival on their own, nor can they provide for all their needs. For shelter, they need builders; for food and other produce not found in their immediate circles, they need markets.

However, there is more to the development of societies than the mere need to survive. According to DeLue (ibid:52), Aristotle argued that individuals on their own are unable to create the basis for their own happiness, i.e. to provide for their own and others' moral well-being. It is through society that individuals learn to live a morally good life, and it is through society that they learn to live for the common (as opposed to the individual) good. For Aristotle (ibid:54), friendship was at the core of the notions of *society* and *community*, because it brought people together and inspired them to collaborate for common purposes and the "large questions" that they might face.

It was the Enlightenment thinkers such as Thomas Hobbes and John Locke (cited in DeLue 1997:137) that introduced such key notions as *liberty*, *rights* (especially property rights) and *limited government* into our understanding of what constitutes the basis of society. Furthermore, the idea of a *social contract* (between the ruler and the ruled, and among the ruled themselves) was introduced by Hobbes and refined by Locke. According to this social contract, the (limited) State must protect the rights of individuals; Locke's refinement introduced the notion of (religious) *tolerance* as a further civic virtue that would ensure the rights of individuals were respected.

DeLue (ibid.:167) reminds us it was Emmanuel Kant's argument that, for society to exist and function in a manner that is "right", individuals are obliged to accept the authority of the State. Such a society is based upon the existence of laws, a constitution, and a State that upholds those laws in order to protect the rights of its people. Kant also saw the need for the proper use of coercion (ibid:166), whose aim was to ensure that freedom was unfettered. Again to ensure that individual freedom was protected, Kant identified the need for individuals to treat each other as "ends" and not as "means to an end". Thus, like Locke, Kant was emphasising mutual respect as a civic virtue.

Over time, as production became more specialised and needs more specific, those providing the goods and services developed into classes of their own. Modernity, and its economic manifestation, industrialism, introduced new standards for productivity. With those new standards came new roles and a far more complex and sophisticated division of labour (Gellner 1986:24). This change, more than anything else, had a fundamental influence on our understanding of society. Firstly, interests became more specific and much more organised. This resulted in a sphere of activity developing between the State and the individual/family. This sphere consisted of organisations whose purpose it was not to rule, but to represent.

Secondly, the sphere was characterised by great inequality; it became a zone of conflict, where "everyone's private interests met everyone else's" (DeLue 1997:182). This formed the basis of Hegel's notion of *civil society* (cited in DeLue 1997:182), namely, a separate sphere of interests existing outside the State. Hegel's notion of *civil society* is closely tied to the idea of a market: individuals are driven to create new needs and these demand new products. Work is the entity through which we produce the goods to satisfy our needs, and greater specialisation and a more complex division of labour is required to produce effectively. This resulted in the development of a division of classes, which division became the defining characteristic of Hegel's *civil society* (and, subsequently, Marx's critique thereof).[6]

Civil society, as we came to know it through the Western tradition, does not only develop in congruence with the liberal market economy, but is also strongly associated with the development of political liberalism. This is clear from the views of Hobbes and Locke. John Rawls (cited in DeLue 1997:225) is very explicit about this when he argues that society can only continue to exist if people uphold the values of overlapping consensus. Constitutional democracy, Rawls (ibid.) maintains, can only exist where and when people honour the principles of consensus. For Rawls (ibid.), liberal political values are best at facilitating overlapping consensus; overlapping consensus in a society, he argues, is produced by civic education, non-interference by the State (the State must be neutral), and public reasoning about public issues.

The Western tradition emphasised two aspects of civil society. Firstly, civil society differs institutionally from the State, and is autonomous in relation to the State, the family, the clan and the locality. Secondly, civil societies contain "civil manners" that regulate the conduct of relations among individuals and groups within a society, and between individuals, groups and the State (Du Toit 1995:36). Shils (1991) uses the prevalence of *civility* to distinguish "civil" society from "uncivil" society. The notion of *civility* encapsulates such norms as tolerance, cooperation, accountability, openness, trust and respect for the rule of law (Du Toit 1995:38).

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[6] I do not include Marx and others' critiques here because of the risk of drawing attention away from the liberal (Western) roots of the concept of *civil society*, which is used in much of the literature today and remains entrenched in the liberal (Western) tradition.

(Civil) Society: Alternative Views

Antonio Gramsci (1991:12), perhaps the most influential Marxist theorist on the subject, locates *civil society* at the superstructural level, and uses the concept to refer to those organisations commonly called "private". Civil society coexists at that level with "political society" (or "the State"). Civil society is perceived to be the result of social practices and social relations (other than coercion) among a great many groups and organisations (other than the State). Civil society is the sphere of ideology (and, hence, where intellectuals are most active), where rule-through-consent or hegemony is established in order to maintain the political order by means other than naked coercive force.

According to Simon (1991:70-71), Gramsci's notion of *civil society* includes the family, for it is here that women are employed in performing domestic labour and reproducing labour power – economically and biologically. The political order of the day can only survive if the working class (which clearly includes women) and women in general give active consent to their oppression, i.e. when the bourgeoisie achieves hegemony. Civil society contains, almost by definition, the class struggle; but here, the struggle is primarily an ideological one.

Feminists attacked the mainstream notion of *civil society* by highlighting the tension between the individual as a holder of rights, i.e. one who has the freedom to determine his or her own way of life, and the individual as the citizen, one who must accept the guidance of the norms of civic virtue (DeLue 1997:313). The first component emphasises freedom, while the second contains oppression. Furthermore, a distinction is made between a public and a private realm. The public realm contains the market, the workplace and the political setting; the private realm is the setting of friends, family, religion, sexual relations and voluntary associations (ibid.). Oppression occurs when values belonging to the private realm (e.g. religion) are carried into the public realm to prevent all or some – but especially women – from participating in the business of the public realm (e.g. to influence policy).

This type of civil society exists when all respect the rights of all others and, hence, when individuals or groups accept the limit to which they can exercise their private values in the public realm. Thus, the onus is on the private realm to teach individuals to conform to the norms of public life (DeLue 1997:314).

A third alternative to the mainstream tradition is derived mainly from sources (e.g. Harbeson 1994, Hann 1996) that study societies and States other than Western ones, i.e. the so-called area studies, which include Latin America, Africa and former Eastern Europe. The adherents of this approach have to come to grips with whether or not to use the concept of *civil society* at all. The key problem in this regard is that these non-Western societies are not organised to the same extent and along the same lines as their Western counterparts. Furthermore, unlike in the

West, the market does not dominate many of these societies, and they contain a great variety of values or core notions of *civic virtue* that differ from those in the West.

Harbeson (1994:14), for example, argues that the concept of *civil society* is useful for understanding how political processes in African societies emerge to shape and be shaped by governmental institutions. The notion allows the nature of the interfaces and interdependency between the State and society to be studied. In their conceptualisation of *civil society*, all the authors in the volume edited by Harbeson (1994) distinguish between *civil society* and *society in general* on the basis of civil society's political functions.

Writing about former Eastern Europe, Hann (1996:14) argues for a need to shift the debates around *civil society* away from formal structures and organisations and toward values, beliefs and everyday practices. Like in Africa, life in Eastern Europe is fairly unorganised and much of what happens between the State and the citizens is not necessarily channelled through formal associations.

How do we then move the concept of *civil society* forward, out of the Western, moralistic mode, and make it useful for our understanding of how African (and other non-Western) States and societies interact? Harbeson (1994:26) proposes that the concept be transformed from a prescriptive one into an empirical, operationalised one. Hann (ibid:2) calls for more ethnographic investigation that "... would focus on how these ideas are manifested in practice, in everyday social behaviour". In this regard, Harbeson (1994:21-26) provides a useful set of research questions:

- Who makes up civil society?
- Whose and what interests are being pursued?
- What is the function of civil society in its relationship to the state?
- How well is civil society institutionalised?
- What are the forces that strengthen and/or weaken civil society?

The current volume reflects on some of these questions in the Namibian context. Furthermore, as outlined earlier, there is more to society than the "civil" or organised part. For this reason we also a look also at aggregated, individual-level opinions. We do not restrict ourselves to the organised form of interaction between the Namibian State and society (for example, voters in Namibia can hardly be described as "organised"). The focus, hence, is not only on those with explicit political goals (civil society), but also on the average citizen (society).

Democracy

For many, the slogan "Government for the people, by the people" encapsulates what *democracy* is all about. However, that very slogan has been used to defend the actions and operations of a range of political orders: from the United States of America to the former Soviet Union and Uganda, under Idi Amin. How do we

distinguish democratic systems of rule from non-democratic ones? From the above examples such a distinction clearly cannot rely on the names or descriptions that States give themselves. Most people understand *democracy* to mean two things: "rule by many" (as opposed to rule by one or a few) and "regular elections". This, however, is not enough: the former communist regimes also had "rule by many" and held "regular elections". May (1978, cited in Saward 1994:13) argues that –

> ... there should be necessary correspondence between the acts of government and the equally weighted express wishes of citizens with respect to those acts.

Responsive rule or *democracy*, as May (ibid.) defines it, requires basic freedoms such as those of association, speech, movement and worship. It further requires citizenship and the right to participate in all public affairs, such as the right to vote, the right to run for public office, and the right to be a legal part of the polity. Finally, it requires a number of social rights, such as the right to an adequate education and adequate health care. When brought together, these rights and freedoms constitute the ideal democracy or what Dahl (1971) has termed a *polyarchy*.

Why democracy? What makes democracy so special? Why not another type of regime? Niebuhr (1950, as cited in Huntington 1997:13) presents a moral argument in favour of the choice of democracy:

> Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary.

The venerable Winston Churchill (1947, cited in Rose, Mishler & Haerpfer 1998), on the other hand, argues from a realist's point of view:

> Many forms of government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect and all-wise. Indeed, it has been said that democracy is the worst form of government, except all those other forms that have been tried from time to time.

Echoing Churchill to some extent, Schmitter and Karl (1996) point out that although democracy is better than any other system in delivering political goods such as electoral competition, freedom, majority rule and cooperation, it is not necessarily better at delivering economic goods such as growth, administrative efficiency, order and stability.

If one goes ahead and chooses to establish a democracy, one first has to get rid of any existing non-democratic political order. The period during which this is done is referred to as the *transition to democracy*. Once established, the democratic order must be maintained, i.e. consolidated. As was made clear right at the beginning of this chapter, Lintz and Stepan (1997:15) maintain that it is only after such transition and subsequent consolidation that democracy becomes behaviourally, attitudinally and constitutionally the "only game in town".

However, there is nothing to suggest that all attempts at consolidation will necessarily be successful. The dynamics of democratisation are unstable precisely because the process is one of learning, and trial and error. Both the ruler and the ruled are amateurs at democracy (Rose, Mishler & Haerpfer 1998:21). Rustow (1970, cited in ibid.:5) reminds us that the factors determining the stability of a democracy might not be the same as those that brought it into existence. Young democracies, especially the ones that emerged from prolonged periods of non-democratic rule, cannot rely on the habitual support of their citizens; those very citizens were, after all, born and raised under an authoritarian dispensation.

So what, then, are the conditions that will promote the consolidation of democracy? Lintz and Stepan (1997:17) argue for five such conditions (and where absent they will have to be crafted):

1. Conditions must exist for the development of a free and lively civil society.
2. Political society must be relatively autonomous.
3. All (leaders and followers) must be subject to the rule of law.
4. There must be a state bureaucracy that is usable for the government-of-the-day.
5. Economic society must be institutionalised.

In addition to these, Dahl (1997:34) mentions the need for a strong democratic culture that can provide emotional and cognitive support for adherence to democratic procedures. In Putnam's (1993) view, such a culture will be tolerant of conflicting views and beliefs and will supply sufficient amounts of social capital.

Whether or not these conditions exist in Namibia is the subject of the papers in this volume.

The Scope of this Book

Namibia's transition to democratic rule was a rapid one, which followed a prolonged anticolonial freedom struggle. However, neither colonialism nor the freedom struggle itself can be characterised as democratic processes. This is clear from Melber's and Du Pisani's contributions discussing colonial rule by Germany and South Africa, respectively. Colonial rule not only denied the majority of Namibians their basic rights and freedoms, it also used brute force to suppress any political activity that did not benefit that rule. Hence, white society enjoyed substantial freedom and was allowed to prosper, whilst black society had to resort to armed conflict to secure those rights. Herein lies the key to unlock postcolonial developments.

When the SWAPO Party won over the Namibian nation in 1990 in the first general elections ever held in the country, both the ruler and the ruled had little experience with democracy. Saul and Leys (1995) show that, within the liberation movement in exile, little existed that could resemble a democratic culture. The abhorrent nature of colonial apartheid is by now well known and well documented. Thus, after the transition to democracy and the drafting and adoption of a liberal

democratic Constitution (during which process ordinary Namibians played no active part and in which they had very little say), the country had preciously little to draw on to secure its democratic future. Therefore, the conditions for consolidation had to be, and in some instances still have to be, crafted.

In this volume, therefore, we will be looking at the progress toward crafting a consolidated democracy in Namibia. Erasmus's chapter on the Namibian Constitution serves as the starting point for this exercise. He argues that the Constitution paves the way for a liberal political dispensation in which core rights and freedoms are entrenched for all Namibians. Furthermore, the Constitution creates the institutional framework for democracy to be realised: it separates the powers of Government, provides for regular elections by means of a proportional representation system, and entrenches a system of checks and balances on policy-making. However, in Erasmus's view, this might not be enough to secure a consolidated democracy. Much depends on how this Constitution is used by ordinary citizens, and on the political will of its leadership. In this respect, he concludes, Namibia's record is mixed: not only with regard to the conduct of the leadership, but also as regards the citizen's inability or unwillingness to invoke the Constitution.

In the subsequent chapters by Tötemeyer and Keulder, the discussion concerns postcolonial attempts at expanding and strengthening the State at sub-national levels. Tötemeyer's chapter is particularly useful in terms of the insight it gives into the State's possible future, since the process of decentralisation is only a recent development. He argues that, once decentralisation is complete, ordinary citizens will have several more channels through which to participate in, and thereby shape, public policy. Hence, society's influence will be strengthened. Keulder touches on a similar theme in his chapter on how the Namibian State penetrates into the predominantly rural society through its legal arrangements with traditional leaders. Functioning under State law and performing prescribed State functions has made traditional leaders part and parcel of the State, but not completely so. They also remain active agencies operating in the sphere of civil society – supporting a point made earlier (by Harbeson 1994) that, in Africa, some actors can be part of both spheres. Here, the chances of democracy's success are less clear: traditional authorities need to develop a democratic value system that promotes greater gender equality, a point that is stressed by Becker in her contribution. Both Becker's and Keulder's chapters show that there is more than one value system present in Namibia and, hence, especially in rural Namibia, that democracy is not "the only game in town".

Becker's article shows that part of the success in creating greater gender equality, as intended by the Married Persons' Equality Act, 1996 (No. 1 of 1996), can be ascribed to civil society. Organised interests and pressure groups influenced State policy by exposing non-democratic private values in the public sphere, and by gathering sufficient evidence to denounce such private values and have them

changed by way of legal intervention. Unorganised women in rural Namibia are not benefiting from the new Act, however: they continue to carry the brunt of existing inequalities.

Sycholt and Klerck, in their discussion of the labour regime that has been developed since Independence, highlight the tension between labour interests (as embodied in the right to strike) and "national interests" (as presented by the Government or State apparatus). The existing labour regime is a rather imprecise blending of corporatist and liberal tendencies. They show that organised labour is not always consulted where and when it counts, and that Government lacks the committment necessary for a corporatist regime to develop.

The chapter by Keulder *et al.* and Keulder's chapter on voting use survey data to measure the State's legitimacy and support for the State. Their findings show that the Namibian State enjoys sufficient levels of both. Voters demand more change in their material well-being, but do so removed from the potentially powerful force of ethnicity. This is a positive development for the process of consolidating Namibia's democracy. What is more worrisome, however, is the absence of an outright democratic value system among ordinary Namibians. Given what was said earlier herein, this is to be expected. A lot more crafting of the conditions that give rise to a consolidated democracy will, therefore, have to be done before democracy in Namibia becomes "the only game in town".

The closing chapter by Du Pisani shows that a civil society is almost completely absent from the currently State-driven foreign policy process. Given that Namibia has recently joined two foreign wars (one in the DRC and one on Namibia's border with Angola), the absence of societal actors in the arena of foreign policy is of particular concern.

We hope that the body of research presented in this volume will contribute to opening up, for Namibians, some of the larger debates on the consolidation of democracy. Also, since Namibia is not unique, there is no reason why other States cannot learn from our experience.

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Economic and Social Transformation in the Process of Colonisation: Society and State Before and During German Rule[1]
Henning Melber

This chapter describes and analyses some features of an early period of foreign influences in so-called modern history, shaping and contributing to emerging social structures in Namibia with a far-reaching impact upon further social development. It is the description of a fundamental process of transition, during which essential foundations of present society were laid. To some extent it can be maintained that a number of the structural elements then created continue to remain effective, and that some of the characteristics of postcolonial Namibian society are based upon or even rooted within the legacy of this past.

Such an ambitious undertaking, as incomplete as it might be, intends to offer historic background material to those periods and case studies in Namibian society that follow in subsequent chapters. Even the rudimentary evidence presented within the limitations of such an introductory chapter clearly demonstrates the violent character of the early process of forced integration into a new socio-economic system of colonial relations with a dominantly capitalist-oriented interest. This was a system imposed upon and transplanted to people(s) within a society of different stages of development and with internal dynamics of its own.

The passages that follow strive to demonstrate several results of historical research directed at Namibia's past. Firstly, it will be shown that the early stage of (pre-)colonial penetration was a matter not directly related to individual or even the collective efforts of any European powers, but more a result of the established colonial system in the neighbouring Cape region. The first phase of early colonialism, therefore, was represented more by "indigenous newcomers" to the country than by Europeans. Secondly, in the course of this process, the interaction society of those days seemed to have been far more differentiated and complex than has been assumed until recently in the bulk of literature dealing with Namibia's past (where this period before German colonialism is considered at all), with a combination of several similar important factors bringing consequences that ultimately formed the basis for the emerging colonial system. Thirdly, as much as German colonialism is related to Namibia's past, the system emerging in the early 20th century is related to the present patterns of dominance and production of power structures among the Namibian people.

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[1] Revised version of a previously published book chapter (Melber 1988). For further contributions on related aspects of Namibian history, see also Melber (1982, 1985a, 1985b). Historic sources on the subject are presented and reproduced more prominently in Melber (1981, 1984, 1986).

While the role of the State is not the explicit and constant point of reference in this contribution, there are substantial implications for its assessment in terms of origin and character during the early period of formal colonial rule. As shown in the course of the following analysis, the process of imposing a different system of power structures and patterns of dominance upon the people living in the territory nowadays defined as *Namibia* has been based largely on external or exogenous forces. This process not only produced a set of values and norms, rules and regulations enforced against the will of a vast majority of people, even, if necessary, by means of applying the ultimate means of uncompromising violence; it also established the necessary mechanisms and institutions to advocate and ensure compliance with the new set of principles. If this was not achieved, the colonial Administration preferred to stoop to eradication rather than integration.

State authority, to this extent, was a mere instrumental tool more than anything else: one which, in the hands of the foreign occupants, was applied blatantly and without disguise. Any claims to represent all the inhabitants of the country proved to be mere rhetoric. After all, the concept of settler colonialism, in the specific circumstances of Namibia's case, never intended to include any members of the colonised majority in the definition of *citizen*. Civil and civic rights were exclusively reserved for the members of the settler community. In cases where such members violated the fundamental principles of the apartheid doctrine enshrined after the turn of the 20th century in the emerging laws, they and their families lost their privileged status too. To enjoy full rights as a citizen in the then German South West Africa towards the end of this specific period in Namibia's history, you had to be white. Thus, the main focus of this paper is the dynamics of interaction between internal and external social forces prevailing throughout most of the 19th century, and ultimately resulting in the consolidation of the colonial system in the early 20th century.

The "Home Front": Features of "Internal" Development towards Socio-economic Change

The territory known as Namibia today already seemed to represent a certain entity in the early 1800s. Bordered by perennial rivers in the south (the Orange) and north (the Kunene and the Kavango), the Atlantic Ocean in the west and the dry Kalahari sandveld in the east, the people within those natural boundaries already had knowledge about and contacts with each other as well as a perception of the surrounding regions and their inhabitants. Exchange patterns existed not only among those within the natural borders, but also with southern neighbours across the Orange River and, even more so, those towards the north, where common communities of the various Owambo groups settled on both sides of the Kunene.

The northern region, a park landscape with more fertile soil and higher rainfall than the other regions, offered suitable natural conditions for a more sophisticated agrarian system of production (Clarence-Smith & Moorsom 1977). On the basis of a mixed economy (mainly with agricultural cultivation and limited livestock), several different and somewhat independently organised Owambo groups established a rather secure existence for themselves. In the course of the period under consideration, this region and its inhabitants were less directly influenced by foreign penetration and only became immediately affected by it in the 19th century (Eirola *et al.* 1983, Siiskonen 1986). These Owambo groups, which had settled for good, included a considerable number of people. Because their livelihood was rooted in the cultivated land, they were less mobile and, therefore, more resistant to threats against their existence. On the other hand, nomadic cattle herders in other areas of the country were more flexible and could try to avoid outside pressure by moving on to other acceptable regions. Being aware of these conditions, Europeans were able to establish large farms for extensive cattle-ranching. Consequently, the northern parts of today's Namibia were rarely touched directly by the emerging colonial system. This chapter will, therefore, concentrate on the southern and central regions, which possessed a dynamic different to that in the northern areas. For the period considered here, they were of more direct relevance to the process of colonisation and the following stages of settler-driven capitalist penetration.[2]

Most directly affected by initial colonisation were mainly the various Nama groups (members of the Khoi-khoi) and groups of the Herero, being dominant social entities of that time. The Herero, nomadic cattle-breeders who shared with the Owambo the linguistic background of being part of the Bantu-language family, occupied large parts of the central region. Some Herero clans also operated far to the east and north-west. The Nama groups, sharing a similar mode of production with the Herero, were generally less successful in cattle-breeding, owing to the fact that they operated in the climatically less favourable western and southern parts, with less rain and more sand. They were part of the Khoisan-language family, as were the other distinct groups of Damara and San. The latter two, smaller in population, tried to survive and maintain an independent existence as hunters and gatherers. For the most part, the contributing factors to social transformation represented by Damara and San have been ignored or neglected by the academic literature, which has placed them in the margins of local power, with little influence on the social dynamics. Until recently, these groups were regarded to be dependent upon the relations with the dominant groups of Nama, Herero and

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[2] It would have been the task of another chapter to deal separately with the specific socio-economic, cultural and political aspects of the northern Namibian region(s), their people(s) and societies during this time. For more adequate recent studies see e.g. Bollig (1998), Eirola (1992), Siiskonen (1990), and Williams (1991).

Owambo, who tried to utilise them for labour purposes and often integrated them into their own structures.[3]

In short, in the early colonial history of Namibia one finds two semi-autonomous sets of social relations and structures. Representing one factor in local development were the Owambo, who were more related to the people of southern Angola than others in Namibia. The Owambo inhabited the northern part of the country, with an environment and internal development of its own dynamic. The other dominant factor of internal social change was represented by the Nama and Herero, who shared the southern and central regions. The latter groups were in constant contact and interrelationship, and became the focus of direct colonial penetration.

Differing ecological imperatives contributed to the varying forms of household production. A clear correspondence between environmental features, local identity and specific economic forms of production existed among the various groups. The development of class structures – while in an embryonic stage throughout the territory – had progressed further among the Owambo in the north than among the Khoi-khoi and Herero in the south. Among the Herero, differences in cattle wealth had already produced a rich elite which operated on the periphery of the traditional institutions. Further development of class differentiation was hampered, however, since land was used collectively and no private property in natural resources existed. Within the Khoi-khoi, class division and separation between production and possession was hardly discernable, although some indications point to unequal power structures above the unit of family and kinship. Considering the territory as a whole, it might be argued that subordinate "classes" defined along ethnic lines had already developed before German colonisation (for example, the use of Damara servants). The level of internal trade in the north also showed a more progressive division of labour, including specialised artisans and traders.

By the beginning of the 19th century, the people occupying large parts of the country already possessed a clear knowledge and consciousness of the natural territorial boundaries and had continuous contact among each other. Owambo traders exchanged goods for cattle, mainly with the Herero, and local groups were connected via the Owambo with a trade network to the north. Local trade in precolonial northern Namibia rested mainly upon three staple commodities: iron, copper and salt. Long-distance trade concentrated on slaves (restricted almost

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[3] For more enlightened information on the Damara, see Lau (1979). While much has been published on the San or "Bushmen" (the latter term having less negative connotation in English than in German) ever since the early travelogues, most of the time these texts unduly confined themselves to a popular exotic perception, treated the San either as complete underdogs or, more recently, reactivated for them the stereotype of "noble savages", unspoilt by so-called civilisation. On such classic colonial cases of projection with regard to "natives" in the context of Namibia, see the contributions in Hartmann *et al*. (1998); with special reference to the San, see e.g. Melber (1985d) and Gordon (1997). For a reassessment of the historic role played by various San communities in (pre-)colonial Namibia, see especially Gordon (1984, 1992).

exclusively to the southern Angola region, where constant exchange existed at that time with the related Owambo groups in northern Namibia) and ivory to the north – geared towards the interests of Portuguese traders. The main items of trade in the commodities exchange with neighbouring local communities in the east and south were metal artifacts (Clarence-Smith & Moorsom 1977).

Relationships between dominant groups in the central and southern regions were to a large extent influenced – if not determined – by existing ecological constraints, in combination with the modes and means of production. Largely dependent on their cattle and small stock, these nomadic pastoralists needed land, water and grazing opportunities as an essential basis for their individual and collective production.

At the same time, this economic basis tended to be expansionist in character. A clash of interests resulting in ambitions for control of more territory was, therefore, a logical consequence. In times of favourable natural conditions, a shared motivation to prevent an increased and notorious conflict seemed to function; but in times of natural constraints such as drought, the clash of interests and the struggle for control of the necessary means of production (land and water) increased. Accumulation of wealth was largely due to expansionism, which inevitably led to conflicts with neighbouring societies with the same patterns of production, as well as to competition among units sharing a similar identity.

Consequently, ecological constraints and imperatives often resulted in military competition among the local population, including sectional rivalry among members or units of the same language group, for control of natural resources that were necessary for maintaining the basis for economic production and reproduction. From the early 19th century, frequent (but locally isolated and restricted) military actions were characteristic of the southern and central regions, including inter-Herero conflict and raiding as well as competition between the Herero and Nama (Werner 1980).

It can therefore be concluded that, by the dawn of the 19th century, internal forces were in a dynamic process of expansionism and competition (see e.g. Dierks 1992a, 1998). Although highly influenced by natural environment factors, this competition remained manageable by those involved in the process and led to an uneasy balance of power over economic relations and social interactions. Herero groups continued to be the most influential agents of this dynamic process.

Other recent research (Lau 1979, 1982, 1987) suggests that, in the southern and central parts, the interaction of the local population prior to colonial conquest was only partly influenced by ethnic background and identity. To a certain extent, such social formations represented only one of several factors that contributed to the transformation of the modes of production during colonisation. Simplistic reductions to ethnic identities, as well as perceptions reduced to subsequent stages of

social development in correspondence with the economic change, have been challenged in such stimulating analyses.[4]

A consensus seems to be emerging that the internal development of the southern and central parts of the country (which later came to influence Owambo groups living at the southern edge of their northern settlement area) was fundamentally affected by the immigration of factions of the Khoi-khoi groups who had previously lived around the Cape in neighbouring South Africa. These Orlam communities crossed the Orange River early in the 19th century as refugees from the emerging colonial system in South Africa (for a case study, see Helbig & Hillebrecht 1992). Robbed of their land by invading Dutch colonisers, they tried to escape eventual bondage by moving further north. Many of them had already experienced dependent (wage) labour on farms or had made their living around missionary stations in constant contact with Europeans. They generally spoke Dutch and had converted to the Christian faith. Far more important for the further development within the new environment of southern Namibia, they also knew very well how to make use of their guns, as well as of the mobility provided by horses. By the time they arrived in the area which was to become their new home, the Orlam communities were organised in a quasi-military fashion and possessed a higher degree of social and political centralisation than the resident Nama. The Orlam were also superior to the Nama in terms of combat skills.

The immigration of the Orlam at the beginning of the 19th century escalated the competition for use and control of the natural means of production (land and water resources). This competition intensified further with the diminution of these resources, especially following the severe drought in 1829-30. Finally, this conflict led to a protected military confrontation between the groups in the southern and central regions, who were forced to develop expansionist tendencies. The clash between the Orlam and Herero, both of whom sought to achieve dominance, can, therefore, be seen as a struggle for survival in the face of increasingly scarce resources. At least indirectly, this development also demonstrates the far-reaching effects of European colonisation and settlement at the Cape. The migration of the Orlam indicates that local groups could not avoid fundamental threats to their original way of life. To escape these threats, migrating groups were forced to become a threat to other people in neighbouring regions.

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[4] Useful additional information for the benefit of understanding Namibian history can be found in historic analyses of neighbouring South Africa. For example, Szalay (1983) reaches the conclusion that the common differentiation between Khoi-khoi and San, as distinct groups of the common Khoesaan-language family, seems to be artificial. Both groups were represented by their mode of production as either Khoi-khoi or San. This has led many to neglect the common roots of the two, and to an emphasis instead on their means of production (either cattle and small-stock breeding or hunting and gathering). According to their mode of production, impoverished "Khoi-khoi" existed as "San", and those "San" acquiring cattle received a new identity as "Khoi-khoi" (for information especially on the invading Orlam, see Marks & Athmore 1971 and Strauss 1979).

It was during this period of increased competition and struggle for cultural and economic survival that the first attempts were made to transcend the local communal forms of organisation and to establish larger, regional power structures. In a very limited way, it is possible to discern early steps towards the creation of a State apparatus in the establishment of hegemonic rule over groups which, until then, had been independent social entities. Such a process of "State formation" implied a military rule, whose realisation and stabilisation necessarily provoked further military conflict. In this context, it is questionable whether the military superiority of Orlam groups could be considered a more advanced and sophisticated form of economic organisation. After all, the Orlam system of "production" involved the extensive practice of robbery to acquire valuable goods that could be exchanged for "European" commodities offered at the Cape market: mainly guns and ammunition, for further strengthening and securing the military basis of the hegemony, but increasingly also other products and goods for consumption. A few recent studies (e.g. Lau 1979) suggest that the supremacy of the Orlam in mid-19th century Namibia had implications for the further development of more centralised power structures and authorities, while at the same time opening the Namibian society for European interests. Lau (1979:85) notes that –

> ... the period of Orlam rule in a very drastic and destructive way initiated the irreversible process of merchant capitalist penetration. Since their own productive base was not at all, or only very weakly, developed, their political and military domination entailed a progressive exhaustion of some of the territory's economic resources.

Thus, the establishment of a hegemonic structure under the leadership of Orlam groups (in alliance with other Nama factions and a few Herero chiefs) contributed to the consolidation of new, larger structures of power and a unifying tendency on a regional basis, while at the same time decisively weakening the existing local structures. As a result, the subsequent colonisation of the territory and its people was made easier (*cf.* Moorsom 1973:28*ff*.). Although Jonker Afrikaner and his Orlam–Nama–Herero allies represented a new hegemonic power structure in the mid-19th century, Namibia's further development became inextricably related to emerging European interests.

Increasing Foreign Influence: Interactions in the Course of New Exchange Patterns Emerging and the Establishment of Colonial Relations

Missionaries, traders and representatives of mining companies were the early agents of an informal colonialism that became active in the territory from the beginning of the 19th century. Their ideological and economic influences remained rather sporadic and harmless until the 1850s. Although these agents had a somewhat catalytic effect from the very beginning of their activities, they never managed to

control or direct the internal social process of transformation during this period (Moorsom 1973:35; SWAPO 1980:26). This situation changed in the 1850s with the decline of the originally-established hegemonic structures in control of the central and southern regions. From this point forward, the increasing influence of these agents, especially the Rhenish Mission, proved to be of considerable political, economic and social importance in the further development of Namibia's internal social structure.

Less significant were the first mining activities in the country, which consisted of the exploitation of the large guano deposits on the offshore islands, as well as various coastal fishing enterprises. Although these economic activities by foreigners resulted in the first exploitative activities along the coast (Cooper 1982:1-8, Craig 1964, Liesegang 1950), this extraction of natural wealth resulted in little direct contact with the local population.

The first attempts at ideological interference and influence by representatives of Christian missionary societies also had little effect on the inhabitants. In general, the sporadic and uncoordinated activities of individual Europeans did not threaten local economic or social structures, although the effects and consequences of such activities varied according to the general circumstances of specific communities. Most Herero, for example, were able to sustain themselves economically by their immense wealth of cattle and, thus, were able to demonstrate some immunity against

foreign cultural and ideological influences. As previously discussed, Owambo settlements in the north of the country had little direct contact with Europeans; rooted in the land they cultivated, their social organisations were a challenge to the Finnish Missionary Society as late as the end of the 19th century. The Orlam, on the other hand, were more directly affected by the colonial influences, which, as previously mentioned, they first experienced in South Africa. Among the Orlam, foreign ideologies had penetrated more quickly and had had greater impact. Even in this instance, the mutual relations between missionaries and local leaders were never a one-dimensional or unilateral affair (Dedering 1997). The *Kapteins* ("Captains", i.e. chiefs)[5] always sought to realise their own interests by making use of the missionaries' position. In the early half of the 19th century, for example, the London Missionary Society had to experience this with much frustration; they finally gave up missionary activities in the territory. Another attempt to introduce foreign ideologies was made in the 1830s: this time, by the Wesleyans. Although in direct competition with the Rhenish Mission which was established in 1842, in 1844 the Wesleyans briefly managed to become the most important missionary enterprise. However, as the influence of the Rhenish Mission increased, by 1850 the English Methodists had decided to give up their activities in Namibia.

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[5] See the section headed "Chieftainships" in the "Traditional Leaders" chapter by Keulder in this volume for more on the structure of the Orlam leadership hierarchy.

By 1850, the Rhenish Mission had embarked upon a concept which proved to be more successful than the direct proselytising activities had been. Through extensive trading activities, the missionaries soon managed to influence further social and political development in the territory south of Ovamboland. It is necessary to differentiate here between the sphere of influence of Christian ideology and the effectiveness of politico-economic factors. The latter sometimes existed without ideological penetration (that is, the Christianisation of communities), and usually turned out to be more effective. The degree of political influence of the mission, moreover, did not really depend upon the personal intentions of the missionaries. Instead, it was often the existing local structures which influenced the mission's political power (Loth 1979:36).

By the mid-19th century, Namibia had reached a stage of internal competition between the Orlam and Herero for overlordship, which was leading to a rudimentary process of State formation. In this environment, the Rhenish Mission Society could profit from the fact that the Orlam factions were already Christianised and prepared to cooperate with the mission. This supported, albeit unintentionally, the extension of the mission's zone of influence and power. When Jonker Afrikaner, the most powerful and influential *Kaptein* among the Orlam, and leader of an alliance representing the hegemony in the central and southern parts of the territory, finally disputed the mission's claim and founded his own spiritual community, he forced the Rhenish Mission Society out of the centre of power. In so doing, Jonker Afrikaner objectively became an enemy of the mission's far-reaching ambitions for control of the existing power structures. This further complicated the conflict: the Herero practically monopolised the access to manufactured goods, including arms and ammunition, which it could use to selectively support specific leaders or communities. The impact of the Rhenish Mission can, therefore, be seen as tantamount to the fostering of particularistic forces in opposition to the establishment of centralised power structures.

In spite of these efforts, Jonker Afrikaner remained firmly in power as the undisputed leader and ruler of the established alliance. It was under his command that the so-called *Baiweg* ("bay road") was constructed, linking Windhoek – Jonker Afrikaner's domicile – with Walvis Bay on the Atlantic coast (Dierks 1992b:23*ff.*). The Baiweg was one of the more prominent examples of "modernisation" brought about by a modification of the local economy through interethnic and external trade relations.

The Baiweg constituted a transport route mainly for the export of cattle and the import of commodities such as guns and ammunition. A copper mine near the road, already under operation in 1840 and run by South Africans on concession by Jonker Afrikaner, was allowed to make use of this innovative infrastructure to transport ore to the coast. In return for this service, the South African concessionaires, including those miners who had assisted in the construction of

the road by lending appropriate tools, had to pay taxes to Jonker Afrikaner (Helbig & Helbig 1983:26).

Jonker Afrikaner's leadership was also represented in the field of agricultural development. He initiated the cultivation of figs in the vicinity of his residence at Windhoek (Büttner 1885:33). On the other hand, efforts by missionaries to stimulate agricultural production on an organised basis among the Nama and Herero seemed to have little effect.

Nonetheless, the use of European craftsmanship was more eagerly and willingly accepted and learned (Büttner 1885:39). For one thing, the rich Herero communities wanted to participate in the newly-emerging market for their large herds of cattle. While the bulk of the literature normally argues that cattle were a highly religiously-controlled possession, secured by the Herero for "obscure myths", it now seems more likely that the Herero attachment to cattle was a well-organised attempt to maintain control of the cattle market, and so secure a dominant position in the local economy (Büttner 1885:50,54). Until the mid-1890s, the Herero continued to dominate the cattle market. Nevertheless, the first European messengers of foreign interests (mainly traders and missionaries, both groups regarding themselves as "explorers" as well) began to pose an additional threat to the ambitions of local Herero groups to secure their means of production. This resulted in various attempts to protect the locally-based economy and the respective connecting trade routes. From the Eurocentric point of view, such possessiveness on the part of the Herero was often interpreted as "dishonesty" towards the missionaries, traders, travellers and explorers (see Werner 1980:40).

By the mid-19th century, Herero trade with the Cape and other European agents was estimated to amount to an annual average of 10 000 horned cattle plus numerous sheep and goats, mainly in exchange for guns and ammunition. During the 1860s, the export of ivory also gained in importance, with skins, hides, and ostrich feathers serving as complementary forms of payment to traders.

Lau (1983:41) documented "the increasing commodisation of the production process" during mid-19th-century social transformation in the southern and central regions, resulting in "competition for resources and social and political power" which focused "on access to commodities from the Cape rather than on different 'ethnic' or historical origins". With the decrease of power by the local alliance, however, indigenous opportunities to control access to resources were considerably diminished and, finally, eliminated altogether. As a result, "the country was freer than ever before – to be controlled by the agents of merchant capital and colonialism" (Lau 1983:44).

One of the earlier efforts to ensure local participation in the newly-emerging, European-dominated economy in the southern region was the Peace Treaty of Hoachanas of 1858. This agreement, signed by nearly all the representatives of local power, was an impressive, though short-lived, attempt to maintain some Af-

rican control over the changing situation. The participation of missionaries in the drafting of this document led to a strong emphasis on the independent position of the individual religious leaders, who maintained their opposition to all efforts to establish stronger centralisation of the existing power structures. Among the more important passages in the Treaty were the following:[6]

In the name of the Holy Trinity, the Father, the Son and the Holy Ghost, we the undersigned have resolved to unite in the following treaty:

Article 1: No chief with his people will have the right, should dispute arise between him and another chief of standing, to pursue his own vindication, but shall be pledged to bring the case before an impartial court.

Article 2: When the case has been examined by the impartial chiefs, the guilty party shall be punished or a fine shall be imposed upon him. Should he be unwilling to comply with the judgement and should he attempt to dispute the issue by force of arms, then shall all the treaty chiefs be pledged jointly to take up arms and punish him. ...

Article 5: No chief may permit copper being mined in his territory without the knowledge and agreement of all other chiefs, or to sell a farm site within his territory to a white person from the Cape Colony. Whoever despite this makes such a sale shall be heavily fined, and the purchaser himself will have to bear the cost if he has been acquainted with this law beforehand.

Article 6: We resolve also to close our bond and treaty with all Griqua chiefs. Should they need us in any major war which may befall their country, then we are ready to come to their assistance. ...

Article 8: No chief shall allow himself solely on account of rumours to become mistrustful and be prepared to take up arms without getting written proof thereof. Should this provision nevertheless be broken, the chief responsible will be heavily fined by the other chiefs. ...

Article 10: It is also resolved that each year a day and date will be agreed to consult together for the welfare of the land and the people.

The Peace Treaty was signed by 17 local leaders from the southern and central parts of the territory, and in the presence of a delegate from the neighbouring Griqua of the Cape Province, as well as of Maharero – the single most powerful Herero leader of the time.

While the commitment entered into by way of this agreement may not have lasted too long, it can nevertheless be perceived as a relevant new expression of State formation among the local groups. It set a range of guiding principles and rules with which the signatories were bound to comply. In this respect, the Peace

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[6] For the full text see SWAPO (1981:154); for a slightly different English version of this document originally in Cape Dutch, see Goldblatt (1971:27).

Treaty of Hoachanas, though short-lived, represented the most advanced form of regulated interaction among the local groups.

The death of the two leading personalities in precolonial Namibia during the early 1860s, namely Jonker Afrikaner and his Herero ally, Tjamuaha, finally resulted in the decline of the established hegemony and created new tendencies of particularism among the local communities – which were encouraged by foreign interests. Such growing atomisation benefited the ambitions of the Rhenish Mission Society (RMS) to expand its control over the territory. Its activities consequently shifted from an indirect military-strategic involvement to economic and ideological pursuits. Hence, Rhenish missionaries gained far-reaching influence on the economy, as well as in religious and educational activities (on the missionary history of formal education, see Melber 1979:58 and Hunke 1995:144-149; on the missionaries' deliberate policy, see Engel 1982, Gründer 1982, and Von Moltke 1973). Through these activities, the RMS created a host of new wants and a wide range of new skills, marketable only within a capitalist economy. The values introduced by the missionaries at the same time represented their own Eurocentric and culture-bound perspective and perception (Gann 1975).

A rudimentary development of a capitalist economy emerged. Under the influence of the RMS and in the vicinity of mission stations, some Herero started to cultivate corn. As early as 1865, a surplus was sold for cash to English miners living nearby, and in the years following this surplus, production continually increased (De Vries 1980:128; for examples among the Damara, see Lau 1979:81,91).

The domestication and internalisation of these capitalist dispositions became visible with other neighbouring groups as well. Under mission supervision, some Damara, the Omene ("resident people"), who lived in separate villages within the Herero region, began to breed small stock and, later, cattle. They also cultivated crops for sale on the market (Union of South Africa 1918:105). Thus, at the dawn of formal colonial rule, the locals were, in varying degrees, already integrated into the emerging new economy, participating in subregional markets, and had adopted at least fragments of a mode of production offering them more than mere subsistence. Even a group of Nama at this time were cultivating corn at Bethanie on a moderate, but rather successful basis (Belck 1885:133).[7]

While the RMS played an influential role in this process in Namibia during the second half of the 19th century, their activities were far from completely systematic. In view of the uncertainty over what the future might hold (no colonial power had yet shown any readiness to annex the territory), the activities of the mission

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[7] At this stage, the Owambo societies in northern Namibia already had an impressive surplus production of corn. The average harvest not only exceeded the demand for local consumption, but even allowed the use of corn for feeding horses and cattle. Local breweries were able to produce alcoholic beverages on the basis of the surplus corn. In good years, part of the corn surplus even had to be left on the fields (Belck 1886:200).

remained limited to what might be described as creating suitable preconditions for a colonial take-over.

As such, centralised authorities trying to execute control over the territory and its people in a systematic way, were still absent. The RMS's attempts to implement its socio-economic and sociocultural concept, ideologically rooted in the values and norms of 19th-century Germany, were never based on an authority with the material power to enforce social change. At best, they created a network of alliances with those who felt that cooperation was to their benefit in the struggle for more control over territory and people. An overall State structure, however, did not emerge during this period.

Final Defeat: The Establishment of Formal Colonial Rule

During the beginning of the 19th century, the British had established a station at Walvis Bay to buy cattle from the local population, mainly to supply the island of St Helena during the time of Napoleon's exile there. In 1861 the guano trade was added to the supervisory responsibilities of the post. Finally, in 1878, Walvis Bay was declared British territory, mainly for the protection of the few economic activities conducted there by British individuals. However, these operations remained on a comparatively low scale (Davies 1943), thereby allowing the German Empire the chance to declare the surrounding land a protectorate in 1884. "German South West Africa", as the colonial possession was labelled, represented Germany's first colony and secured the much-wanted "place in the sun" and "dream of empire" as demanded by colonial-enthusiast circles (Schmokel 1964).

The initial phase of official German colonialism in the territory can be divided into two stages: the concessionary period, and the period of treaties. The concessionary period at the beginning of the 1880s paved the way for the official annexation of the land by the German Empire. It created de facto colonial possessions as private property in German hands, even though ownership rights were mainly based on very dubious agreements and sometimes outright fraudulent deals with local headmen (*cf*. Goldblatt 1971:81,101), Helbig & Helbig 1983:66-70, Melber 1982:65-69). Furthermore, the local leaders agreed to these pacts and treaties according to their own traditional understanding and interpretation of ownership rights: private property, in the capitalist sense, had until then been an unknown phenomenon with regard to the use of land. Land had been the collective property of the local community, and granting conditional rights for use of natural resources was a familiar practice.

On 5 September 1884, the German Empire formally declared the south-western coastal strip of Africa under its flag. Soon, however, the area under her "protection" stretched from the Kunene River in the north to the Orange River in the south, and to the sandy desert of the Kalahari in the east. This formal declaration of colonial responsibility was followed by a period in which a representative of

the German Empire tried to conclude "protection treaties" with the local chiefs. In general, these individual agreements and treaties between the German Empire and the local communities were designed to prevent the re-establishment of any African hegemonic structure in the southern and central parts of the territory. The basis for this policy existed in the antagonisms produced by the decline of the former hegemony and the growing strength of other social forces with particularistic interests. The aim of the new foreign authority was directed towards the establishment of a balance of power among the local groups, which would allow further colonial penetration without coordinated resistance from the African side.

However, the German Empire at this time was preoccupied mainly with building its own internal capitalist system. It was not yet in a position to take systematic advantage of its colonial possessions. Economic interests were mainly represented by a number of private "concessionary companies". In the main, these existed only for speculative purposes with regard to land allocation and the exploitation of natural resources. They were designed to make short-term profits and were not regarded with any interest as capital investments, nor for the development of a field of economic activity for long-term perspectives. After all, ample investment opportunities still existed at home. Economically and politically, the acquired land was attractive during this stage only in terms of developing a settler colony.

As a result of the German Government's vague and hesitant handling of the colonial question, the concessionary companies originally had the powers of a parastatal body. At this stage the German authorities were not too interested in establishing functioning administrative structures, and left the management of the territory to the companies. These, in turn, were only interested in adding more land to their possession and acquiring more mining rights. Consequently, the territory turned out to be a complete loss for the German Government. However, while the colonial involvement faced the danger of financial collapse, individual merchants were able to take advantage of the secure colonial outlet by gaining tremendous profits in local trade (see Belck 1886:458,460).[8] Facing this situation, by the end of the 1880s the German Government decided to increase its colonial administration with full responsibility for, and control over, the further development of the territory. The official German Administration established itself in 1893. Only from that time on did a colonial power structure and administrative apparatus come into being, which in its aims and effects was soon to undermine the existence of certain Namibian groups.

In the years following 1890, the German colonial power attempted to integrate the existing local power structures into the administrative system and tried to make

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[8] Among the best-sellers reaping the highest profits was cheap alcohol from potatoes, produced by Prussian liquor manufacturers. Its distribution often had devastating effects (see e.g. Belck 1885:131). On the other hand, leaders of several communities issued strict regulations prohibiting the consumption of alcohol. Such an order was proclaimed by Hendrik Witbooi for his followers.

use of those structures as part of its concept of rule. This policy aimed at tying the local communities to German foreign rule through new agreements with their leaders. During this time, the ambivalent character of the traditional African chieftainship became visible in all its variations: passive bribery on the one hand, with active participation and leadership in anticolonial struggles on the other, marked the wide range of reactions by local leaders to the emerging system of foreign domination. Cooperative chiefs, who were prepared to serve as collaborators in the interest of the colonial administrators, were rewarded with pensions of up to 2 000 German Marks annually. For the first time in Namibian history, reserves became established, which, later, were considered under apartheid policies as "traditional homelands".

The implementation of German colonial policy also included the violent repression of uncooperative leaders whenever it was necessary. Some leaders were executed, and others were forced into pacts with the Administration. By the mid-1890s, under Governor Leutwein, the Germans had managed to establish a form of alliance with local leaders, applying their military superiority only in situations where the chiefs would not "voluntarily" compromise. Thus, the German colonial authorities gained a loose supremacy and overlordship within the territory. Decisive for the success of this policy was that the German Administration managed to win control over the two most influential leaders of the southern and central parts, Hendrik Witbooi of the Orlam, and Samuel Maharero of the Herero. Maharero cooperated with the Germans in return for the support they offered him in the stabilisation of his powerful position, based on the claim of being "Paramount Chief" (which, in fact, was only created with the assistance of the Germans, as nothing like a "Paramount" chief had existed previously among the Herero communities).

Hendrik Witbooi, at this time ambitious to reconstruct a new hegemony, and having spent years in conflict with those particularistic forces opposed to his claims, was forced into a treaty by the uncompromising application of military violence and his eventual defeat by the German troops. Strongly rooted in the tradition of his local ethnic authority, Witbooi became the most prominent representative of resistance to foreign rule.

It seems worthwhile in this context to understand Witbooi's position in more detail. His personal diary (mainly correspondence in Cape Dutch during the years 1884 to 1894, which fell into the hands of the colonial conquerors) is one of the few and by far the most impressive documents of this phase of anticolonial resistance. At the same time, Witbooi's position, as articulated in his letters, exemplifies how interests rooted in the authority of ethnically-based leadership sought to protect their own spheres of influence against the early colonial invaders.

On 27 June 1892, Hendrik Witbooi expressed a grave warning to Chief Joseph Fredericks of Bethanie, who was the first of the local chiefs to sell land to Europe-

ans and who later agreed to a so-called protection treaty with the German Empire (Gugelberger 1984:73):

> I am very angry, indeed, with you and other chieftains of Great Namaqualand for having accepted German protection. By doing so you now allow white men to influence our land and you give these people rights they should not have. I see the Germans very differently from you. They claim to protect you against other big nations. But it seems to me that they are the big nation trying to enter our lands with power.
>
> I can already see them governing us with their might. I can see them passing laws which forbid us to do things we are accustomed to do. I therefore cannot agree to your giving away land which would permit these Germans to live and work here.
>
> Please, my dear chieftain, do take back this decision and do not tolerate any white men on your territory.
>
> If they were merely your own people I would not object at all because we are one and should be able to get along with each other. But I cannot see any peace coming out of this arrival of the Germans. Incidentally, they praise their own deeds and strength far too much.

In another letter of 7 August 1892, Witbooi issued a further serious warning to Joseph Fredericks and appealed to him anew to stop the sell-out (Gugelberger 1984:87-88):

> As I have already told you at an earlier occasion, we, the chiefs, of the Red Nation, handle things in such a way that there is no problem when people live together on the same spot. Nobody shall hinder them or make things difficult for them. We chiefs have the power to make things difficult for them. We chiefs have the power to make life agreeable for everybody. This, however, is totally different from the Germans. This is why I do not want you to give these people further rights in our territory. This would amount to giving them more power and influence. And this I definitely do not want to happen. I also do not wish to see this happen in the areas between your territory and mine. I speak not only of my territory. I really do not want you to give any further land to these people. I want to stop this and wish to let you know that I cannot agree with it.
>
> I think that you chiefs under German protection should reflect upon the fact that I have not yet succumbed to this kind of protection. This might help you in the near future. It might look to you like the piece of meat which has been stored for future and more difficult days. You have already surrendered to these people, and once these people flood you with impossible, unbearable yet powerful laws, you might see some hope in me, and you might desire to join my side.

In response to the colonial threat, the various groups intensified their contact with each other on a more cooperative basis instead of fighting each other for military superiority within the region. Among the Nama and Herero, the growing danger of losing their independent authority led to diplomatic communication and an arrangement between the old rivals, Hendrik Witbooi and Maharero, who were willing to join forces to resist the growing colonial advances. One proof of these efforts is a letter in which Maharero responds to a note he received from Hendrik

Witbooi. On 1 November 1892, Maharero wrote the following (Gugelberger 1984:96):

> I have been informed that Boers are intending to come to our land. Please keep this in mind and do not permit them to move through your territories. I do not want them to come here and I do not want them to settle on your territory. Try to stop them from settling here and do not wait until too many of them have come to this land.

However, resistance to the colonialists was in vain. When the Germans started to put pressure on Hendrik Witbooi to end his independent chieftainship and to force a so-called protection treaty with the colonial authorities, his resistance was met with military violence. With the ultimate defeat of Witbooi, the German Administration gained control over the southern and central territory for the first time.[9] The co-optation of the local leaders was intended to keep the African population at bay, but the necessary complementary measures for a general social integration of the African people into the emerging structures of the colonial settler society were neglected (Bley 1971, Drechsler 1980). The establishment of educational opportunities and other cultural institutions for domesticating the colonised majority still depended solely upon the activities of the missions. Opportunities for careers within the colonial Administration or the structures of the settler community virtually did not exist. The establishment of the infrastructure was oriented only towards the advantage of the immigrating whites and was not designated for the benefit of the colonised majority. In short, the policy at this time was to extend and stabilise integrative mechanisms to the settler economy.[10] The limitations of this system became obvious with the increasing settlement of Europeans. The only

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[9] In spite of harsh criticism from his home Government, Leutwein was intelligent and enlightened enough to present the Nama leader with acceptable conditions. They guaranteed Hendrik Witbooi his further influential position among the Nama and offered him a capitulation without humiliation. The respect Leutwein demonstrated towards Witbooi's chieftainship was honoured by the latter with personal loyalty and an unconditional acceptance of German authority for more than ten years. (On the defeat of Witbooi, see the description in Melber 1982:75-85; for the subsequent period, see Alexander 1982; and on Witbooi's fascinating personality as the ambiguous and ambivalent representative of traditionalism, see Dedering 1984, Helbig & Hillebrecht 1992, and Hillebrecht & Melber 1984.)

Gugelberger's (1984) English edition of the Witbooi papers was translated from a German translation. A more complete, direct – and therefore, perhaps, better – translation of Witbooi's papers was published by the National Archives of Namibia in 1989 as *The Hendrik Witbooi Papers*. A second edition, with new texts added, was published in 1995.

[10] Nevertheless, by the early 20th century two conflicting approaches in the field of colonial policies were being discussed within Germany. The one, articulated by "modern" capitalists, was oriented towards "British liberalism" and pledged reforms. In contrast to this more enlightened position, an openly reactionary one – common to the settlers' point of view – still dominated. The protagonists of this latter attitude mainly used the Dutch/Afrikaans approach of early apartheid towards colonialism in South Africa to exemplify what they felt was the appropriate nature of a "civilising mission" (on the controversy between the two schools of thought, see especially Weinberger 1975:96-133).

real economic opportunity for the immigrating whites was extensive farming, or, more precisely, ranching. Therefore, the main interest of the settlers lay in the systematic expansion of land possessions and cattle herds which required the further expropriation of African land and resources. This expropriation came to involve the complete destruction of the people's basis for production and their social relationships, without offering, in return, suitable opportunities of employment and wage labour within the capitalist sector of the colonial economy. The settlers' interests were oriented primarily to the narrow goal of appropriating land and cattle by means of violent or fraudulent practices and the "legal" backing of these methods by the colonial Administration. Governor Leutwein, who had originally favoured more enlightened ideas of an Administration serving the interests of all inhabitants of the country (at least to a certain extent), faced a serious dilemma; but in not wanting to risk a confrontation with the settler community, he passed new legislation directed against African interests and assisted in the implementation of the settlers' ambitions. These actions resulted in a considerable shift of priorities in colonial Administration policy. While Leutwein's original concept had been aimed at the establishment of a State apparatus consistent with "European" models, one in which the Africans should have the opportunity to adapt to the emerging new structures and social relations, the colonial administrative body gradually extended more and more unconditional support to the settlers in pursuit of their own economic interests. Compensation and economic incentives, basic prerequisites for integrating the colonised majority into the structures of the new colonial society, could not be offered as essential parts of an "appeasement policy" (Bley 1971).

In spite of these rigid tendencies during this phase of settlement and its consequences for economic penetration, the Herero had remained the strongest economic group during the first half of the 1890s. They still possessed an immense wealth of cattle and occupied the best grazing lands. Furthermore, although they did not yet participate in the established colonial network of capitalist trade, they dominated the market structures by sales of cattle. Their economic dominance was only destroyed by the cattle-plague, or rinderpest, in 1897. This robbed the Herero of the great majority of their cattle and, for the first time, endangered their basis of production, thereby decisively weakening their economic and social position. Two examples demonstrate the devastating result of the rinderpest. Chief Tjetjo of the Herero, who resided near the Waterberg area with an enormous herd of cattle and thousands of oxen, was left with as little as five to eight cattle for every hundred he once had. Even worse was the destruction further to the west in the Herero region, where the chiefs Muambo and Kajeta, who originally possessed several thousand head of cattle, were left with only some forty cattle in total (Sander 1897:11). The destructive consequences of the rinderpest were appreciated by the Germans as being of economic advantage to their colonial inter-

ests, especially with regard to the impoverishment and destabilisation of the Herero (Sander 1897:29).

The immense loss of cattle made the Herero reliant upon European goods offered on the market, and confronted them with new dependencies. Since cattle-trading was no longer a viable option for them, the possession and sale of land started to become the basis of exchange relations. For the first time, impoverished Herero in sizeable numbers started to earn their living as wage labourers. White settlers now started to settle on a permanent basis in areas under Herero control, and the economy gradually started to develop along settler-dominated lines. As this development began to reduce political risks, for the first time, German capital began to participate in the long-term planning of economic development within the colony. Colonialists pressed forward in the construction of a railway network and other infrastructural investments aimed at developing the country's resources. These measures provided strategic military value, while at the same time facilitating the exploitation and export of Namibian resources.

The "labour question" now came to the fore as the most burning issue. As the need for African workers increased, the chronic shortage of labour became the main economic problem. To increase the supply of badly-needed labourers, colonial authorities made use of increasingly violent methods to recruit workers. Labourers for white farms, mines and railway construction became a much sought-after prize. The uncompromisingly violent character of the German colonial regime became even more obvious than before: a strategy to force the African population into the colonial-capitalist economic system.

Under such conditions, resistance to the new regime emerged. At the turn of the 19th century, a series of local rebellions took place. Limited to regional and unco-ordinated actions, they ended in military defeat and further restrictions. The colonial authorities used the suppression of these isolated armed uprisings to further expand on their policy of creating local reserves. At the same time, the thwarting of these ineffective forms of resistance resulted in "peace treaties" with the colonial regime. The colonial authorities were, thus, able to improve the efficiency of their system of control, and dictated limited areas for settlement to the defeated communities. Rebellious leaders were executed, land was confiscated, and the people were disarmed and deported for use as forced labour, especially for railways under construction. However, the antagonism from the locals increased further and contributed to an escalation in wars of resistance. In the struggle for their survival, the Herero were the first to collectively rise up in arms to defend themselves against the violent destruction of their independent existence. The war of the years 1904 to 1907 was, under the existing social conditions, a simple act of self-defence and a desperate effort to regain autonomy.

The 1904 war began with a secretly planned and collectively initiated attack on the German settlers and troops by the Herero in January that year. Far from being

an irrational slaughter by "savages" (as the hysteric contemporary colonial literature claimed), this was a clearly directed response to the threats posed by the immediate colonisers. The order issued by Maharero (as cited in Drechsler 1980:143)[11] was followed with only a few exceptions:

> In my capacity as Supreme Chief of the Herero I hereby decree and resolve that none of my people lay their hands upon the English and the Bastaards, the Berg Damara, the Nama and the Boers. We shall not lay violent hand on any of these. I have made a solemn pledge not to make this known to anyone, including the missionaries. (sic)

This statement, which clearly differentiated between the colonising Germans and other "outsiders", was later supplemented by an explanation offered by another Herero leader, Daniel Kariko (Drechsler 1980:143):

> At our clandestine meetings our chiefs decided to spare the lives of all German women and children. The missionaries, too, were to be spared. ... Only German men were regarded as our enemies.

This comparatively humanitarian approach had little effect on colonialist reactions. Leutwein, criticised by the colonial hardliners from the beginning for his "over-lenient" attitude towards the Namibian population, was forced to retire from his position. His successors embodied the prevailing reactionary mood of the settler community and the colonial-nationalist factions within the German Empire. These interests concluded that the genocide of Namibian population groups who were resisting, was – even culturally – a necessity (on the ideological roots of this argument, see Schmitt-Egner 1975). This dominating philosophy culminated in an extermination order against the Herero, issued at a time when they were already decisively beaten (for details on the war, see Bridgman 1981 and Drechsler 1980).

The Herero people's military struggle for survival resulted in a German campaign against all Africans. Inhumane racist attitudes reached a paroxysm of ignorance and prejudice, ending in violent actions and repressions all over the country. Aware of these growing tensions and threats, Hendrik Witbooi – who was by then

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[11] In a letter written shortly before the first attack, Maharero tried to inform Witbooi about these intentions. This message, sent to the *Kaptein* of the Rehoboth Basters, was instead handed over to the Germans. Maharero's words – a quotation of which served as the title for the English edition of Drechsler's (1980) book – demonstrates the desperate situation of the population while supporting the argument of intergroup contact, reducing the ethnic pattern to one of several factors: "'All our obedience and patience with the Germans is of little avail, for each day they shoot someone dead for no reason at all. Hence I appeal to you, my Brother, not to hold aloof from the uprising, but to make your voice heard so that all Africa may take up arms against the Germans. Let us die fighting rather than die as a result of maltreatment, imprisonment or some other calamity. Tell all kapteins down there to rise and do battle'." (quoted in Drechsler 1980:143). It would be an issue too hypothetical and academic to debate whether anything would have changed for the better if Witbooi had received this information in time for him to decide to join the armed resistance. In any case, it is safe to assume that under such circumstances the course of the war would have taken a different route.

in his 70s and had settled passively within the borders of a reserve for the preceding decade – finally led his people into battle at a time when the Herero had already been destroyed.

  The political intentions and the military aims of the latter uprising were identical to those of the Herero: the Nama simply wanted to restore and preserve their previously more independent social and economic life. The Owambo participated only marginally in this war since they were still largely unhampered by the German authorities in their settlement area. For a while, the conflict seemed destined for a military stalemate. On the one side, the Germans with their clumsy strategy of conducting a regular war with superior but immobile material were fooled again and again by the small groups of combatants operating in the south. On the other side, by leaving their regions and keeping mobile, the local groups consistently left their remaining land to the enemy.

While the Herero had already engaged in a decisive and unsuccessful battle with the technically and militarily superior German troops in 1904, the Nama in the south of the territory were conducting an efficient small-scale guerilla war. The most effective of these military forces was led by Hendrik Witbooi and Jacob Marengo[12]. Cultural differences played no important role among the combatants in these small battle-units. In fact, the guerillas fighting in the south could be seen as another nucleus of an emerging nation in its anticolonial struggle. Nevertheless, Hendrik Witbooi eventually suffered death from a battle injury, and Marengo was killed several years later with the support of English colonial authorities in the neighbouring Cape Province (on the relevance of both leaders, see Alexander 1983). Once more, the price of resistance proved to be bloody: it is estimated that less than half of approximately 20 000 members of the Nama communities survived the battles, or the imprisonment and forced labour that followed their defeat.[13]

The above events once again bore evidence of the Germans' uncompromising approach to enforce an externally rooted system upon the colonised majority. Resistance to this imposed system, which implied far-reaching consequences for the material and mental well-being of the affected majority among the local population, was even ultimately met with a degree of violence resulting in extermination. Colonial State authorities based their power on the application of physical violence to enforce compliance. If this failed to show the intended effects, the resisting people were physically destroyed. The early colonial State did not offer

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[12] Often incorrectly referred to as *Morenga*.

[13] Another tragic episode was the deportation of Nama groups to West African German colonies (*cf.* Hillebrecht & Melber 1988). A rather unfortunate controversy took place among critical scholars during the late 1980s and early 1990s, when the notion of *genocide* in this context was questioned (Lau 1989) and subjected to a debate that was exploited by conservative forces (for an overview, see Dedering 1993).

any ways or means for negotiation, mitigation or compromise between the coloniser and the colonised. This openly violent character of the colonial State underlined the exclusivity it had in terms of advocating only the interests of the colonising minority. It protected this minority's interests alone, and never even intended to claim responsibility or credibility in terms of an advocacy role for the colonised majority. It was consequently no surprise that the colonial State's Administration was never perceived as a neutral body serving the interests of all the people. The guiding principles of colonial State formation denied members of the colonised majority their legal status as citizens. Hence, they had no status that would offer them any entitlement for the protection of rights by the State's authorities. They had no rights other than to comply with the new status imposed upon them.

The New System: Colonial-capitalist Relations in a Settler Society

With the final and total defeat of the local groups fighting in the central and southern parts of the country, the German colonial power had, by 1907, gained complete control over the territory. Afterwards, those areas of Namibia south of the Owambo settlements were converted into a settler colony dominated by Europeans to an extent even greater than that of contemporary South Africa. Of the surviving Nama and Herero who were initially put into concentration camps, almost all were forced into the status of slave labourers in the service of the colonial economy (see Wege 1969 and 1971). By 1914, only about 200 men in the two groups were reported not to be in employment. With the "pacification", economic activities were intensified. However, the consequences of the applied philosophy of extermination became obvious, as a serious shortage of workers soon arose. The physical destruction of the communities, though calculated in the course of German military actions, ran counter to the economic logic of capitalist interests.

The white settler community, faced with this chronic labour shortage, once more relied upon the intensification of violence. The colonial Administration initiated regulations which would prevent further organised resistance once and for all. A law was issued in 1905 to prohibit mixed marriages between Europeans and Africans. Consequently, the already existing social separation according to racial categories was legally cemented. Racial differences were to form the foundation for the colonial class antagonisms, and the criteria for strict social segregation. From then onward, the existing racially-exclusivist underlying notion of the colonial State was translated into an ever-increasingly fine-tuned system of rules and regulations.

The greater portion of the new regulations were intended to force the Africans into employment in the colonial-capitalist sector, while, at the same time, they attempted to destroy the last remaining ties between the local communities. In 1906, all non-Owambo were prohibited from entering the northern part of the colony. Also in the same year, the authorities decided to expropriate almost all

communal land and cattle from those living south of Ovamboland. This step destroyed the last opportunity for Africans to continue, at least on a modest basis, their original mode of production and social organisation.

European domination was now deeply entrenched in all social spheres; serious alternatives to the newly-established system were no longer articulated. The colonial economy, however, was still faced with labour problems. This became the leading concern for the Administration, and became even more urgent when diamonds were discovered in 1908 and a labour-intensive diamond industry came into being. The basis for the further recruitment of cheap African labour was provided by Ordinance No. 82 of 18 August 1907. It regulated anew the control of the African population, defined the contracts for service and employment, and created an obligation for Africans to carry a pass. It also called for the prohibition of cattle-breeding and the purchasing of land by Africans, introduced organised contract labour, and offered detailed provisions on the pass system.

The settlement area of the Owambo, until then influenced only indirectly by the German colonial Administration and never of any real interest to the white settlers, now became increasingly attractive as a potential reservoir of black labour for the colonial economy.[14] Until that time, the Germans had not included the northern part of Namibia in their immediate and direct sphere of control. Instead, they established a moderate degree of influence largely based on the cooperation of the willing Owambo leadership. Direct German control was restricted to the central and southern area, the so-called Police Zone, which stretched from the southern border of the Owambo area to the Orange River. While the potential of the Owambo as productive forces within the colonial economy gained greater importance with the discovery of diamonds in 1908, a regulation passed in January 1906 had already provided an organisational framework for the recruitment of Owambo workers. In subsequent years, Ovamboland became the supply base for migrant labour, and Owambos were effectively integrated with the capitalist sector of the colonial society (see Banghart 1969, Hishongwa 1992, Stals 1967).

Once again, in the course of these events, a natural catastrophe supported the aims of the colonial rulers. A severe drought in the northern parts of Namibia from

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[14] Again, in the course of the efforts to meet this shortage of indigenous labour, considerations were posed to subjugate the northern Namibian areas and their people by means of direct military power. Aware of the strong force necessary to realise this aim, the plans were finally substituted for "measures exclusively under the point of view of procurement of workers" (telegram of the Imperial German Government, dated 12 March 1908, addressed to the Governor in Windhoek; quoted in Loth 1979:35). The colonial Administration, therefore, relied upon methods of forcing the people of the northern regions into the emerging colonial-capitalist structures by integrating individual chiefs into the system and offering them benefits from cooperation in the field of labour supply. This strategy of co-optation was markedly different from the practices of subjugation in the central and southern parts of the country: in the north, there was a direct physical presence of both settlers and Administration.

1912 to 1914 forced many Owambos to earn their living within the settlers' cash-based economy. In 1911, the first governmental labour management institution for contract workers was founded at the border of Ovamboland. At the end of 1912, agents were appointed to recruit migrant workers in the northern area. With this economic penetration of the Owambo societies and the integration of their labour potential into the cash-based economy of the colonial sphere of production, a military invasion and subjugation of this area became unnecessary. The expasion of the colonial economy had undermined the mode of production and social struc-tures of the Owambo much more effectively and profitably than missionary ide-ologies had. In an internal report to the Imperial German Government on 27 Janu-ary 1912, Hanno Haahti (an inspector with the Finnish Missionary Society, who had previously travelled to Ovamboland) wrote:

> Firstly, a good part of the cultivable land and that which was already cultivated before remains lying fallow as a result of the migration of young strong men as the indig-enous people themselves deplore it and as I saw it with my own eyes; the arable lands became smaller and smaller and have fewer yields because the strength of women is not enough to obtain the means of subsistence from the soil necessary for a big family.
>
> Secondly, it is erroneous to presume that the worker who returns home can even bring with him a considerable fraction of his earned wages. Men who work in the South for 6 months bring home as a rule practically nothing and those who work away from home for about 10 months return with only worthless trifles and only augment the misery of the family suffering from shortage of food.
> (Central State Archives in Potsdam, *Imperial Colonial Office Document No.1231*, sheets 173*ff.*; quoted in Loth 1979:37)

Governor Seitz, in a letter dated 30 January 1911 to the former Imperial Colonial Office in Berlin, had the following to report:

> Ovambos who set out from Lüderitzbucht on homeward journey due to illness die on the way from shortage of provisions and most of them are exploited by traders on the way from Swakopmund to Okaukuejo in such a way they merely bring home scurvy and other diseases with them as a result of their work on the diamond fields. (sic)
> (Central State Archives in Potsdam, *Imperial Colonial Office Document No. 1231*, sheet 3*ff.*; quoted in Loth 1979:34)

By 1913, about 90% of all adult male Africans within the Police Zone were estimated to be employed in the capitalist sector. More than 12 500 worked on farms, whereas about 10 000 worked in the larger mining and Government enter-prises. They were joined by Owambo migrant workers, whose numbers at this time amounted to between 11 000 and 12 000 a year. "German South West Africa" began to flourish, and, for the first time in the colonial history of Namibia, profits were being realised on a large scale. Yet the colonised people were worse off than ever before (Loth 1980, Moorsom 1978).

The last years of the German colonial era were characterised by the logic of the colonial-capitalist system in realising as much profit as possible, even at the price

of the lives of large numbers of workers. The application of physical violence still continued under this system, sanctioned to a great extent by the legal apparatus. Racial hostility, in fact, became identical to class antagonism. By the time South African troops occupied Namibia in 1914-15 and the German Empire was forced to relinquish its colonial territories under the Versailles Treaties, the loss of this profitable colonial booty was widely mourned throughout Germany. At this stage of contemporary history, an "apartheid" society had already been firmly established under a German flag.

The Character and Impact of the Early Colonial State

The process described above in establishing and enforcing the structures of a centralised bureaucratic authority representing the features of a colonial settler society and overviewing the consolidation of an imposed socio-economic system with a particular mode of production, empirically confirms the notion "that virtually all the activity of colonial administrations was directed by, and in the interests of, foreigners" (MacPherson 1982:37). The emerging settler economy was ultimately driven by a demand for cheap labour. It was among the priorities of the established colonial Administration to ensure the supply of such labour. What MacPherson (1982:39) concluded on the basis of other case studies is relevant and applicable to our case, too:

> Despite variation in the extent of penetration by the external economy and the particular forms of economic activity, the central features are constant. Both production and its myriad associated activities were dominated by external forces. Under colonial administrations these economies were made into extensions of the metropolitan economies. ... Both in nature and location the infrastructure which supported the economic activity, encouraged by colonial administrations, was informed by needs other than those of the mass of people.

The colonial State as a geographical extension of the metropolitan State reflected the partial implantation of this metropolitan State apparatus in a conquered territory. It was a system of administration designed for control, and the policy it administered was externally driven. The primary concern was to enforce order and stability, if necessary by the application of violence. The justification of such rigorously-executed authority was rooted in a legal system created to serve the interests of the external power, by protecting its subjects settling in the colony. This implied that the law was not neutral; similarly, neither was the role of the Administration exercising the functions of a State apparatus.

Legislation was created and applied to directly coerce local populations to respond to the needs of the imposed settler economy. Non-compliance was severely punished, and perceptions of justice/injustice outside the new legal framework were not tolerated (MacPherson 1982:44):

Thus, in addition to the achievement of maximum order and stability in what were essentially unstable conditions, law was used extensively and harshly to engineer change in the directions required for the penetration and entrenchment of external economic interests.

The legacy created by such authoritarian and partial use of law, designed to artificially stabilise situations of dependency, inequality and injustice, had far-reaching implications. The forces at work to maintain a social set-up rooted in the pseudo-legitimisation of a violent system of subordination, required administrative, legislative, military and social control. The agencies executing such tasks were no more than a totally biased bureaucracy and its executive wings with the nature of a blatantly partial pseudo-State, representing the interests of a privileged minority only. As a consequence, the colonised majority was not even entitled to any formal rights by being denied obtaining the status of citizens.

The colonial State, more than any other similar form of social organisation, draws the lines of its borders by constituting (and defining) what is inside those borders – above all, those people making up the "nation". Thus, it also defines the people and their cultures, which remain outside the national nexus and which are implicitly perceived as inferior (since they do not qualify to become part of the national entity). This finds its formal reflection in the legal arrangements defining such matters as citizenship, rights of residence, as well as access to social benefits and legal protection. All these "services" provided by a State to its citizens virtually excluded the "natives". The colonial State, therefore, remained primarily an appendix to the metropolitan State, to serve the interests of members in the settler community almost exclusively. It thus claimed authority (and control) over all the local inhabitants of the territory, but never tried to claim a representative character for all the people under the established system.

However, it would be too easy to dismiss, due to such circumstances, the long-term impact of the structures created. The colonial State was of a factual nature with far-reaching implications. After all, it was the direct predecessor of those States which emerged after the independence of many ex-colonies. Particularly in Africa, colonial State formation was, to a great extent, a "cultural project" (Young 1988): it had to do with the transfer of administrative techniques and skills, as well as political processes, to secure the hegemony of the colonial power. For both the colonial as well as the postcolonial State, therefore, the metropolitan State ultimately served as a model.

Essential aspects that had been fought for and were secured within these metropolitan States only during the course of the 20th century (especially the constitutionally-guaranteed participation of the general population as formally equal citizens) had, in the case of a colony, been denied to the people outside of the settler community. Such a practice of exclusive rule under foreign domination resulted in a fatal historic legacy. Not only was colonial rule oriented towards the metropolis;

but, even worse, its totalitarian character and rigid strategies of domination and oppression also led towards the infantilisation of the population, and the creation of a subordinate culture of obedience and subservience to authorities. These dispositions and structures of personalities, decisively enforced under colonial socialisation processes, resulted in the production and internalisation of normative behaviour that could at best be qualified as authoritarian in character. The colonial State, therefore, had a direct responsibility for the shaping of personality structures posing a barrier on the road towards genuine emancipation. This legacy remains a factor with far-reaching impacts for present-day Namibian society, its governance and political culture.

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State and Society under South African Rule
André du Pisani

> *When dealing with the State we must be aware that it*
> *is the most problematic concept in politics.*
> Andrew Vincent (1987:3)

Introduction

The State

The question: What is the *State*?, is one of the most profound that can be asked in politics. It is also one of the most difficult to answer. Yet there is almost universal acceptance that an understanding of the State – and how it interacts with society – is crucial to the grasp of politics and political thought. Despite this it can be argued that the State is now being rediscovered, particularly in Africa.

For Vincent (1987:6), writing more generally on the State, there are a number of compelling reasons for thinking about the State. Firstly, on a practical level, it is difficult to conceive of life without it. Statehood not only represents an institutional ensemble but also a body of attitudes, practices and codes of behaviour, in short, ideology, which shapes our lives in some way or another. The State penetrates – either deeply or ephemerally – much of our lives. Secondly, the State is neither a neutral agency which we can afford to ignore completely nor has it arisen out of pure chance or accident. Since it is ideas of the State which often determine both the form of the State and how we react to it, it is important to locate any discussion of the former apartheid State in Namibia and its interactions with society in its historical, political, and social context. Thirdly, the State relates to other concepts such as *society*, *community*, *nation*, *government* and *civil society* and, hence, needs to be analysed in relation to these. Finally, political ideas such as *citizenship*, *law*, *rights* and *obligations* are connected to the State.

The concept of *State* is especially problematic to grasp, for it is at once real and yet it is elusive and enigmatic. In the words of Vincent (1987:3), "The State is not something which reveals itself at the first look". He adds that despite its "apparent solidity it is none the less difficult to identify". To complicate matters further, it is not useful to conflate politics and the State. Groups, associations and communities can have a complex life within themselves which may have little to do with the State. If one defines *politics*, as for example in Michael Oakeshott's (1956:2) celebrated definition, as "the activity of attending to the general arrangements of a set of people whom chance or choice has brought together", then this includes everything from families, communities, tribes, ethnic groups and civil society, to complex socio-economic relations. Surely it is possible to argue that politics ex-

ists within and between such groups? Not all aspects of group life or even individual life, freedom or justice can simply be collapsed into *State*. To delimit politics to the State is to restrict the reality of politics, for the latter is preeminently about time and space and how these interact.

Some of the above points have cogency in the case of Namibia as well. Politics does have a wider scope than the State. Yet politics relates to the State – is intrinsic to it – in complex ways. This, however, does not limit politics to one particular agency. The State is not clearly one "thing". It is a complex of ideas and values, some of which have an institutional reality. Thus, politics is not delimited by, even if it is sometimes conflated with, the State.

Without trawling over the diverse and often perverse literature on the State, the really significant formal feature of the State which seems to have most continuity and certainty, is that it is a relatively continuous public power. For Vincent (1987:21), "this public power is formally distinct from both ruler and ruled. Its acts have legal authority and are relatively distinct from the intentions of individual agents or groups". (This is not to say that specific members of a group cannot control the State.) Thus, the State – as public power – embodies offices, roles, coercive power, ideologies, and institutional practices which carry (or purport to carry) the authority of the State. The central preoccupation of this chapter, therefore, is: How was public power or the public arena constructed in Namibia in the period 1915-1990? Furthermore, how did the nature of this public power shape societal interactions, space, and civil society? How are we to understand the political project of the apartheid State in Namibia?

Before these difficult questions can be answered, however, the idea of *civil society* needs to be briefly examined and clarified with due consideration of the Namibian context in the period under review. Thereafter, the chapter intends exploring the contours of the public arena in Namibia.

Civil Society

The notion of *civil society* developed out of constitutional theories of the State for limiting State authority through the separation of the public and the private realms, often conventionally termed *State* and *society*. The idea of *civil society*, however, is a contested one, particularly in Africa. In Western Europe, the defence of civil society coincided with the development of ideas on individualism, and individual rights to liberty and property. Through the ideas of the independence of property rights, the rights of personal privacy, security, and freedom from arbitrary power were asserted. This entailed a relatively clear separation between the realm of the individual and the realm of the public legal process. It should be emphasised, however, that this separation exists within the constitutional State and that there are in fact various tributaries within the broader Western conception of *civil society* (Mamdani 1995:603-5).

There is not, as it might appear, a separation between the State and civil society. Vincent (1987:114) comments succinctly: "It is the constitutional State which constitutes, in itself, a separation between public authority and private liberty. There is no sanctified area around individuals unless the State defines it as such". Accordingly, constitutional States have simply either ignored or redefined this liberty. The State decides that individuals will have a certain area of freedom. Such freedom then, in turn, becomes constitutive of the State itself.

The idea of *civil society* also relates to another, namely, *rule of law*. The rule of law is a regulative principle which attempts to define the nature of law and the conditions under which citizens live. Laws, for the constitutionalist, should be a framework of known, predictable and established rules which do not single out any individual or group on the grounds of birth, status, race, colour, origin, or any other privilege for special treatment or exemption. Such rules must be general, equally applicable to all and applied without fear or favour. The ultimate purpose of this rule of law is to uphold or defend equal liberty, particularly the equality of rights.

In the period under review, as this chapter will show, the notion of *civil society* – for the majority of Namibians – was not connected to that of the rule of law, nor did the apartheid State see it as a constitutive part of political life. Laws were not applied equally to all without fear or favour. They, too, did not uphold or defend the rights and freedoms of all, since the apartheid State did not create adequate and universal political and social space for it.

While a fuller conceptual exploration of the idea of *civil society* falls outside the scope of this chapter, for purposes of argument the concept will be used to refer to a diversity of forms of associational life and struggles that lies outside the formal structure of State power. Thus, at one level, the sinews of civil society (political parties, interest associations, organised labour, educational institutions and religious bodies, among others) can be seen as "mediating institutions" that interpose between the individual, communities and the Government or State (Elshtain 1996:6). Civil society, however, is not always oppositional to the State. It interacts with the State, is part of the public domain, and reflects the same divisions – race, class, ethnicity, language, region – that permeate society. It is also not, as some liberal theorists assert, an entirely private realm, and given its liberal-democratic ancestry, it needs to be applied with considerable caution in the African context.

While the notion of *civil society* is clearly part of the forms of exchange, and in a Marxian sense, is conditioned by the forces of production and is class-bound, in contemporary Africa it is often an intimate process of elite assimilation. It is also generally more informal and less organised than is often assumed by many Western scholars (Bayart 1993:157). The process of elite assimilation is generally more social than ethnic and relates in complex ways to processes of economic accumulation and the forging of identity.

The associational life in Windhoek, chronicled in the near-forgotten *South West News* that appeared in 1960, provides useful evidence in support of the above argument. In the former "Old Location" of Windhoek, associational life blossomed in all its diversity in the form of sport clubs, debating societies, music societies, political associations, religious bodies and the like. The elite, above all, participated in such societies, and even organised regular beauty competitions.

The Making of the Apartheid State: 1915-1960

While it has become customary to present apartheid as a relatively unique historical experience, Mamdani (1996:27) argues that it was but "one aspect that is uniquely African. Usually understood as institutionalised racial domination, apartheid was actually an attempt to soften racial antagonism by mediating and thereby refracting the impact of racial domination through a range of Native Authorities". Thus, not surprisingly, the discourse of apartheid, in the words of Mamdani, "idealized the practice of indirect rule in British colonies to the north. As a form of rule, apartheid – like the indirect rule colonial state – fractured the ranks of the ruled along a double divide: ethnic on the one hand, rural-urban on the other". In the case of Namibia, these divides were structured in restrictions on mobility and the ethnic zoning of urban and rural space. To these notions one could usefully add the argument that apartheid was fractured and hegemonic space, in the sense that it divided society (along ethnic and racial lines) to ensure minority white hegemony.

Reflecting on the body of South African scholarship on the question of the apartheid State, Mamdani (1996:27-8) summarises this into three related streams. The first is largely economic and focuses on the "rural-urban interface and the diminishing significance of the countryside as a source of livelihood for its inhabitants". It emphasises the mode of production, not rule. Because it treats rural areas as largely residual and passive, it is unable to explain *apartheid* as a form of State. The second body of scholarship focuses on the question of chieftainship and rural administration. It is often highly specialised on particular institutional forms or on local government, but is generally not well integrated into a comprehensive analysis of the apartheid State. Finally, there is a body of work that focuses on "internal colonialism", "colonialism of a special type" and "settler colonialism". It, too, fails to analyse *apartheid* as a form of State.

  Mamdani (1996:28) argues that "the specificity of the South African experience lies in the strength of its civil society, both black and white". He adds that this is in spite of the "artificial deurbanisation attempted by the apartheid regime". In the case of South Africa, the numerical size and weight of the white settler presence sets it apart from settler minorities elsewhere in colonial Africa. While these considerations hold for South Africa, not all of them may necessarily hold in equal measure for Namibia.

Against this contextual introduction to the debates on the former apartheid State in South Africa, we can now proceed to explore the roots of the State under South African colonial rule in Namibia, more especially in the period 1915-1960.

At the conclusion of the 1915 South West Africa campaign, Germany lost its effective power of decision with regard to its former colony, German South West Africa. Such denial served British imperial interests – with both Botha and Smuts acting in support of an earlier British Government request to offer "a great and urgent Imperial service" – as well as a more particular Afrikaner political project that was being forged within South Africa itself. Thus, from the outset, the apartheid State in Namibia formed part of the colonial episode.

With the commencement of military occupation a military governor was appointed. German law remained in force except such laws as it was found necessary to repeal under martial law. Both the German Civil Code as well as the German Criminal Code continued to operate, but the former German administrative system, including both criminal and civilian courts, was abolished. Initially no civil courts were constituted by the occupying power, with military magistrates' courts exercising criminal justice in some districts. A Special Criminal Court, presided over by an advocate from South Africa, assisted by two members, sat twice a year to hear more serious criminal cases.

The positions of military governor and the chief civil secretary were both abolished by proclamation and their powers transferred to an appointed Administrator, whose powers and functions were defined by a 1918 proclamation. This proclamation made it clear that the Administrator had both legislative and executive power, and that he had to act in accordance with the interests and wishes of the white minority Government in South Africa (Du Pisani 1986:48). In practice, this meant that the Administrator functioned as a "diplomat-in-residence" for local and South African white minority interests, and among others, actively encouraged white settlement (Wellington 1967:272-273).

Mandate: A Cautionary Tale

World War I was terminated by the terms of Article 119 of the Peace Treaty of Versailles signed by the various parties in June 1919. This transferred sovereignty of the former German colonial Government over German South West Africa to the Principal Allied and Associated Powers, and they, in turn, transferred the "full powers of administration and legislation" to the Union of South Africa as the mandatory power. Supervisory power over South Africa (as the mandatory power) was vested in the Permanent Mandates Commission of the League of Nations.

At this point it is important to recall that the system of mandates emerged as a compromise between the ideals of self-determination and the annexationist demands of some of the Allied and Associated Powers. In general, however, the system of mandates stressed the principles of self-determination and trusteeship,

as well as the supervisory power of the League of Nations. In this vein, General JC Smuts from South Africa, chief improvisor of the mandate system, wrote:

> ... the mandatory state should look upon its position as a great trust and honour, not as an office of profit or a position of private advantage for its own nationals.[1]

The central leitmotiv of the mandate system was embodied in the first paragraph of Article 22 of the League of Nations Covenant. It read as follows:

> To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states which formerly governed them and which are inhabited by peoples not yet ready to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the wellbeing and development of such peoples form a sacred trust of civilization ...

Mandates were classified into three categories – "A", "B" and "C" – on the basis of the stage of development of the inhabitants, and other considerations such as economic conditions and geography. Namibia became a "C" mandate (other "C" mandates included Western Samoa, Nauru, a portion of New Guinea and various other small Pacific islands). As a "C" mandate the territory had to be administered under the laws of the mandatory power as an integral part of its territory. Of special relevance for the category of "C" mandates was the following formulation, which subsequently became Article 22 of the Covenant of the League of Nations:

> ... There are territories, such as South West Africa and certain of the islands in the South Pacific, which, owing to the sparseness of the population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the mandatory state, and other circumstances, can be best administered as integral portions thereof, subject to the safeguards ... in the interests of the indigenous population.

When the Union of South Africa was designated the mandatory power over Namibia in 1919, that country set out to redefine public space and political life in the mandated territory.

Political developments, such as the creation of an all-white Advisory Council in 1921 to advise the South African-appointed Administrator, the introduction of English and Dutch as official languages (in January 1920) and Roman-Dutch Law as the common law in Namibia, land policy, education policy, as well as the active encouragement of white settlement, all pointed to an attempt to reconfigure public space in Namibia so as to contain the movement of the majority black population. The Vagrancy Proclamation of 1920, which made it an offence for black men to move around the Police Zone (PZ)[2] unless they could show "visible lawful means

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[1] Notwithstanding Smuts' noble intentions, successive South African Governments did not adhere to the letter and spirit of the Mandate Agreement.

[2] The PZ served the purpose of containing the mobility of both people and animals, as well as the spread of cattle diseases from northern Namibia to the central and southern parts of the country.

of support", was, as Gordon (1998:52-76) showed, one of the keystones of colonial policy.

The early fault lines in white politics came from –

- the Administration's land policy, which encouraged Union civil servants to settle in Namibia permanently
- the issue of administrative control over German private schools and prohibiting the import of further German teachers from Germany, and
- early indications by the Smuts Government that it intended to incorporate Namibia into the Union of South Africa as a "Fifth Province".

These formed foci of political tension and mobilisation of ethnic factions of the white community. Out of a total white settler population of some 19 432 individuals in May 1921, 10 673 were British subjects and 7 855 were German.

The more foundational and more enduring fault line, however, came with the policy of "Native" reserves: a policy started by the Germans and perfected by the South Africans. As early as 1925, the various ethnic groups within the PZ, numbering about 75 000 at that stage, were located within reserves. The reserves covered an area of some 2 100 000 hectares out of a total territory of 824 269 km^2. With regard to the ethnic groups that lived outside the PZ, their relative autonomy and mobility were also being systematically manipulated through a system of indirect control. In important respects, this system of indirect rule mirrored the older British colonial practice and served, as Mamdani (1996:28) argues, the purpose of separating the people along a double divide: ethnic and rural/urban. It was premised on the idea of mediating in social conflicts and creating spatial distance among the various population groups, which ensured the hegemony of the local white minority. In the words of Hayes, Silvester, Wallace and Hartmann (1998), the "politics of containment" became a central historical thread of Namibia under South African rule.

The system of indirect rule was first introduced in the Kwanyama area in former Ovamboland. Thereafter it was extended to the Mbalantu, Nkolonkati and Eunda tribal areas in former Ovamboland, with headmen exercising authority over designated districts.

In other areas of former Ovamboland, such as Ondonga and Ongandjera, chiefs supported by tribal councils effectively constituted the tribal authority. These chiefs and councils of headmen enjoyed civil and criminal jurisdiction over members of their own tribal groupings, except in respect of the crimes of murder, rape and high treason, and severe cases of assault with intent to inflict serious bodily harm: these were dealt with by the South West Africa Division of the Supreme Court of South Africa (Du Pisani 1986:59).

The system of indirect rule was further solidified with the passing of the Ovamboland Affairs Proclamation (No. 27 of 1929). The Proclamation provided

for, *inter alia*, the setting aside of Ovamboland as a "Native reserve for the sole use and occupation of the Ovambo; for the creation of trust funds for each of the tribes in Ovamboland; for the payment of levies by members of the various tribal groupings to those funds; and for the moneys in the funds to be expended as directed by the Administrator, after consultation with the chiefs or headmen, upon objects which in the opinion of the Administrator are in the interest of and calculated to promote the welfare of the tribal groupings". While these functions were subsequently transferred to the South African Minister of Bantu Administration and Development, in 1954, the keystone for a system of indirect rule was firmly in place by 1929.

Proclamation No. 32 of 1937 extended the policy of reserves with its geopolitical and spatial dimensions to "the Okavango Native Territory". The position of the Caprivi *Zipfel* ("Strip") was particularly interesting. In the period 1922 to 1929 the British High Commissioner to South Africa administered the Eastern Caprivi as part of the former Bechuanaland Protectorate, the present-day Botswana. From 1929 to 1939 it was administered by the Administrator of South West Africa. Thereafter, it was administered by the South African Minister of Bantu Administration and Development until 1977, when the Caprivi obtained a limited form of self-government in terms of the then policy of "separate development".

In 1939 the local white Administration passed the Natives Trust Funds Proclamation (No. 23 of 1939), which established the Herero Tribal Trust Fund and authorised the Administration to establish the Damara, Nama and miscellaneous other "Native Tribal Trust Funds" by notice in the *Government Gazette*. Provision was also made for the Administrator to summon, from time to time, a council of the ethnic group concerned, to render advice on the administration of the tribal fund or on any other matter concerning the "tribe" or "native affairs" generally. This practice created "imagined communities", as if they had existed previously.

The public space within which the black population in the reserves inside the PZ had to conduct politics was characterised by the following key features:

- For each proclaimed reserve, headmen were appointed by the local Administration to exercise control over a particular reserve under the supervision of a white superintendent.
- A Reserve Board for each reserve was constituted, consisting of the Bantu Affairs Commissioner or the superintendent of the reserve, appointed headmen and not more than six adult black males. These Boards, apart from assisting in the administration of the trust funds, had a limited developmental role as well.
- An annual general meeting was convened in each reserve to enable the Bantu Affairs Commissioner to render an account of the administration of the trust fund for the preceding twelve months.

- As a later development, the practice of holding additional annual meetings was initiated. Under the chairpersonship of the Chief Bantu Affairs Commissioner, with nominated and elected representatives of the different ethnic groups, such meetings dealt with any other matters in addition to the tribal funds.

While such tribal meetings sought to create consolidated unitary identities for the different groups, the reality of fragmented reserves had the opposite effect: they encouraged parochial identities.

The position of the Herero-speaking population was yet a further illustration of the extent to which successive South African Governments followed the practice of earlier colonisers, notably the British and the Germans. After the 1904-1907 revolt against German colonisation, the Herero were left both landless and stockless. The South African Government decided to exert more direct control over the fragmented people, by appointing leaders and by using missionaries such as the late Dr Heinrich Vedder to curry favour with particular Herero communities.

In line with earlier actions, the Herero people were confined to no fewer than eight reserves:

- Aminius and Epukiro in the Gobabis district
- Waterberg East in the Otjiwarongo district
- Otjituo in the Grootfontein district
- Otjahorongo in the Omaruru district
- Ovitoto in the Okahandja district
- Dama in Otjimbingwe in the Karibib district, and
- Khoekhoegowab-speaking Namibians in Tses in the Keetmanshoop district.

Subsequently, the eastern part in the district of Gobabis-Rietfontein was set aside principally for occupation by Herero communities. The administrative machinery mirrored that outlined above: headmen, Reserve Boards and a white superintendent, whose position resembled that of the British District Officer or the former German Native Commissioners.

The position of the Nama corresponded largely with that of the Herero. After their resistance to German colonial rule the Nama people were permitted to occupy certain small, dispersed pockets of land. At the inception of the mandate, the only Nama permitted to occupy land were those residing in the Berseba area in the south of the country, under Chief Goliath, and the Bondelswartz under a *Kaptein* ("Captain", or "chief"). Subsequently, the rights to the land of Nama communities in the Soromas, Franzfontein and Zesfontein reserves were recognised by the State, while other Nama communities resided in the Neuhof, Tses, Gibeon and Warmbad reserves. In all these reserves, the residents elected headmen who were then officially appointed as such, and Reserve Boards were subsequently instituted.

Under the policy of "Native reserves", control over land became intimately connected to the political project of the apartheid State. The structures of the apart-

heid State that regulated land and access to it, extended social control over the black population through the control over land. "Traditional" authority was being invented by the apartheid State and its agencies to ensure social control at local and regional level, while the reserves provided labour for the white commercial agricultural and mining sectors.

At this point it is important to emphasise that not every black community passively accepted and resigned themselves to the policy of reserves. For example, the Nama community in the Berseba reserve opposed the policy, and consequently, had their headman removed and replaced by two "more acceptable" headmen. As a consequence of resistance, the Nama Tribal Trust Fund (as provided for in the Native Trust Funds Proclamation of 1939) was not established. The Dama community, too, resisted their removal from the Aukeigas reserve near Windhoek to the Okombahe reserve, and generally expressed their dissatisfaction with the scattered nature and marginal ecology that characterised the Neuhof, Tses, Franzfontein and Okombahe reserves.

By 1939, a total of seventeen reserves had been established. The total area of these reserves amounted to approximately 23 000 square miles or 6 000 000 hectares. The reserves were generally small patches of land with limited ecological, economic and political viability. Moreover, the official policy was one of spatial separation and not of regional development. The reserves became reservoirs for a supply of cheap labour, and their residents predominantly practised subsistence agriculture as a mode of production. The white settler population constituted a ruling class, and black Namibians a working class and underclass largely excluded from economic and public political power.

The Urban Arena

The growing number of urban blacks were forced to live in "locations" on the periphery of "white" towns. The social geography of towns and cities, too, mirrored that of many other towns and cities in the former British colonial Africa. In former South West Africa, "locations" were owned and subject to social control by the various local white authorities in terms of Proclamation 15 of 1928, i.e. each "location" was controlled by a white superintendent.

Economic differentiation in the wage structure and the exclusion of the majority of the population from participation in decision-making, coupled with administrative and institutional separation, characterised public space and power in Namibia. For a growing number of whites, politics became a mere extension of "white politics" in South Africa. This perception was fortified by deliberate attempts to reconcile German and non-German subjects.

The De Haas–Smuts Agreement of October 1923 provided one of the most poignant illustrations of this policy, which amongst other aspects, outlined the agreement reached on the automatic naturalisation of German citizens in terms of the

Zuidwest-Afrika Naturalisatie van Vreemdelingen Wet (which translates as the "South West Africa Naturalisation of Aliens Act"), No. 34 of 1924. Some 3 228 German citizens subsequently became naturalised in terms of this Act. By 1931 some 2 354 more Germans were naturalised, while the 1936 population census indicated that out of a total white population of 30 000, only around 3 300 Germans had not yet been naturalised.

Party Formation

The formation of white political parties, such as the National Party of South West Africa and the *Unie Party* ("Union Party") in 1924 – renamed the *Suidwes Party* ("South West Party") in 1926 – as well as the *Verenigde Nasionale Suidwes Party* (*VNSWP*, the "United National South West Party") in 1927, mirrored the same trend.

Initially, the German-speaking population either formed their own interests associations, such as a *Farmwirtschaftliche Vereinigung* ("Agricultural Union"), the *Deutscher Verein Windhuk* ("Windhoek German Union") and the *Deutscher Bund in Südwestafrika* ("German Union in South West Africa") to advance their class, economic, cultural and political interests, or cooperated through the *Zuid West Vereniging* ("South West Union") on a non-party-political basis. The latter published a bilingual newspaper, *Die Voortrekker*, in German and Dutch as early as 1919. The *Zuid West Vereniging*, too, favoured closer cooperation with the Union of South Africa, even if such cooperation would have resulted in the eventual incorporation of South West Africa into South Africa.

As argued previously, the issue of German private schools as well as the further import of German teachers from Germany generated considerable political heat at the time. Playing a leading part were the *Landesverband der deutschen Schulvereine in Südwestafrika* ("National Union of German School Associations in South West Africa") and *Die Allgemeine Zeitung*, mouthpiece of the German community.

The first elections for members of the all-white Legislative Assembly, held in May 1925 in terms of the South West Africa Constitution Act, 1925 (No. 25 of 1925), reflected the political divides amongst the white electorate, with the issue of the incorporation of the former South West Africa into South Africa and that of the German language being the most salient.

The world economic depression of 1929, ushered in when the United States left the gold standard (to be followed by Britain in September 1931), as well as the subsequent collapse of the local diamond industry and the life-denying drought of 1931-1933, provided grounds for the formation of new political parties such as the South West African Labour and Farmers' Party in November 1931 (Du Pisani 1986:76-77).

At the same time, the policy of reconciliation between the German section and the Afrikaans/English section of the population was further solidified with the

Cape Town Agreement of 1931. Under this Agreement, German was also recognised as an official language (in addition to English and Afrikaans), and Germans were automatically naturalised after two years in the country instead of the five years stipulated by law. (This provision was repealed in 1942 and replaced by a system of individual naturalisation.)

The rise of national socialism in Germany, too, left an imprint on the local political scene, with the formation of the *Nationalsozialistische Deutsche Arbeiterspartei* (*NSDPA*, "National Socialist German Workers' Party") in 1932. The *NSDPA* campaigned vigorously against incorporation into South Africa and opposed the expansion of the powers of the local all-white Legislative Assembly. The all-white elections for the Legislative Assembly of 1934, however, resulted in a resounding victory for the *VNSWP* and, thus, incorporation into South Africa.

Issues of language and citizenship, as well as that of incorporation, continued to shape the political preferences of white voters, especially until 1948 when the National Party came to power in neighbouring South Africa and the international legal dispute – following the formation of the United Nations (UN) in 1945 – started to take on a life of its own.

The National Party Government in South Africa not only exploited the so-called consultations of 1946 – conducted by the Smuts Government – which it claimed indicated overwhelming support for incorporation, but challenged the legal and moral authority of the UN through its policies and actions in Namibia. Before we analyse these and subsequent developments, however, it is important to mine two other important seams: first, the origins and rise of black political protest and resistance and, secondly, the origins of the legal dispute.

Black Resistance

The roots of black resistance were deep and varied. Christianity provided it with a "language of protest" and a transcendent notion of humanity. Higher education, both in South Africa and elsewhere, and the dehumanising experience of the contract labour system primed political consciousness.

By as early as the 1920s, the first foundations for subsequent struggles were being laid in the unforgiving Namibian soil and the bleak gravel plains of the South – with the Universal Improvement Society of America, the African People's Organization, the African National Bond and the International and Commercial Workers' Union, spawning early protest. While most of the early political movements were institutionally weak, they were nonetheless important strings in the bow of a nascent civil society that was more social and informal than was the case in Western societies.

The Bondelswartz rebellion of 1922, as well as the Rehoboth revolt of 1925, illustrated that the roots of black resistance were complex. At once, political, symbolic and socio-economic deprivation – which, in the case of the Bondelswartz,

was severe – and political memory intersected to inspire and drive their revolt. These two rebellions also established a pattern, that of petitions by the communities concerned to the League of Nations and to its successor, the UN.

The Origins of the Legal Dispute

Neither the Mandate Agreement nor Article 22 of the Covenant of the League of Nations defined the exact legal nature of a mandatary's powers; nor did they unambiguously deal with the location of sovereignty in respect of mandated territories. This ambiguity was manifestly exploited by successive South African Governments, who refused to recognise that sovereignty vested in the inhabitants of the mandated territories or in the League of Nations (or the UN). Successive South African Governments instead argued that – as the mandatory power – they had sovereignty over Namibia (Dugard 1973:76-82). The South African Government's legal viewpoint may be summarised in the argument presented in 1949 by one of its partisan legal advisers (Du Pisani 1986:91):

> I have come to the conclusion that majestas or sovereignty over South West Africa resides neither in the Principal Allied and Associated Powers, nor in the League of Nations, nor in the British Empire, but in the Government of the Union of South Africa which has full powers of legislation and administration (only limited in some respects by the mandate) and does not recognise the sovereignty of any person or body in the territory.

The defiance of successive South African Governments to oppose requests by the UN to place Namibia under UN Trusteeship – as was the case in all other "C" mandates – fuelled calls from the white political parties in the then South West Africa for closer integration with South Africa and representation in that country's Parliament. The introduction of the South West Africa Affairs Amendment Act, 1949 (No. 23 of 1949), and the extension of the South African Citizenship Act, 1949 (No. 44 of 1949) served these exact purposes.

It is important to recall here that with the founding of the UN came a new approach to the question of the former League mandates. While under Article 23(e) of the League of Nations' Covenant, a member of the League undertook to secure the just treatment of the native inhabitants of territories under its control, this provided little basis for arguing that the administration of colonial territories was a matter of international concern. Whereas the League advanced the idea of the international responsibility of the colonial power, the UN propounded the international accountability of such a power. While the League sought to improve the standards of colonial rule, the UN sought to liquidate colonialism entirely.[3] This shift in approach was not welcomed by successive South African Governments.

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[3] Witness Chapter XI of the Charter in the Draft Covenant on Civil and Political Rights, Part 1, Article 1(1) and the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples – General Assembly Resolution 1514 (XV), 14 December 1960.

While the protracted legal dispute between South Africa, members of the world community and the UN falls outside the scope of this cursory chapter,[4] it did influence the actions of South Africa as well as those of local political formations, especially in respect of political life and the wider project of national resistance. It is to these aspects that we next turn.

The Politics of Resistance: 1959-1972

With the formation of black political parties at the beginning of the 1960s, the politics of resistance was elevated to a higher plane. It is important to remember, however, that some of these formations evolved out of older religious associations or out of concrete historical contexts such as the system of migrant labour and the defiance campaign of the 1950s in neighbouring South Africa. The new approach of the UN on the question of self-determination and independence for colonised people, too, inspired those that resisted South African rule in Namibia.

Land, labour and community-based resistance in the period 1920-1960 provided another important strand. As Katjavivi (1988:17-23) shows, the death of Kwanyama Chief Mandume ya Ndemufayo in 1917, the Bondelswartz rebellion of 1922, and labour action in the fishing and mining industries, especially in the period 1922 to 1953, kept the embers of resistance burning.

The most significant development on both the political and labour fronts in the 1950s, however, was the formation, in 1958, of the Ovamboland People's Congress (OPC). The OPC was spawned amongst Namibian workers in Cape Town. Among the founding members of the OPC were Andimba Toivo ya Toivo, the late Peter Mueshihange, Solomon Mfima, Andreas Shipanga, Jackson Kashikuka, Jacob Kuhangua and Maxton Joseph Mutongolume. The OPC evolved out of the informal social networks that existed amongst Namibian contract workers in Cape Town.

Writing on the objectives of the OPC, Katjavivi (1988:20) opines:

> From the start, OPC aimed to improve the conditions of its members and, indeed, other contract workers from Ovamboland. Its members also, however, had close links with the African National Congress of South Africa and the Congress Alliance, and anticipated being part of a broad congress movement in Namibia.

Ya Toivo, leader of the OPC, not only wrote to various Governments and institutions about the plight of his fellow Namibians, but also petitioned the UN. His political activities led to his deportation from Cape Town to what was then called "Ovamboland", where he continued in the same vein.

On 19 April 1959 the Ovamboland People's Organisation (OPO) was spawned in Windhoek. Sam Nujoma, the first President of an independent Namibia, was

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[4] Of the many sources on the legal dispute, the following are particularly useful:
Cockram, Gail-Maryse. 1976. *South West African mandate*. Cape Town: Juta.
Dugard, John. 1973. *The South West Africa/Namibia dispute*. Berkeley: University of California Press.

elected OPO President and Louis Nelengani served as its first Vice-President. Lucas Nepela and Jacob Kuhangua were two other prominent OPO personalities.

The OPO actively campaigned for support amongst the predominantly Oshiwambo-speaking contract workers in factories and mines, where it established various branches. Although the OPO primarily concerned itself with the position and welfare of contract workers from the North, it included in its programme the attainment of national independence. When, in June 1960, the OPO reconstituted itself as SWAPO – the South West African People's Organisation – it was able to broaden its membership and appeal.

The South West African National Union (SWANU) was formed in 1959, following discussions between Toivo ya Toivo of the OPO and Jariretundu Kozonguizi of the South West Africa Progressive Association (SWAPA). SWANU started its political life closely linked to that of the OPO and the Herero Chief's Council of the late Hosea Kutako. The popular uprising against the removal of Windhoek residents from the Old Location to Katutura in December 1959, galvanised the OPO, SWANU and the Chief's Council, among others, into collective action.

Institutional and personal rivalries were later to move SWAPO and SWANU apart; it would, however, be an oversimplification to ascribe these to ethnicity. Their core political objectives derived from their belief in the ideals of pan-Africanism and independence for Namibia. Furthermore, both SWAPO and SWANU claimed a nationalist and anti-colonialist mantra. Congruence in political objectives and symbolic appeal culminated in personal and organisational rivalry, which was deepened when the Liberation Committee of the Organization of African Unity (OAU) – in 1962 – accorded recognition to SWAPO as a more "authentic" movement, when the latter mounted the armed struggle .

The South African Government at the time viewed the formation of SWAPO as highly undesirable, typified it as "communist" and systematically set out to ban its leaders and contain its growing political influence in Ovamboland, in mines, factories and towns. Again, the politics of containment, albeit in an increasingly coercive way, was at work.

Soon other political formations came into being: the National Unity Democratic Organization (NUDO) in 1964, with Mberumba Kerina, Hosea Kutako and Clemens Kapuuo providing leadership. NUDO also enjoyed the support of some Nama traditional leaders, notably David Witbooi and Allan Louw. Largely unsuccessful attempts followed to bring SWANU and SWAPO together in the South West African Liberation Front (SWANLIF) in October 1963. SWANLIF became the South West Africa National United Front (SWANUF), but that did not save it from internal dissent when a section of the Herero under Hosea Kutako and SWAPO defected the following year.

The short-lived United Nama Independence People's Party (UNIP), founded by Kerina, ran into the ochre sand of the South at the beginning of 1965. Taking

advantage of the political space that apartheid provided for the different ethnic groups, two new political parties were spawned: the South West Africa Coloured[5] Organisation and the *Volksorganisasie van Suidwes-Afrika* ("People's Organisation of South West Africa"). In the case of Rehoboth, the *Burgerorganisasie van Rehoboth* ("Citizens' Organisation of Rehoboth") articulated economic, cultural and political interests. Various other political parties followed, most of them with either explicit or implicit ethnic or community preferences. Among these were the Damara Tribal Executive Committee and the South West Africa Democratic Union (SWADU), which attempted to serve the interests of the Damara-speaking population. The Caprivi African National Union (CANU), under Brendan K Simbwaye, too, followed this pattern until it joined forces with SWAPO in the mid-1960s.

In addition to the complex patterns of resistance mounted by the different political parties and formations, various other strands of resistance were interwoven to form a rich tapestry of politics. These strands emanated from religious societies, Churches, educational and cultural associations, students and organised labour. A growing body of research (First 1963; Ngavirue 1972; Ya Otto 1982; Katjavivi 1988; Emmett 1987) testifies to the complexities and multi-dimensionality of resistance during this period.

Against this background of resistance, growing international condemnation of South African rule in Namibia, and decolonisation elsewhere on the continent, in an attempt to minimise the impact of such developments the Pretoria Government reverted to what it knew best: a policy of ethnic and spatial separation. The Odendaal Commission Report of September 1964 signified the apogee of a policy that drew on a long and undignified colonial inheritance. Apartheid spatiality with its territorial, structural and symbolic dimensions was given institutional import on a national scale.

Odendaal: Unto Each Its Own "Ethnic" Space

The Odendaal Commission of Enquiry into social, economic and political life in Namibia was congruent with the apartheid State's official policy of ethnic particularism and spatial social engineering. The representation of public space signified the political, ideological, social and moral imagery of the former apartheid State class.

Under apartheid, space referred to – and impacted upon – political, social and economic processes. Apartheid spatiality referred to how space was represented as having an effect on such processes. The system and ideology of "Bantu Education" played an important role in all of this by underpinning the hegemony of the apartheid State (Cohen 1994).

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[5] Adopted from the term used by the South African Government to denote people of mixed descent.

The recommendations of the Odendaal Commission Report created space not only in a geographical sense, but also in a symbolic and structural sense. From the latter point of view, geopolitical entities (such as the various ethnic "homelands") had spatial effects that resulted from their interaction or relationship with one another. For example, towns (which were generally seen as "white" spaces) were linked to resource peripheries in the rural areas in a structural relationship of superiority/subordination.

Apartheid idealised these relatively "fixed" representations of territorial, symbolic and structural space as appropriate to the historical and social context in Namibia. Space ensured the political, economic and cultural hegemony of the white minority and served the political economy of South Africa. In similar vein, *ethnicity* was statically (even primordially) defined as "a system of homogeneous cultural values and practices" that had to form the basis for institution-building and socio-economic development. In this respect, the Commission was of the opinion that –

> ... the group and not the individual is the focal point. ... Primarily the individual belongs to the ethnic group into which he is born. Within the setting of his own group he develops to maturity, and accepts as axiomatic the comprehensive whole or totality of the group thinking and group behaviour as built up, adhered to and upheld by his own people in their own characteristic way. The individual cannot therefore be separated from his own ethnic relationship since he is linked to his social heritage. (*Report of the Commission of Enquiry into South West African Affairs, 1962-1963*, 1964:57)

On the issue of socio-economic development, the Commission wrote –

> ... it is a known fact that different groups do not necessarily attain and maintain the same standards of development. Consequently there are observable differences in culture between the various groups and it is these very differences that form the criteria by which one society is distinguished from another. *(Report of the Commission of Enquiry into South West African Affairs*, 1964:425)

Consequently, the Commission opposed policies of socio-economic integration and socio-political equality. It invoked the following arguments to support its views:

> Owing to fundamental differences in socio-economic orientation, stages of development and ethnic classification, the differences between the groups concerned are so profound in nature that they cannot be wiped out; a policy of integration is unrealistic, unsound, and undesirable, and cannot but result in continual social discrimination, discontent and frustration, friction and violence – a climate in which no socio-economic progress can be expected to take place. *(Report of the Commission of Enquiry into South West African Affairs*, 1964:55)

Consistent with the above argumentation, the Commission rejected the idea of one central authority with the different population groups represented therein. Instead, it recommended the establishment of various "homelands" for each population group, in which the individual group alone would have residential, political

and language rights to the exclusion of other population groups. These "homelands", it argued, would bring "self-determination" without "group domination".

In 1964, while the legal proceedings at the International Court of Justice were still in progress, the Commission released its political and socio-economic recommendations for an estimated population of 526 004.

Political Recommendations

In essence, the political recommendations of the Odendaal Commission Report amounted to the enlargement of the earlier established black reserves from roughly 26% to nearly 40% of the total land area of Namibia. Additional territorial space was added partly from accretions of adjoining white farms, but principally from Government-owned land and game reserves. The Report listed 423 white farms which would have to be acquired to implement the proposed scheme of "homeland consolidation". By 1967 the total expenditure on the purchase of land amounted to R23 247 230 (Du Pisani 1986:162).

The Odendaal Commission recommended the creation of ten "homelands" for the various black ethnic groups other than coloureds. The system of government of the rest of Namibia would continue, but some functions would be transferred to the South African Government. The proposed areas for the "Rehobothers" and the Nama (Namaland) would be administered by the Department of Coloured Affairs in the Republic of South Africa (thus creating a sense of difference from "the other"). The other "homelands", with the exception of Tswanaland, would be administered by the Department of Bantu Administration and Development.

One or more white commissioner-generals would serve as administrative links between South Africa and the black "homelands". The system of government proposed for Kavango, Ovamboland, Kaokoveld, Damaraland, Hereroland, East Caprivi and Namaland consisted of a legislative council with limited political authority. The legislative councils would be composed of a majority of ex-officio chiefs, headmen and a minority of elected representatives. Each of these councils would then elect executive councils. The franchise would be given to all over eighteen years of age.

The Tswana would initially be placed under a "communal authority" consisting of a headman and two councillors. The Bushmen would be placed under "the guidance and protection" of a white commissioner as "there is no conceivable form of self-government" in which they could be accommodated. The Basters of Rehoboth would be granted a form of limited self-government "in terms of a constitution arrived at through consultation between the Baster community and the Government of South Africa". The coloureds would have no "homeland", but would have a coloured council based on the South African model. Urban blacks and coloureds in the various towns would have their own separate townships, with their own urban councils.

In addition to its political recommendations, the Commission also made economic recommendations, based on a first and a second five-year plan. Provision was made, *inter alia*, for the supply of water and electricity, mining and industrial development, education and health services. Elsewhere, this analyst has summarised the key economic recommendations (Du Pisani 1986:163-166).

International and domestic reaction to the Odendaal Commission's Report was varied and largely hostile. For example, in 1964, the UN condemned it through the Special Committee of Twenty-Four, and in the following year the General Assembly added its protest through the adoption of Resolution 2074 (XX). The OAU, too, added its voice of protest. Strong condemnation and rejection came from both SWAPO and SWANU, who saw the proposed policy of ethnic fragmentation as a continuation of colonialism. For the former, it provided an additional rationale to pursue and intensify the armed struggle.

The implementation of the political and spatial recommendations of the Odendaal Commission's Report left a deep scar in the social fabric of Namibian society, the legacy of which Namibians still experience. The Development of Self-Government for Native Nations in South West Africa Act, 1968 (No. 54 of 1968) set in motion a configuration of space that was both hegemonic and divisive. Various "homelands" were established – Ovamboland (renamed *Owambo* in 1972), Okavangoland (renamed *Kavango* in 1972), Damaraland, Hereroland, Kaokoland, Namaland and Eastern Caprivi. Apartheid spatiality ensured a system of superordination and subordination that, over the years, became more coercive and ugly.

Against the backdrop of decisive international legal and political developments, notably the revocation of the mandate by the UN General Assembly (UNGA Resolution 2145 (XXI) in October 1966 and the prelude to the 1971 Advisory Opinion, the South African Government at the time passed the South West Africa Affairs Act, 1969 (No. 25 of 1969). This important Act amended the South West Africa Bantu Affairs Administration Act of 1954, the Exchequer and Audit Act of 1956, the Customs and Excise Act of 1964 and the South West Africa Constitution Act of 1968.

In addition to those departments concerned with Namibian affairs which had been administered by the South African Government since 1920, that country now also assumed responsibility for the following matters: labour, black education, internal affairs, prisons, commerce, justice, coloured affairs, agriculture, mines, cultural affairs, public works, posts and telegraphs, transport, social welfare and water affairs.

The application of the South West Africa Affairs Act had various significant political, economic and bureaucratic implications. Chief among these were the extensive politicisation of the local State bureaucracy, closer fiscal integration between Namibia and South Africa and, generally, more ideological control by the South African State.

Major legal developments characterised the period 1968-1971, with the seminal Advisory Opinion of June 1971 bearing special importance. The latter dealt with the consequences in international law of the earlier (1968) revocation of the mandate by the UN General Assembly. The political consequences of the 1971 Advisory Opinion, too, were of importance, since these shaped the actions and policies of SWAPO, South Africa and, indeed, the member states of the UN. It also elevated the role of the UN Secretary-General and that of the Security Council in subsequent diplomatic attempts to secure Namibia's independence. In addition, the 1971 Advisory Opinion kindled the embers of resistance, both within the country and from the outside. In a more general sense, it provided the backdrop to the "politics of controlled change", in terms of which South Africa – agonisingly slowly – came to the realisation that Namibia would become an independent State sometime in the future, and started to position itself for such an eventuality. It is to this theme that we next turn.

The Politics of Controlled Change: 1971-1989

While this broad phase in South Africa's colonisation of Namibia had several subtle and nuanced dimensions, it coalesced around a few core themes such as growing internal resistance (and not only from SWAPO but from formations associated with it and from others); the militarisation of politics; the further regionalisation of the liberation struggle (more especially after 1975 when the Angolan theatre became central to the South African decolonisation strategy for Namibia); the emergence of a framework for transition to independence; and the actual transition to independence.

October 1971 marked the opening of a new frontier in the war against South Africa's presence in Namibia, when SWAPO's armed wing, the People's Liberation Army of Namibia (PLAN), began operating in the strategically important Caprivi Strip. Protracted labour action throughout the country's mining and commercial sectors in late 1971 to early 1972 added a new dimension to the politics of resistance. At the time, some 43 000 black contract workers (the vast majority from Owambo) were employed in the more developed formal economy of southern and central Namibia, some 11 000 in the almost exclusively white commercial-farming sector, 14 000 in the local Government service, commerce and industry, 3 000 in fishing and approximately 3 000 in domestic service (Kane-Berman 1973). In Windhoek alone, the strike involved some 5 000 contract workers, and by 1972 included some 13 500 workers in 21 towns and 11 mines.

The political and socio-economic demands of the workers included, among others, the abolition of the inhuman contract labour system (an inheritance from German colonial times); freedom to select one's place and type of employment; improved wages; permission to have one's family reside with one in the urban areas; and an insistence on addressing the social effects of the migrant labour system

on family life (Du Pisani 1986:212). The latter demand, the social impact of the system of migrant labour on family life, has been well chronicled by Banghart (1969) and Voipo (1972). Banghart, for example, estimated that between 1960 and 1968, approximately 37% of the adult male population were away from Ovamboland and their wives and families for most of their married life for an average period of 12-18 months at a time. Voipo (1972:9,17,19-20) claimed that roughly half of the migrant Ovambo labourers were faithful to their wives.

Amidst growing conflict in Owambo, the South African Government introduced an emergency proclamation (Proclamation R 17 GG 3377) in February 1972. Unauthorised meetings of more than five persons were prohibited. Detention without trial was permitted, and severe restrictions on freedom of political organisation and expression were imposed. By the end of May 1972, some 267 persons in Owambo had been detained under these emergency regulations.

The political implications of the 1971-1972 strike were profound. Sustained labour action challenged the very notion of the urban/rural divide – a cornerstone of spatial apartheid; it forged stronger links between organised labour, the Churches and the liberation movement; and ushered in a period of renewed repression, especially in Owambo, where the South African Defence Force took over control from the South African Police in January 1972. The UN, too, stepped up its attempts to bring Namibia closer to independence with visits by the UN Secretary-General, Kurt Waldheim, and Dr Alfred Escher, his personal representative, in March 1972 and October 1972, respectively. The membership of the UN Council for Namibia was also enlarged from eleven to eighteen, under the chairpersonship of Mr Paul Lusaka of Zambia.

The South African Government responded to these and other developments with the Development of Self-Government for Native Nations in South West Africa Amendment Act, 1973 (No. 20 of 1973), which provided for self-government and independence of the various "Native Nations", and the establishment of a Prime Minister's Advisory Council for South West Africa in March of the same year. This latter body, which had an ethnic composition, served as one of the antecedents to the Turnhalle Constitutional Conference. This Conference was officially launched in September 1975, and subsequently became central to the politics of controlled change (Du Pisani 1982:281-305).

In its attempts to control the process of decolonisation, South Africa evolved a dual strategy. On the one hand, it continued to pursue, with renewed vigour, its policies of ethnic fragmentation and spatial separation. On the other, it established the Turnhalle Constitutional Conference, which ran from September 1975 to October 1977, with the purpose of constructing a legitimate internal alternative to counter SWAPO's popular appeal.

In an attempt to bolster the territorial spatial aspect of apartheid, Owambo was declared a self-governing area within Namibia in April 1973 under an amended

constitution. The depth and breadth of rejection and opposition to the politics of ethnic fragmentation, however, were made abundantly clear in the farcical 1973 elections for a Legislative Council. Of the 50 000 eligible voters, a mere 1 300 voted, the percentage poll being 2,5.

During and after the elections repression deepened. By the middle of 1974 more than 2 000 Namibians left Owambo for neighbouring Angola and Zambia to join SWAPO in exile. Chief Filemon Elifas, first Chief Minister of Owambo, was assassinated in August 1975, and "security districts" were declared in Owambo, the Kavango and the Caprivi. Politics in Namibia descended deeper into the abyss of violence and despair.

Constitutional developments that mirrored those of Owambo followed in the erstwhile ethnic subsystems of Kavango, Eastern Caprivi, Damaraland and Namaland. The Rehoboth and coloured communities, too, were given nominally autonomous advisory bodies. Through a policy of land allocation to the different ethnic homelands, the South African Government hoped to bring about political acceptance of its policies: all in furtherance of the politics of controlled change and the bifurcation of the rural/urban divide. The politics of ethnic fragmentation not only solidified territorial space on an ethnic basis, but also established structural space in the sense of creating a relationship of super- and subordination: towns over the countryside, "white spaces" over "black spaces". To a limited degree, symbolic space was being created as well, notably through the "invention of tradition" and the creation of "traditional leadership", a legacy that still haunts post-independent Namibia.

Political life became both more lively and volatile with the creation of several new political formations. Chief among these were the National Convention of Namibia (NCN) under the leadership of the late Clemens Kapuuo, and the Namibia National Convention (NNC) – a breakaway from Kapuuo's earlier National Convention of Namibia. The latter, the NNC, was an amalgam of diverse political movements and personalities, and included in its ranks Dr Zephania Kameeta (President), the late Daniel Tjongarero (Secretary for Information and Publicity) and Martha Ford (Vice-President). The NNC had SWAPO as one of its constituent parties and opposed the South African-initiated and -supported Turnhalle Constitutional Conference.

The period 1975-1989 was shaped in significant ways by regional and international developments. The most significant of these included –

- the Lisbon coup of April 1974
- attempts to expel South Africa from the UN (which was eventually only prevented because of a triple veto from the United States, the United Kingdom and France in the UN Security Council)
- the crisis around Rhodesia
- South Africa's own detente policy towards Africa

- the introduction of sanctions against apartheid South Africa
- increasing costs (both financial and human) of the war in Angola, and
- the protracted diplomatic negotiations to secure independence for Namibia.

Domestic Namibian developments, therefore, had to be seen against a wider canvas that interacted with what South Africa did and intended to do in Namibia.

As argued above, the Turnhalle Constitutional Conference was one of the key strings in the bow of the politics of controlled change. Elsewhere (Du Pisani 1986:283-381), this analyst has reflected upon the structure, process and outcome of the Conference. For the purposes of this chapter, therefore, we shall not trawl over the same ground, except insofar as it might be useful to highlight the principal features of the politics of controlled change.

The Turnhalle Constitutional Conference was intended to provide South Africa with the opportunity to construct a moderate and legitimate alternative to the popular appeal of SWAPO. To achieve that, South Africa developed an approach to decolonisation that was anchored on the different ethnic sub-systems – with representatives coming from the erstwhile Owambo, Kavango, and Bushmanland for example – as well as transferring authority from the former white Legislative Assembly to an Interim Government based on the Turnhalle. Ethnicity, however, remained the criterion for the authoritative allocation of goods, services, land and symbols, while the rural/urban divide, too, remained firmly entrenched.

Key developments spawned by the Turnhalle Conference included –

- an all-white referendum on an interim constitution in May 1977
- the appointment of an Administrator-General on 1 September 1977 to organise the proposed independence elections and to ensure direct South African involvement in the entire transition
- the abolition of the pass laws and other discriminatory measures and of Bantu education (the latter in December 1977)
- the formation of the Democratic Turnhalle Alliance (DTA) in November 1977
- the internal elections of December 1978
- the establishment of an Interim Government in July 1980
- the holding of ethnic elections for second-tier authorities in November 1980
- systematic efforts to Namibianise the war in northern Namibia, and
- the introduction of direct rule in 1983 under the Administrator-General.

The history of South Africa's attempts to influence and shape the transition to independence predated the Turnhalle Constitutional Conference, and started with the appointment of an Advisory Council for SWA/Namibia in 1973. The purpose of this body was to initiate discussions amongst the different ethnic leaders in Namibia on a future constitution. Significantly, this coincided with the recognition of SWAPO by the UN General Assembly as the "sole authentic and legitimate representative of the Namibian people" (UNGA Resolution 3111 [XXVIII]).

A further indication of an amplified approach to decolonisation came in May 1975, when the former South African prime minister, John Vorster, declared that it "was for the peoples of South West Africa to determine their own political and constitutional future". He added that "all options were open, including that of independence". This was followed by the Turnhalle Conference that commenced in Windhoek at the beginning of September of that year with the purpose of drafting an interim constitution.

In the middle of August 1976, the Turnhalle Conference reached agreement on the establishment of an Interim Government and an independent SWA/Namibia by 31 December 1978. These proposals were rejected by the UN Council for Namibia. In March the following year, the Turnhalle Conference proposed a three-tier Government for Namibia. In May 1977 an all-white electorate pronounced itself overwhelmingly in favour of the Turnhalle proposals for independence and a new constitution.

In September 1977, South Africa appointed its first Administrator-General for Namibia to administer the territory and to collaborate with a UN representative in the transition to independent elections. In one of his first political actions, the Administrator-General repealed the Mixed Marriages and Immorality Acts and abolished Influx Control, except in the diamond areas and on the international border with Angola. In the same year, however, the administration of Walvis Bay was transferred back to the Cape Province. Significantly, South Africa kept Walvis Bay as a bargaining counter to limit the political and economic space of a future independent Government in Windhoek.

Amidst much duplicity and wrangling, South Africa accepted UN Security Council Resolution 435 (1978) as a basis for settlement. Nonetheless, South Africa unilaterally decided to proceed with elections for a Constituent Assembly in Namibia in the first week of December 1978. In the absence of SWAPO, the Democratic Turnhalle Alliance won just over 82% of the votes for a fifty-member Constituent Assembly. The UN declared the elections null and void, while South Africa persuaded the newly-elected body to accept a second election under UN supervision at a later date.

In April 1979, the South African-initiated Constituent Assembly demanded the establishment of an Interim Government, while the Assembly itself was renamed *National Assembly*. Limited legislative powers were granted to the National Assembly in May. Further diplomatic negotiations and an all-party conference under UN auspices at the end of that year led to the provisional acceptance by all parties, as well as the Frontline States, of a demilitarised zone in southern Angola.

The following year saw the National Assembly adopting a new constitution and, in July, it was granted executive powers following the establishment of a Council of Ministers. This Council replaced the Administrator-General's advisory council. While SWAPO called for the termination of the Western mediating role, eth-

nic elections for second-tier authorities in accordance with Proclamation AG 8 (1980) took place in November.

When the Reagan Administration took power in Washington DC in 1980, it introduced the notion of *linkage*. This was much to South Africa's liking. To the latter, *linkage* meant that a relationship was established between Cuban troop withdrawal from neighbouring Angola and implementation of UN Security Council Resolution 435, as a key element of its new policy of "constructive engagement" for southern Africa. Not surprisingly, South Africa announced at the beginning of 1982 that it would not consider the implementation of UN Security Council Resolution 435 until Cuban troops left Angola. Notwithstanding rejection of the *linkage* notion by both SWAPO and the Angolan Government, South Africa not only deepened its military engagement in Angola and its support for UNITA, but collaborated in composing the 1982 constitutional principles which effectively provided the framework for an independent constitution some seven years before it was actually written. The 1982 principles, which were subsequently accepted by all parties, provided for, *inter alia*, a justiciable Bill of Rights, a multi-party democracy, private property, and an independent judiciary.

Consistent with its political project in Namibia, South Africa abolished the National Assembly at the start of 1983. All executive authority reverted back to the Administrator-General. In September of that year, the "internal parties" spawned a Multi-party Conference (MPC), in yet another attempt to construct a credible and non-ethnic alternative to SWAPO. At the close of the year South Africa offered to withdraw its troops from Angola provided the Government of that country withheld its support for SWAPO. By the following January, Angola had conditionally agreed to South Africa's offer of troop withdrawal and SWAPO, too, had pledged to honour the agreement. In the same year, the Lusaka Agreement (with the United States, Angola and South Africa as signatories) culminated in a Joint Monitoring Commission (JMC) comprised of South Africa and Angola to oversee military disengagement. The JMC was dissolved at the end of 1985, when it became clear that renewed fighting in Angola rendered it inoperative.

An interesting development occurred in May 1984, when a meeting took place between SWAPO and the MPC in Lusaka, Zambia. The meeting was co-chaired by the former Zambian President, Kenneth Kaunda, and the Administrator-General, Willie van Niekerk. Although it ended in failure, from a South African point of view it served several useful purposes, not least of which was to secure standing for the MPC in the wider transition process.

Having met SWAPO in exile, the MPC requested South Africa to institute a Transitional Government of National Unity (TGNU). South Africa obliged, and in June 1985 a TGNU was installed with both legislative and executive powers. Proclamation R 101 (1985) enabled this. Shortly thereafter, the TGNU appointed a Constitutional Council to draw up a constitution that would replace the ethnic

architecture established by Proclamation AG 8 of 1980. The new constitution was promulgated in the first half of 1986 and was in force for seventeen months. Despite this latter development, however, the TGNU did not gain widespread acceptance in the country. The influential indigenous Churches, as well as other political parties, for example, declared their opposition to it in the Ai!Gams Declaration of 1986, demanding the implementation of UN Security Council Resolution 435 (1978) instead.

In July 1987, the Constitutional Council of the TGNU adopted a draft constitution. South Africa, however, expressed its dissatisfaction with this draft, forcing the TGNU to rework parts of its constitutional proposals. The new proposals laid more emphasis on second-tier (ethnic) administrations, regional councils, ethnic groups, and group autonomy. When the Namibian Supreme Court gave an advisory opinion that Proclamation AG 8 contradicted the Bill of Fundamental Rights as embodied in Proclamation R 101 (1985), the Appeal Court in South Africa rejected the opinion.

From June to December 1988, domestic Namibian politics was overshadowed by a series of diplomatic agreements on Namibia's transition to independence – such as the Geneva and Brazzaville Protocols and the New York Accord – and by military developments in neighbouring Angola. In August 1988, for example, South Africa committed itself to a cessation of hostilities, which was followed by a similar commitment from SWAPO, while South African military disengagement from Angola progressed according to agreed disengagement time frames.

At the beginning of 1989, the first group of 450 Cuban troops withdrew from Angola and, in February, the UN Security Council agreed on the terms of implementation of Security Council Resolution 435. The TGNU dissolved itself at the end of the same month, and the then Administrator-General, Louis Pienaar, assumed control for the purposes of organising the independence elections. Despite major crises, such as the tragedy of 1 April 1989 (the official implementation date of UN Security Council Resolution 435) when more than 300 PLAN fighters lost their lives on the endless plains of northern Namibia, the transition to independence was largely irreversible. Details of the transition are given in the next chapter herein, which explores this particular aspect of Namibia's history.

Conclusions

This chapter argued that under South African rule, public space in Namibia was fractionalised along a double divide: race/ethnicity and urban/rural. Through this, the former South African Administration in Namibia exercised social control over both the mobility and the demographic pattern of the local population. Another feature of Namibia under South African rule was the attempt by that country to institutionalise a system of indirect rule based on the invention of tradition and the co-optation of "traditional leaders".

The South African State transmuted the Namibian social formation in an attempt to create favourable conditions for the further accumulation of capital through an ideological and political project. This project was a key element in creating an African wage labouring class. Through the system of ethnic "homelands", amongst other things the supply of cheap labour was secured. By virtue of the dominance of South African capital in the Namibian economy, South African rule in Namibia shaped and structured Namibia's economic relations to fit in with the international capitalist system.

Finally, two further legacies that endured after the termination of South Africa's rule in Namibia were (1) that of a skewed inheritance in human resources development (as a consequence of "Bantu Education"), and (2) contested claims to symbolic recognition by the new State, especially in the case of so-called "traditional leaders".

The skeletons of South Africa's attempts at State construction thus continue to rattle in the post-Independence Namibian State.

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The Constitution: Its Impact on Namibian Statehood and Politics
Gerhard Erasmus

Introduction: Statehood through a Constitution

Ten years ago Namibia became an independent State. It took a protracted struggle before United Nations (UN) Security Council Resolution 435 could be implemented and national elections, under UN supervision, could be held in 1989. The purpose of those elections was to elect a Constituent Assembly to draft a constitution for the new Namibian State.

The constitution played a central role in the founding of an independent Namibian State. The transition itself was structured and guided by a prior international agreement which had to result in a "strong" constitution being concluded before actual Independence. Thereafter, this constitution had to continue to fulfil other important functions. It had to constrain the inherent tensions in the Namibian body politic, and guide the young State along a path of constitutionalism and the rule of law. In this manner, it was hoped, stability and progress could be achieved and another "African disaster" prevented.

The stakes were high. Should this experiment of "transition through constitutionalism" have failed in Namibia, it would have had serious consequences not only for Namibia itself, but for the southern African region as a whole. For example, political developments in South Africa would have been directly affected: the preparedness of the National Party Government there to risk a transition towards black majority rule would have been cast in doubt.

The subsequent South African transition, resulting in democratic elections in 1994, was based on a formula which resembled several of the Namibian experiences. One of the Namibian "lessons" repeated in South Africa was to adopt certain constitutional principles before the actual drafting of their constitution, and to base it on those principles. South Africa went further than Namibia in the use and verification of its constitutional principles,[1] in that the said principles were adopted through discussions by local stakeholders and did not directly involve the international community. The content of the South African Constitution also reflects some of the same choices found in the Namibian document, such as an enforceable Bill of Rights and, in general, a liberal democratic model.

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[1] South Africa had more, rather detailed, constitutional principles. They formed part of the Interim Constitution and were adopted through negotiation prior to the 1994 elections. Furthermore, in South Africa, the new Constitutional Court had to certify that the constitutional principles had been complied with. This did not happen in Namibia.

The Namibian and South African transitions and Constitutions are not identical.[2] One of the most important differences lies in the manner in which the two States dealt with past atrocities. South Africa opted for a comprehensive investigation by a Truth and Reconciliation Commission (TRC).[3] Public hearings were held and indemnity could be granted after full disclosure of the truth. The practices of the former Government as well as the liberation movements were investigated. It was believed that, through exposing the truth, forgiveness and reconciliation could follow and the danger of such atrocities being repeated would be countered. What followed was at times a traumatic process but it had a clear constitutional basis in South Africa's Interim Constitution of 1994, which recognised the need "… for understanding but not for revenge, a need for reparation but not for retaliation, a need for *ubuntu[4]* but not for victimisation".

Namibia, on the other hand, adopted a different policy of national reconciliation by deliberately moving away from the unpleasant memories of the past and instead focusing on what was postulated as the building a unified nation.

South Africa also engineered its transition through two stages of an Interim and a final Constitution.[5] Namibia had only one stage, and the Constitution of 1990 still applies.

This process of "transition through constitutionalism", which occurred quite successfully in Namibia, inspired sufficient confidence and suggested a formula which South Africans adopted and repeated. In both countries this approach met with considerable success.

The authority of the Namibian Constitution did not cease once formal independence arrived. The very assumptions built into the Constitution, and the institutions it provided for, had to stand the test of actual implementation in a State which lacked features such as a general democratic tradition, shared values and ethnic cohesion. A history of racial discrimination, poverty, wide disparities in the distribution of wealth, and ethnic diversity has never boded well for statehood in Africa. It was hoped that the Constitution could assist in finding answers for such problems.

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[2] Some of the more obvious differences are as follows: South Africa constitutes a form of federalism with its nine provinces, each of which has its own legislature and executive structure. It also has its own Constitutional Court. Namibia, on the other hand, has a more centralised system of government, the legislative and executive branches of which function differently from their counterparts in South Africa. Namibia also has no Constitutional Court.

South Africa's Bill of Rights has a single limitation clause, and its Constitution recognises eleven "official languages". Namibia recognises only English as the official language.

South Africa has also created more institutions supporting democracy than Namibia has.

[3] On the TRC, see Dyzenhaus (1998). A full report was also published.

[4] "Human-heartedness" (listed in Branford & Branford [1993])

[5] For a discussion of the South African process and final debates, see Ebrahim (1998).

Namibia had a difficult start but did remarkably well in several respects. The questions to be asked, are: Did the Constitution contribute to the degree of success and stability achieved? How did the Constitution impact on Namibian politics after Independence? Was it a "success"? How does one measure such success or failure? Does this Constitution contain lessons that could be used elsewhere?

This chapter attempts to address these questions. It will discuss the Constitution in different contexts and will argue that Namibian State formation was inspired by a belief in the need for a "strong" constitution and that the political process had to be guided and controlled by a specific constitutional framework. "Constitutional politics" had to be the antidote to the corruption, abuse of power, denial of human rights, authoritarianism and economic disaster that many feared would follow after Independence.

Whether there is still the same national consensus with respect to the belief in constitutional constraints has to be determined by studying the subsequent record of Government, civil society and political parties. Other chapters in this book will do that; the present chapter deals with the constitutional framework that governed the founding of the new State and its subsequent political process. It will conclude with an evaluation of the "constitutional record" of the past ten years.

The Origins of the Constitution

Namibia's constitutional document has been called "a shining example", and the process of constitution-making as being "without par".[6] These accolades, shared by the international community, refer to both the process of constitution-making and the document's content.

The manner and degree of international involvement in making peace in Namibia, in providing clear guidelines, in monitoring the actual transition and the first election, and in influencing the writing of the Constitution, directly contributed to the successes achieved in 1989-90.

Transition to peace and independence was preceded by a long struggle and, at times, a bitter feud between South Africa, the occupying power, and the international community. Namibia was an almost permanent item on the UN agenda and the matter was brought before the International Court of Justice a total of six times. In 1976 the UN Security Council adopted Resolution 385. It introduced the important new concept "... that in order that the people of Namibia be enabled to freely determine their own future, it is imperative that free elections under the supervision and control of the United Nations be held for the whole of Namibia as one political entity".

UN Security Council Resolution 435, which eventually became the basis for an elaborate international plan for the solution of the Namibian problem, was adopted

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[6] See Van Wyk (1991:341-351) and Schmidt-Jortzig (1994:309).

in 1978. It provided for the withdrawal of South Africa from Namibia and the establishment of the UN Transition Assistance Group (UNTAG) "... to ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations". It took several more years of negotiations and confidence-building before Resolution 435 was eventually implemented in 1989. The withdrawal of Cuban soldiers from Angola, a condition on which South Africa insisted, removed a final hurdle. The international political climate and the global picture also started to change dramatically with the Cold War coming to an end. This impacted quite directly on the regional security picture as viewed from Pretoria.[7]

The elections for the Constituent Assembly and the drafting of the Namibian Constitution now became part of the international settlement plan. It is important to realise that the international plan gained an important additional element when it was decided to determine the basic content of Namibia's Constitution in advance. Constitution-making became part of the international peace-making operation.

This happened through the UN Security Council's adoption of another important document in July 1982, namely the "Principles concerning the Constituent Assembly and the Constitution for an independent Namibia".[8] This document introduced two sets of important conditions: the rules and procedures for the election, under UN supervision, of the Constituent Assembly; and several "Constitutional Principles" determining the content of the constitution and the nature of the future political dispensation in Namibia. These principles provided for –

- a unitary, sovereign and democratic State
- a supreme and entrenched constitution
- parliamentary democracy, separation of powers, judicial independence and constitutional review, and regular and "genuine" elections
- an electoral system based on universal, adult franchise, a secret ballot, and proportional representation
- an enforceable and comprehensive Bill of Rights
- the outlawing of retrospective criminal offences
- a balanced public service, Police and defence service, and fair administration, and
- elected local and/or regional councils.

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[7] For an excellent account of the politics behind the scenes, see Renwick (1997:127-135). Renwick was the British High Commissioner in Pretoria during this period. The South African Government at the time found it increasingly difficult to justify its "total onslaught" strategy and military involvement in Angola and Namibia. The claim that South Africa itself was the eventual target of communist aggression became a hollow one.

[8] The full text is to be found in *Security Council Document S/15287* of 12 July 1982.

With the implementation of these principles a unique process unfolded: it meant that Namibians actually did not enjoy a completely free hand in writing their own constitution.[9]

The Constituent Assembly, consisting of 72 members, was elected at the end of 1989. It now had to draft and adopt the Constitution, the latter by way of a two-thirds majority. No single party gained this majority.[10] What followed was a re-markable process of compromise and reconciliation[11] and the outcome was a document which was accepted as fully reflecting the previously adopted Constitutional Principles.

One of the most obvious explanations for the basic features of the Namibian Constitution and its liberal-democratic values lies in the framework that the Con-stitutional Principles comprised, and from which no deviation was permitted. Namibia had to become independent in terms of a preordained international scheme.

This was not a typical decolonisation process with a departing colonial power emancipating its colony, often in haste and without sufficient preparation. The advent of Independence was a joyous occasion, but also reflected pragmatism. It was nationhood through a "strong constitution", delivered under international sur-veillance and without one dominant player completely controlling the process. Compromises had to be reached with respect to several matters. Independence arrived through constitutional engineering, not through the typical decolonisation process or military conquest.[12]

Does this mean that the liberal-democratic values of the Constitution are foreign to Namibians because they have been "imported"? And, if this is true, will this Constitution last? Is it a legitimate document?

It is true that the blueprint of the Constitutional Principles had originally been drafted by the Western Contact Group consisting of Canada, France, Germany, Great Britain and the USA. The Namibian parties did, however, accept these Prin-ciples as the framework for gaining independence. It must also be remembered that independence did not come about as a sudden and unexpected development. The parties' own ideas had been refined over time. This happened in both the internal and exile groups.[13] Inside Namibia, political conditions and the general atmosphere had been changing for some time and apartheid structures had begun

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[9] For a discussion of the meaning and significance of these principles, see Wiechers (1991:1-21).

[10] SWAPO had 41 members, the DTA 21, the UDF 4, the ACN 3, and the NPF, FCN and NNF 1 member each.

[11] This process has been described in several publications. See *inter alia* Van Wyk (1991), Schmidt-Jortzig (1994), Wiechers (1991), and Erasmus (1990:277).

[12] The actual transition was quite peaceful. Once the crisis caused by the SWAPO invasion of 1 April 1989 was defused all parties respected the international monitoring. Some incidents of assassina-tion and reactionary terror happened early on but soon ceased.

[13] Van Wyk (1991:342)

to disintegrate since the late 1970s, *inter alia* as a consequence of the split in the South African Government's ruling National Party. The formation of the DTA in 1977 contributed to new initiatives and progress. It cannot, therefore, be said that the Constitutional Principles were a sudden and completely foreign implant. The Namibian leaders thoroughly debated and understood them when they accepted and wrote them into their Constitution.

The most important contribution of these Principles was probably their legitimating effect on the compromises reached by former opponents and the face-saving that this allowed. The international community had always been called upon by the South West African People's Organisation (SWAPO) and other liberation movements to bring about change in Namibia and to ensure independence. When this eventually happened and the Constitutional Principles were part of the deal, it was quite difficult to reject them as being too accommodating or "liberal". These Principles were part and parcel of the independence deal; and this deal was the only deal going.

For the purposes of evaluation a distinction should be drawn between, on the one hand, the acceptance of these Principles and the UN process as being necessary for delivering independence and a strong Constitution, and, on the other, adhering to them subsequently as the permanent constitutional framework of governance. As far as the first function of the Constitutional Principles was concerned (to deliver a Constitution for an independent Namibia), they were quite successful. They were accepted and adhered to by the political parties. The DTA and other smaller parties may have been inspired to do so by a lack of trust in SWAPO.[14] Thus, the Constitutional Principles should not only be regarded as focussing on the content of

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[14] Dirk Mudge, leader of the DTA at the time, stated the following at a conference in Germany in 1992 (cited in Weiland & Braham 1992:165-66): "Now about the peace process itself. How is it that I can sit here with my colleague Theo-Ben Gurirab and say, without being dishonest, that he is my friend and countryman when before he was my enemy? That he was my enemy there is no doubt: I opposed him with everything at my disposal. I think the lesson – and to me this is the important lesson and one in which many who are sitting here will disagree with – is that we needed time. There was no 'quick-fix'. I know that when the Contact Group came with their plan they wanted to implement it. I can understand that. On paper it was a wonderful plan; it even stood the test of time. But they could not implement it because the whole set up, the whole scenario at that stage was so different from what it was ten years later. I changed in the meantime, parties changed, the world changed. Theo-Ben Gurirab and SWAPO changed, everything changed in those ten years. Therefore I want to pay tribute and give thanks to all those who after 435 nearly landed on the rocks, did not give up; who did everything possible to bring it back on the rails. I mean, it must have been very difficult sometimes; at times they must have felt they should let it all end because if people do not want to listen why should we continue [?]. Many people ask if the delays were worth it, considering the loss of life that occurred. I usually respond by asking them a simple question: what would have been the consequence of a quick fix? There are many examples of where a quick independence has been followed by coups and civil wars. Is it not perhaps good that we had time to prepare? It was also a time when many fears were allayed. In particular the 'constitutional principles' were of help. We also could gain confidence in Martti Ahtisaari and the UN."

a constitutional document; they were also the pinnacle of a larger process, backed up by international machinery of considerable resolve and commitment. This process aimed at bringing peace, independence and democracy to Namibia and, in so doing, resolving a major international dispute. These Principles also provided some comfort to the smaller parties because they created a system of limited government. A future under SWAPO rule thus became less uncertain as far as they were concerned. Their fears about a repetition of another African failure were at least formally addressed.[15]

SWAPO, too, eventually accepted these Principles for what they could produce, namely, majority rule and Namibia's independence.[16] Under the international conditions of the early 1990s, with a new international paradigm starting to replace the Cold War, this was a realistic choice. A long and exhausting struggle could be brought to an end.

What still remains to be analysed is life under the Constitution. What has happened since Independence? To what extent is the Constitution adhered to, and does it influence Namibian politics? These questions are discussed below in the section entitled "Life under the Constitution". The following section deals with what constitutions are generally about.

What is a *Constitution*?

Modern constitutions are, as a rule, technical legal frameworks for governance under law. This is the contemporary and widely-shared view, especially since the demise of communist rule in Europe. Constitutionalism, the rule of law, and the protection of human rights under the liberal-democratic model, generally, have become closely associated with what a constitution should be about. This view has not been true of all constitutions at all times, however: South Africa under apartheid and the Soviet Union under communism also had "constitutions", after all. The Namibian Constitution, it will be shown, falls within the category of liberal-democratic ones, with features that confirm the associated concepts of human rights, constitutionalism[17], the rule of law and constitutional supremacy.

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[15] Mudge, cited in Weiland & Braham (1992:166)

[16] Dobell (1998:86). As late as 1988 SWAPO still did not "... see the movement as necessarily committed to the 1982 Constitutional Principles".

[17] For a discussion of the meaning of *constitutionalism* see *inter alia* De Waal, Currie & Erasmus (1999:7), where the concept has been explained as follows: "Constitutionalism is the idea that government should obtain its powers from a written constitution and that its powers should be limited to those set out in the constitution. The fundamental problem to be addressed by the writing of a constitution is to establish a government with enough power to govern but where that power is structured and controlled in such a way as to prevent it being used oppressively. A constitution limits the power of the government in two ways. First, it imposes structural and procedural limitations on power. Only certain institutions may exercise certain forms of powers, and may only do so if specific procedures are followed. For example, only an elected parliament may make law

A State's constitution is that body of rules determining fundamental matters such as the composition, powers and procedures of the legislature, executive and judiciary. Modern State constitutions deal directly with the exercise of power within the State and will contain rules on the control over the exercise of such power. This particular aspect embodies an important criterion for the purpose of determining whether a constitution provides for the effective protection of civil liberties and the democratic process.

A constitution may also be an important formal source for understanding the political process of a country. It will contain the basic rules on elections, the role of the legislature, the powers of the Head of State and Government, as well as the functions of the executive. It will further explain other important aspects such as the relationship between the three branches of Government (legislative, executive and judiciary), the separation of powers, and checks and balances.

Political reality and practice within a given society can, however, not be equated with what a constitution formally says. Actual practice, election results, the behaviour of political parties and of Government, the role and activities of civil society, judicial interpretation, economic and social factors, and the development of certain conventions[18] are vital in order to understand the political reality of any given State. The age of, and history behind, a constitution may also be of considerable importance. The United States' Constitution is more than 200 years old and can only be properly understood against the background of a large body of judicial and political interpretations.

Most State constitutions are written documents.[19] They are also mostly legal documents that have to be applied and interpreted as such. Where provided for, judicial interpretation will constitute an important source for understanding the meaning of a constitution (as is particularly true of the American Constitution, for example) and how constitutional provisions will impact on the political process. This aspect gains in importance when a constitution is the supreme law of the land and if it is justiciable. State conduct in violation of the constitution will then be invalid. This requires an organ with the power to rule on the meaning of the constitution and the validity of acts alleged to constitute violations of constitutional norms. This organ is typically the highest court or a special constitutional court.

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for the Republic and may only do so by majority vote. Second, principally through the operation of a Bill of Rights, substantive limitations are imposed. The government may not use its power in such a way as to violate any of a list of individual rights. But neither of these limitations on the power of government will be effective without three associated principles of law: constitutional supremacy, justiciability and entrenchment."

[18] For example, it is not possible to understand the United Kingdom's constitution without taking certain conventions or practices into account. These have been developed over a long period of time and determine fundamental matters such as the relationship between the monarch and Parliament.

[19] The most important example of an unwritten constitution is the United Kingdom's.

A written constitution is only a genuine source of protection if it can be enforced; but by whom? The obvious answer seems to be that this must be by the citizen whose rights may have been violated (and those under the jurisdiction of the State) and that this process must take place in an open court. Judicial construction then becomes all-important, whether the constitution is written or not.[20] Constitutional review by the judiciary may result in difficult questions regarding the relationship between a democratically-elected Government and an unelected judiciary. Why should the majority will, as expressed through democratic elections, be ruled upon by a small number of judges? This becomes even more acute if it is recognised that "political" issues often become judicial issues as a consequence of the scope, supremacy and justiciability of the constitution.

This tension between constitutional review and majoritarianism should be acknowledged[21] but it can be resolved if it is recognised that majority rule need not result in tyranny or absolutism, i.e. the absence of acceptable and legitimate limitations on the exercise of State power. Majority tyranny is not democracy. If the only persons empowered to interpret and enforce the constitution would be those elected, by the majority, into office every five years or so, then a constitution provides no effective protection to individuals or the political minority, and neither will it secure the rule of law. Experience in the Soviet Union, for example, with its elaborate Constitution containing many rights for the citizens, demonstrated the hollowness of such a "constitution". Judicial independence and judicial review are necessary in order to provide guarantees for the protection of human rights and the rule of law.

This brings one to the question of the purpose behind the adoption of a particular constitution. What is it supposed to achieve and guarantee? How should such guarantees be achieved? Who decides on these questions?

These issues had to be addressed when the Namibian Constitution was drafted and adopted. The outcome was a liberal-democratic model, based on the notions of constitutional supremacy, the effective protection of human rights, constitutional review by the judiciary, and the rule of law. The Namibian model is one of limited government and constitutionalism. When this choice was made, a long and rich theoretical history was brought into play, which has been summarised in the following manner (Scruton 1996:104-5):

> Hobbes, Locke, Montesquieu and their many followers developed theories of constitutional government, versions of which are now widely accepted as giving both a true

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[20] Scruton (1996:104)

[21] As courts enjoying the power of constitutional review regularly do. They will be careful not to ignore the proper limits to judicial review and will develop doctrines on "judicial restraint", standing orders for parties wanting to bring constitutional suits, and standing orders on the ripeness or mootness of questions. Some, like the United States' Supreme Court, have developed a "political question doctrine" in order to avoid ruling on "political" issues.

representation of political liberty, and the preferred way of exercising political power so that it expresses not the will of those who wield it, but the rights of the citizens whom it governs. Constitutional government nowadays tends to require the separation of powers, the rule of law, and the exercise of power through office. Fundamental to all these things is the citizen's ability to proceed against ultra vires acts, together with the procedural rules which make legitimate powers discernible. Constitutional government disappears once the edict of an individual or of a party becomes overriding in all matters of state, or whenever particular interests which conflict with an alleged "constitution" cannot in fact be contained by it. Almost all modern states have written constitutions relating to every exercise of power. It seems, however, that only a minority of them are constitutional.

Basic Features of the Namibian Constitution

This section will provide an overview of the technical features of the Namibian Constitution and will give an indication of the value choices inherent in it.

The Preamble to the Constitution confirms the struggle of the Namibian people against colonialism, racism and apartheid, as well as the illegitimacy of South Africa's former rule. The leitmotiv of the Namibian State, according to the Preamble, is to be democratic, sovereign and committed to the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family". This recognition is "indispensable for freedom, justice and peace". The remainder of the Constitution establishes and explains the liberal-democratic multiparty dispensation that Namibia is to be.

Article 1 defines Namibia as a sovereign, secular, democratic republic. State authority is vested in the people but they "shall exercise their sovereignty through the democratic institutions of the State".[22] This confirms Namibia to be a constitutional State (*Rechtsstaat*)[23], as is further demonstrated by the provisions on the supremacy of the Constitution, judicial review and enforceable human rights. Democracy in Namibia is, thus, not intended to be unqualified majority rule.

The liberal-democratic values underpinning the Constitution can further be found in other salient features such as the supremacy of the Constitution[24], the commitment to the rule of law[25], democratic government[26], separation of powers[27] and a comprehensive and enforceable Bill of Rights in Chapter 3, containing interna-

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[22] Article 1(2)

[23] This feature has been confirmed by the Supreme Court in *Ex parte Attorney-General In re: The Constitutional Relationship between the Attorney-General and the Prosecutor-General Supreme Court of Namibia* 1995(8), *Butterworths Constitutional Law Reports* 1070 (NmS) 1086.

[24] Article 1(6)

[25] Article 1(1)

[26] Articles 1(1) and (2)

[27] Article 1(3)

tionally recognised fundamental human rights and freedoms.[28] These features are fleshed out in subsequent provisions on the enforcement of fundamental rights and freedoms[29] and the independence of the courts[30]. Constitutional supremacy, the power of constitutional review and the invalidity of unconstitutional acts are clearly established.

The Bill of Rights is comprehensive. It contains most of the civil and political rights found in international human rights instruments such as the UN Universal Declaration of Human Rights of 1948 and the 1966 International Covenant on Civil and Political Rights. The Namibian Bill of Rights also contains other more recent rights such as the protection of life (the death sentence is prohibited), children's rights and administrative justice.[31] Article 23 singles out apartheid and racial discrimination, which may be made criminally punishable.[32] The Article also deals with the implementation of affirmative action in order to advance people disadvantaged by past discrimination.

Socio-economic rights (the so-called second-generation human rights) are not provided for in any detail in Chapter 3 of the Constitution. The only provision resembling socio-economic concerns is Article 20 on education, which provides for a right to education. The State "shall provide reasonable facilities to render effective this right" by providing for free primary education.

In a separate Chapter, certain principles of State policy are provided for.[33] These principles suggest that the State will promote the welfare of the people, equality for women, labour and living standards, health care, the protection of the environment and even the encouragement of the mass of the population "to influence Government policy by debating its decisions".[34] However, Article 101 states that these Principles of State Policy "shall not of and by themselves be legally enforceable by any Court". They have to guide the Government's legislative programme and subsequent laws may then be interpreted by invoking these principles.

The Namibian Constitution is progressive and modern in its approach to the protection of human rights. Natural and legal persons must also, where applicable, respect these rights. The traditional view has always been that only State organs are bound by human rights obligations. The more modern view, that these

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[28] For the international origins of the Bill of Rights, see Szasz (1994:356).

[29] Article 25

[30] Article 78

[31] For a discussion of the Bill of Rights, see Carpenter (1991:32) and Erasmus (1990:277-294).

[32] This has been done subsequently through the adoption of the Racial Discrimination Prohibition Act, 1991 (No. 26 of 1991) and the Racial Discrimination Prohibition Amendment Act, 1998 (No. 26 of 1998).

[33] Chapter 11

[34] Article 95(k)

fundamental rights also entail "horizontal" obligations and that private discrimination would, for example, be a constitutional violation, is reflected here. This aspect sheds light on a turbulent past of official and private racial discrimination. Legislation has subsequently been adopted in order to deal with this particular aspect,[35] and deals with "private" discrimination as well.

Attention should also be drawn to the content of Chapter 4 of the Constitution, which deals with "Public Emergency, State of National Defence and Martial Law". One of the curses of apartheid rule was the frequent declaration of a state of emergency, resulting in extraordinary powers being granted to the executive, the (limited) protection provided for by the courts being ousted, and gross violations of human rights occurring through practices such as detention without trial. Recent revelations before the South African TRC provide a picture of the torture and abuse that follow when states of emergency put security forces beyond the reach of the law. Namibian society has also been deeply scarred in this manner. Such abuses frequently occur in societies without adequate constitutional guarantees, and have been widespread under authoritarian rule in Africa.

By putting the power to declare states of emergency directly under constitutional supervision and providing for judicial and political control, Namibia made a clear choice in favour of the rule of law even under the most testing of conditions. A state of emergency may now only be declared (by the President) when "the life of the nation or the constitutional order" is at stake.[36] These are reviewable standards under international human rights law and provide a yardstick for judicial and political control.[37]

This constitutional arrangement can also be interpreted as a sign of the type of State Namibians wanted to create in 1990 and the historical "lesson" that had been learnt. During that brief period, when the focus was on the task of building a permanent and new order and with the historical recollection of the previous regime still vivid, firm commitments were made and reconciliatory compromises were agreed upon. The difficulty lies in keeping these commitments and promises. Over time, when the new Government becomes secure in its power and incumbency, the need for compromise disappears and the voice of opposition and of civil society may become less audible. This is when strong constitutional institutions become particularly important. The ideal is that civil society must be vigilant and that a constitution must contain real safeguards that are respected and enforced. The Namibian Constitution is also vulnerable in this sense, in that its true meaning and the resolve at the time of its drafting may have grown dim.

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[35] See the Racial Discrimination Prohibition Act, 1991 (No. 26 of 1991) and the Racial Discrimination Prohibition Amendment Act, 1998 (No. 26 of 1998).

[36] Article 26(1)

[37] See De Waal, Currie & Erasmus (1999:599).

The state of emergency declared in the Caprivi in 1999 contains worrying signs of this kind. Clear violations of the applicable constitutional provisions occurred and were admitted. The alacrity with which such admissions were made is also a source of concern. The "culture of impunity" that is often identified as one of the causes of gross violations of human rights, starts when Government officials act as if condoning or "understanding" violations of basic constitutional norms.

Generally speaking, the Namibian Constitution provides for a system of government based on a typical three-tier dispensation (legislative, executive and judiciary) with a popularly-elected President. The President enjoys wide powers, most of which are to be exercised formally in consultation with Cabinet and checked by Parliament, which can "review, reverse or correct" presidential actions.[38] These are, however, formal provisions only. Political reality depends on factors such as the leadership role of the President in the ruling party, party discipline over members in the legislature, and the President's power to "hire and fire" when it comes to Cabinet posts. This is an executive President, not a mere figurehead.

Namibia has a Prime Minister too, who is "the leader of Government business in Parliament, shall co-ordinate the work of the Cabinet and shall advise and assist the President in the execution of the functions of Government" (Article 36). The Prime Minister is appointed by the President from the members of the National Assembly, as are the Ministers and Deputy Ministers. The President enjoys wide discretionary powers in this regard; nothing is said about the way in which appointments are made or about the party allegiance of the appointees.

This Prime Minister is not to be equated with the British office of the same title. In Namibia, the President is both Head of State and head of the executive. The Namibian office of Prime Minister, on the other hand, rather resembles that of the French premier.

The presidency has been limited to two terms of five years each.[39] It is not difficult to explain this provision: Presidents-for-life have been a rather unfortunate African habit – usually associated with authoritarian rule and corruption. It did not, therefore, come as a surprise when many objected to the constitutional amendment allowing Namibia's first President, Sam Nujoma, to be elected for a third term in 1999. This particular amendment was linked to the transitional provisions in the Constitution in order to ignore his first term, which started with the coming into effect of the Constitution on 21 March 1990. (No election took place in 1990 and the results of the 1989 elections for the Constituent Assembly determined the composition of the first National Assembly. The first President was elected by the Constituent Assembly by a simple majority.[40])

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[38] Article 32(9)

[39] Article 39

[40] Article 134

The position and powers of the President were some of the more difficult issues during the constitutional negotiations. SWAPO wanted a strong President with a relatively weak, unicameral legislature.[41] Most other parties proposed the opposite and the compromise resulted in the present formula. What this will eventually mean in practice can only be determined on the basis of the experience from 1990 to 2000. The position of the President has turned out to the one of the controversial dimensions of the Namibian dispensation. His wide powers (e.g. to appoint the Prime Minister, Ministers and Deputy Ministers) give this office a crucial function. Article 32 of the Constitution on presidential powers, functions and duties is one of the most important provisions in the Constitution and is key to an understanding of Namibian politics since 1990.[42]

In a developing society such as Namibia's, the direct involvement of the State in poverty relief, employment programmes and infrastructural development is often demanded. There is a need for proactive government, and this calls for a sensitive balance between what may seem to be the contending values of open, democratic and accountable government on the one hand, and "effective" government on the other. This "tension" is present in Namibian society, where traditional values still prevail amongst a substantial portion of the population. This often results in calls upon the President to become directly involved in developmental and relief measures. The executive branch of Government has, to an extent, been "presidentialised". The office of the President is generally held in high esteem and may, ironically, even be "above politics" in the eyes of many.

The National Assembly is elected through direct, proportional voting. The National Council is a rather weak second chamber of the national legislature and its members are elected from the Regional Councils.

The judicial power is vested in the Supreme Court, High Court and Lower Courts. The Constitution also provides for an Ombudsman, who could exercise a meaningful control function provided the office is properly equipped, used and supported. The Ombudsman, the Prosecutor-General and judges are appointed with the involvement of the Judicial Service Commission. The mechanism of effecting appointments through the Judicial Service Commission is a potentially strong extension of provisions which aim at securing the independence of the judicial branch.

The Constitution is entrenched and amendments are difficult. No derogations from the Bill of Rights are allowed[43], while other amendments require a two-thirds majority of both houses of Parliament[44]. This form of entrenchment is a strong constitutional guarantee, but it obviously depends on actual political con-

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[41] Szasz (1994:346-352). Szasz was the resident UN legal expert during the constitutional negotiations.

[42] See the discussion of the presidency elsewhere.

[43] Article 131

[44] Article 132

ditions such as party majorities in Parliament and the extent of party discipline. The only constitutional amendment to have been made by the year 2000 resulted in a third term for the first President, and gave rise to concern in many quarters. The overwhelming majority that SWAPO (or more correctly, since Independence, the SWAPO Party of Namibia), the ruling party, has enjoyed since the second National Assembly Elections has meant that the requirements of a majority vote on amending the Constitution can be complied with quite easily.[45]

Disputes with respect to Namibian territory at the time of Independence resulted from an uncomfortable historical legacy.[46] Article 1(4) recognised this and stated the Namibian claim as follows:

> The national territory of Namibia shall consist of the whole of the territory recognised by the international community through the organs of the United Nations as Namibia, including the enclave, harbour and port of Walvis Bay, as well as the off-shore islands of Namibia, and its southern boundary shall extend to the middle of the Orange River.

The issue of reintegrating Walvis Bay and the offshore islands was resolved by 1994[47], and South Africa agreed to adjust the boundary of the Orange River. Formerly, the boundary extended to the northern bank of the River.[48]

The Constitution reflects another significant compromise in Article 3, where it determines English to be the official language, although the use of other languages in schools, both private and Government-subsidised, is allowed. Afrikaans has, however, been the de facto lingua franca, and German has been widely used as well. Several indigenous languages are also in widespread use.

The use of English in education and in public administration has grown, probably to the detriment of other languages. On the other hand, there does not seem to be a major language issue in Namibia. Languages other than English are still widely used in commerce, the media and civil society. Generally speaking, the Government has a tolerant language policy, but the Constitution does not protect and provide guarantees for linguistic and cultural minorities, as is increasingly found in Europe and elsewhere.[49]

Citizenship is dealt with in considerable detail in Chapter 2 of the Constitution. This amount of technical detail is normally found in separate legislation. The reason for the Namibian approach is the sensitivity pertaining to citizenship at Independence. Colonial and apartheid policies and the absence of full statehood and

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[45] SWAPO obtained a 72% majority after the second general election in 1994.

[46] Walvis Bay was proclaimed a British Crown territory in 1878 and was annexed to the Cape Colony in 1884. In this manner it became part of the South African Union after 1910. For a further discussion see Dugard (1994:98-99) and Devine (1991:142).

[47] Through the Transfer of Walvis Bay to Namibia Act, 1993 (No. 203 of 1993).

[48] In accordance with the Anglo-German Treaty of 1890; for a discussion see Erasmus (1984:121-137).

[49] De Vergottini (1996:45-60)

sovereignty for Namibia meant that there was no Namibian citizenship before 1990. Technically speaking, all Namibians were linked to South African statehood. This fact became controversial, however, as a result of South Africa's presence in Namibia having been declared unlawful for many years through United Nations resolutions, and in consequence of the 1971 Advisory Opinion of the International Court of Justice.[50]

The Constitution's provisions on citizenship show a compromise between the historical links many Namibians have to South Africa and Germany on the one hand, and a desire for a clear, pro-Namibian orientation on the other.[51] People born in Namibia, and their children, but who were outside the country during the years of struggle, are Namibian citizens by birth, as are all other Namibians born here before Independence. The latter includes those Namibians who did not necessarily support the struggle for independence. This was another pro-conciliation agreement. Other grounds for being granted citizenship are descent, marriage, registration and naturalisation. Citizenship may also by conferred by legislation "upon any fit and proper person by virtue of any special skill or experience or commitment to or services rendered to the Namibian nation" (Article 4(6)).

Customary law and its continued existence are recognised, provided such law does not conflict with the Constitution or any statutory law.[52] There seems to be considerable evidence that traditional values and structures are still widely respected among many Namibians.[53] This fact has certain implications for the liberal-democratic values of the Constitution. Many customary law norms (such as the perpetual minority of women) or traditional institutions such as unelected traditional leaders are difficult to reconcile with liberal democracy and human rights. The tensions that may result may be overcome by time and through education. In the meantime, patience and pragmatism will be required.

Namibia is not a federation: it is a unitary State[54], although Chapter 12 provides for regional and local government. The intended enabling structures have meanwhile been established.

As this section has attempted to show, the Namibian Constitution is a balanced, progressive and fair document. It is firmly based on democracy, the rule of law and

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[50] The General Assembly first revoked South Africa's mandate through GA Resolution 2145 (XXI) in 1966 and changed the name of the territory to *Namibia* in 1968. In 1970 the Security Council, through SC Resolution 276, declared South Africa to be in illegal occupation of Namibia. For a discussion of the legal issues regarding the Namibian dispute, see Dugard (1973).

[51] The subsequent Namibian Citizenship Act, 1990 (No. 14 of 1990) confirms this impression. This legislation must, however, be interpreted in light of the fact that the constitutional provisions in Article 4 are supreme.

[52] Article 66

[53] See D'Engelbronner-Kolff, Hinz & Sindano (1998).

[54] Article 1(1)

[55] See e.g. Schmidt-Jortzig (1994), Carpenter (1991) and Szasz (1994).

human rights. It has been hailed by many as exemplary.[55] This rather remarkable document, and the sources of the values enshrined in it, have their roots in the manner in which the independence struggle came to an end, and in the direct involvement of the international community in Namibia's constitution-making process and its transition to statehood.

Life under the Constitution: What is the Record?

How to Evaluate the Record

Making a constitution and "living" one are two different matters. When trying to evaluate the "success" of the Constitution since Independence, the criteria for doing so first have to be identified, and the nature of what is being evaluated must be clear. If the investigation is about Government or party-political behaviour, one is in effect evaluating political behaviour and process. Then it becomes partly a matter of determining whether constitutional rules and procedures are respected by Government and political actors.

As referred to previously, the Namibian Constitution establishes the formal rules protecting democracy and the rule of law. Regular elections, control over the exercise of State power, individual freedom and fundamental human rights are all provided for. What happens if these rules are violated? Does the Constitution provide for remedies (such as judicial review) or other means of correction? Even more importantly, are the remedial constitutional devices in fact used by the body politic? And what is the general picture of government under the Constitution?

An important indication of this Constitution's success is the fact that it has been a lasting document. The same Constitution still applies and the fears that it would have been torn up have proved to be unfounded, even with SWAPO enjoying an overwhelming majority in the legislature. Regular elections still take place and the same institutions continue to exist. All constitutional remedies typical of a liberal democracy are available. It is possible, for example, to take the Government to court for human rights violations, as has happened[56], and such judgments and outcomes have been respected and adhered to by State organs.

However, there is a limit to what can be achieved through judicial review. The courts cannot rule on budgetary priorities, cannot prevent corruption, nor can they provide "good government". The role of civil society, the media and political parties is crucial.[57] Constitutions are not self-enforcing: they merely create a value

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[56] See also the Appendix to this chapter, which provides a list of human rights cases brought before the courts since 1989.

[57] White's (1995:56-84) article makes this point quite clearly. In both countries civil society played a major role in the transition to democracy; thereafter their contribution started to differ markedly. In South Korea civil society continued to grow with industrialisation and remained a powerful force; in Zambia, where social and economic conditions remained bleak, democratic elements of civil society are weak and divided.

framework and scope for action. It depends on individuals, civil society, the media and political parties whether this potential is used and how that is done.

A distinction should be made between the formal content of a constitutional document, and the actual political behaviour and process within such a constitutional framework. If a constitution stipulates, for example, that general elections should be held every five years and this in fact happens, a formal guarantee with respect to democracy has been met. If, however, the same party wins every election and gains an overwhelming majority, the emerging picture may be that of a de facto "one-party State" because of the remoteness of the possibility of a change in Government. One's view of the democratic credentials of such a society would then require further investigation into the composition of the population, the position of minorities, the degree of modernisation, the role of civil society, etc. An analysis of the formal aspects of a particular constitutional document alone will clearly be inadequate.

With these caveats in mind more specific functions and dimensions of the Constitution will now be discussed. This is not to suggest that the Constitution is the dominant feature of Namibian life: it has to be studied as part of the broader process of founding the Namibian State and providing a framework of values and space for civil initiatives, political action and Government policies. The future development of Namibian society will be clearer if the constitutional dimension is also taken into account. The Namibian Constitution indeed has the authority and legitimacy to influence political and civic action. It differs from earlier African constitutions adopted at the time of decolonisation. They were often hastily-prepared by departing colonial powers and lasted for brief periods only. Namibia's Constitution is of a different kind. The following discussion will look at the "constitutional record" and try to shed some light on the different functions of this Constitution.

The Constitution as the Founding Document for the Namibian State

Statehood is an elusive concept. Public International Law recognises entities as *States* when they have territory, a Government that exercises jurisdiction over the State's territory, and a population. Such entities are then recognised as States for the purposes of formal international intercourse. This is "juridical" statehood and entails the notion of *sovereign equality* as well as the entitlement to non-interference in domestic affairs. These are the legacies of the Westphalian concept of *statehood*.

This formal definition of *statehood* does not explain intrastate conditions such as the legitimacy or effectiveness of government, allegiance of the citizenry or the quality of their lives. It does not tell us if and how such States can protect or advance the development of their citizens or how they interact with the international community. Many African States are described as "fragile" or "shadow"

States because of their ineffectiveness, corruption and lack of peace or progress.[58] Their rulers often use statehood as a façade for personal or tribal survival strategies, confirming the ex post facto fact of a *coup d'état* or other revolution.

The Namibian Constitution is, in this regard, of a different quality. The fact that it was adopted during a period of major international change (such as the end of the Cold War and the demise of communism) and through the active involvement of the international community, contributed to a product of a more lasting quality. The institutions of government (legislative, executive and judicial), the mechanisms for control over the exercise of State power (supremacy of the Constitution[59], judicial review and the Bill of Rights), public participation, and accountability are all adequately provided for. The extent to which these formal features are translated into true political controls and values will depend on how society perceives and uses them and on governmental behaviour. These constitutional elements do not guarantee a successful State; they do, however, provide a necessary framework.

As stated previously, Namibia's original Constitution still applies; and the fears that it would have been "torn up", as has happened in many other African states, proved to be unfounded. SWAPO has enjoyed a two-thirds majority (the majority needed for constitutional amendments) since 1994.[60] The only (and rather controversial) amendment to the Constitution occurred in 1999, when a transitional provision was amended to allow the first President to be elected for a third term. Nonetheless, the basic provision on presidential terms has remained the same and future Presidents are allowed only two terms. To change that will require a "real" amendment, which would be a rather worrisome sign of an old African malaise.

The absence of serious plans to amend the fundamentals of the Constitution can ostensibly serve as evidence that the document is generally perceived to present a high norm and that it enjoys legitimacy; but it can also mean that the present Constitution poses no threat to the incumbent Government. This fact may, then, be indicative of a rather passive civil society.

For many Namibians the "reality" of the Constitution may often be remote. Under conditions of poverty and a lack of development, strong governmental action becomes a priority. The Constitution cannot deliver development: this is Government's task. The constitutional dimension relates to other aspects; e.g. does it allow for the required governmental action or is it a "conservative" document which prevents or delays remedial transformation? Does it contain too many compromises between opposing forces? Can it be used to block new policies and their implementation?

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[58] See e.g. Clapham (1996).

[59] Article 1(6)

[60] The Bill of Rights is permanently entrenched. See Article 131.

The record up till 2000 does not indicate that the Namibian Constitution is used to obstruct transformation or development. It contains many references to the need to recognise and address the legacies of past discrimination and to foster development. It does not prevent remedial action. Legislation directed at discriminatory practices, the needs of women and children, and the creation of new institutions has, for example, been adopted. Such legislation now needs to be implemented. Constitutional "obstruction" through the courts, for example, does not really happen, and the role of the judiciary has been balanced and constructive. The general perception of the role of the judiciary in constitutional review issues is a positive one. The courts have also not to date embarked on judicial activism against the Government.

The crucial elements required for socio-economic reform are the existence of adequate resources, the necessary political will, and the correct priorities and governmental policies. Failure to deliver in these areas should not be blamed on the Constitution, however. The criticism regarding the slow pace of land reform[61] can serve as an example here: land reform has been on the political agenda for a long period of time and the delays, it seems, have been caused by a combination of resistance by traditional stakeholders and administrative ineptitude.

The Constitution as a National Compact

How has the Constitution fared with respect to its potential to contribute to national reconciliation? Namibia is, after all, an ethnically diverse society, where colonialism, apartheid and the maldistribution of wealth under previous dispensations have caused racism, tension and disparities. The new Government has to deal with these problems.

Constitutions do not normally create enforceable obligations aimed at eradicating socio-economic ills: Governments are generally free to adopt their own policies dealing with such matters. In Namibia's case, historical socio-economic ills are acknowledged in its Constitution, while allowance is made for the freedom to implement corrective policies if Namibia so chooses. Specifically, the Namibian Constitution contains a number of provisions which recognise historical legacies such as those resulting from apartheid and colonial rule. It also recognises the need for remedial action and socio-economic development generally.[62]

The Preamble to the Namibian Constitution proclaims the establishment of the new State in the name of all its people, and the citizenship provision is fair to all Namibians. The atrocities committed during the struggle years were deliberately

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[61] See discussion elsewhere.

[62] Examples are to be found in the Preamble, Article 23 which deals with "Apartheid and Affirmative Action", and Chapter 11. The latter contains the "Principles of State Policy", which call for the promotion of the welfare of the people, foreign relations, asylum, principles of economic order and ownership of national resources.

put to rest, probably to the dismay of some of the victims, but this was a political choice. Namibia also decided against a truth and reconciliation exercise, a decision which was generally supported by the elected drafters of the Constitution. With respect to the position of women and children, the Government has shown considerable resolve[63], but poverty relief and development assistance are claimed by some to be uneven.[64]

The issues outlined above in this subsection are, however, really examples of areas for measuring Government performance rather than the Constitution. In fact, the Constitution promotes national reconciliation and development, and contains specific programmatic provisions supporting those ideals.[65]

What may be more indicative of the Constitution's value as a national compact will be evidence of the degree of national pride in the document. The indications are that it is not particularly high in some quarters.[66] Again, this may stem from the nature of the socio-economic needs of many Namibians. They realise that governmental action, instead of constitutional possibilities, are required in order to alleviate their problems. For minorities, the Constitution may fulfil other needs, and may indeed be viewed as a protective device; it could even be invoked as a "solemn pact"[67] that Namibians have concluded amongst themselves.

A viewpoint often encountered in contemporary Namibia is that the Constitution's liberal values are foreign to most Namibians. Others have pointed out that not enough has been done with respect to civic education in order to disseminate information about the Constitution and stimulating debate about values and prin-

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[63] Article 15 of the Constitution treats children's rights as a human right.

[64] It is a common perception that "all the money goes to the North". In this context *North* is used as a euphemism for the four north-central Regions inhabited principally by Oshiwambo-speakers and, hence, suggests that State resources are allocated along ethnic lines. However, hard evidence shows that these perceptions are misguided. Firstly, the Human Development Index compiled annually by the United Nations Developent Programme (UNDP 1999:80) shows that the two southern Regions, Hardap and Karas, score consistently higher than the abovementioned northern Regions, meaning that, as far as life expectancy, adult literacy, school enrolment and income are concerned, the "South" is better off that the "North". Secondly, if one considers the per capita expenditure from the Government's Development Budget, no clear regional patterns emerge except that Government spends more per capita in the Khomas Region than any other (ibid.:94).

[65] See Chapter 11, which deals with "Principles of State Policy".

[66] Several surveys suggest that although Namibians are proud of their Constitution, they are more likely to be proud of their country (Namibia), of living in a peaceful country, of their elected Government, of their cultural roots, of the liberation struggle, of their village or town, or of their family, than of their Constitution. In fact, only 37% of Namibians claimed to be very proud of their Constitution (see the paper by Keulder, Nord & Emminghaus 2000 in this volume).

[67] This concept was used by the South African Constitutional Court in describing that country's new Constitution and constitutional principles. See *In re: Certification of the Constitution of the Republic of South Africa* 1996(10), *Butterworths Constitutional Law Reports* 1253 (Constitutional Court).

ciples regarding democracy and human rights.[68] Such criticisms may be justified, but civic education is not the Government's exclusive responsibility. If there are signs of apathy, the reasons must also be sought in civil society.

Such apathy is unfortunate and may result in practices deviating from the direction required by the Constitution. The overwhelming and increasing electoral support for SWAPO, the declining number of constitutional cases coming before the courts and lack of public debate on sensitive matters such as the involvement of the military in the Democratic Republic of the Congo (DRC) and Angola, the actions of security forces in Caprivi in 1999 and intolerant responses by senior officials to critics of the Government are worrying signs. It is, however, possible to point to some evidence to the contrary also, such as formal media freedom and the independence of the judiciary.

The record as to the liberal credentials of the Namibian State is mixed. There may indeed be a tension between some liberal values found in the Constitution and actual practice. This is one of the most important aspects to be evaluated and studied in the years to come; what type of society is Namibia developing into in reality? It is not impossible that future trends may depart from the original and "pure" ideals found in the Constitution. The forces directing such developments will have to be identified and addressed. A failure to do so may result in a decline of the power of constitutional norms to shape and direct Government's actions and the space for liberal values.

The Constitution as a Yardstick for Good Governance

Good governance is about democratic, open and accountable government. It is about a way of exercising State authority that will result in transparency, certainty, predictability and a culture of justification of State action. Those under the authority of the State should know the content of their rights, the obligations binding officials and State organs, and the remedies and complaint procedures available to them.

A constitution can play a crucial role in achieving these ideals and in preventing the arbitrary exercise of power. The procedures for taking executive action and exercising discretionary powers must be transparent; reasons for governmental action should be given and there should be a rational and proportional link between the action taken and the purpose served. The public should also feel free and be able to use these mechanisms.

The Namibian Constitution is, in principle, quite adequate with respect to these matters. The general ideals of separation of powers, independence of the courts, just administrative action and justiciable human rights are all provided for. The

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[68] Public opinion data suggest that most Namibians do feel the Constitution expresses their values and aspirations. A recent survey (Mattes *et al*. 2000:32) shows that 66% of Namibians feel this way.

clause on administrative justice was a very progressive inclusion and is aimed at both procedural and substantive fairness in executive action. This can ensure fairness and correct procedures in advance; instead of providing for ex post facto remedies only. The Ombudsman is another important institution for assisting the members of the public in complaints against State action or inaction, instead of litigating in the courts of law – which may be expensive and time-consuming.

It depends on individuals, civic organisations and political parties whether they use these rather sophisticated constitutional means. Financial constraints often hamper litigation, but legal assistance and non-governmental organisations' (NGOs') support do exist. What is more worrying is the hostility and intolerance sometimes displayed against those taking such steps. Lawyers assisting the inhabitants of Kaokoland in 1999 with respect to Government plans for a dam in the Kunene River (which would have flooded ancestral land) were severely criticised and their involvement equated with undermining Namibia's ideals. The same fate met academics writing critically about the elections of 1999.[69] Such reaction may be indicative of personal intolerance; it unfortunately also reflects negatively on the political culture and lack of tolerance in society and the State apparatus.

Several constitutional provisions deal with technical matters not traditionally found in constitutions. They relate to the Public Service Commission, the Security Commission, the Police and Defence Forces and the Prison Services, State Finance, the State Revenue Fund, the Auditor-General, the Central Bank and the National Planning Commission.

The reason for their inclusion stems from a desire to "constitutionalise" and circumscribe future Government behaviour, and to endeavour to ensure "clean" government. Numerous examples of corruption and failed economic policies elsewhere in Africa were in the back of the minds of the delegates who proposed the inclusion of these provisions. This also explains an important feature of the con-

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[69] Just after the election results became known, SWAPO launched scathing attacks against academics that predicted a decline in support for the Party in the 1999 Presidential and National Assembly Elections. In an opinion piece Jairus Tjirondero (2000:4,7) wrote: "On the eve of the political campaigns, a bunch of self-styled political analysts sprang up from their nests. Are they Namibians or how the hell can they analyse the [*sic*] Namibia politics [*sic*]. They even go as far as forecasting the results of the elections. They are of course nothing else than propagandists of the CoD. Most of these analysts are nothing else than political opportunists who cannot see beyond their noses as well as reasoning beyond their arms' length". He then goes on to call them "bogus historians", "[regarding Dr Henning Melber] ... as if forecasting for the Nazi strategician [*sic*]", "visionless stooges" and "clawns [*sic*]". Much of SWAPO's tirade was, however, reserved for Mr Ben Ulenga and his newly-formed party, the Congress of Democrats (CoD). In an Orwellian campaign, the CoD leader was branded as a (South African) spy, and several CoD members and supporters were assaulted during the campaign period leading to polling day.

Far more serious, perhaps, were recent threats by Home Affairs Minister Jerry Ekandjo to withdraw the work permits of foreign judges for ruling against Government (*The Namibian*, 24 July 2000).

stitution-making process, namely a belief that clear constitutional norms and institutions could prevent possible future abuses, as feared by those who would be the minority and in opposition.

Did the Constitution indeed succeed in providing this form of control? Constitutional devices are important and valuable, but they cannot create absolute guarantees or suspend the political process. The officials appointed to these bodies and their policies or actions cannot be insulated from public pressure and societal demands. It is useful to opposition parties and civil society to be aware of these constitutional mechanisms, but to use them as actual curbs on Government action is often problematic. Several such activities or the provisions trying to ensure independence from Government are, however, not really justiciable. Economic policy or budgeting, for example, are not matters for courts to second-guess. It would be complicated and even dangerous for a court to do so. Courts generally respect separation of powers and the limits to legitimate judicial review.

Another reason for their limited value as brakes on a Government enjoying overwhelming popular support relates to the absence of a political censure for what some may consider "unconstitutional" behaviour. The extent to which the values of limited government are shared by the general voting public may be uncertain. They may favour "strong" government and deliberate action with regard to pressing socio-economic need. The role of civil society will again be crucial. A constitution creates a certain space for civil action. It is up to civil society, NGOs, lobbying groups and political parties to actually use the mechanisms and opportunities created by such a constitutional framework. The Namibian record on this particular point seems to be a mixed one.[70]

The Constitution as an International Ticket

One of the consequences of the end of the Cold War was the disappearance of the opportunity for some African Governments to play off the West against the East. Aid and development assistance are now linked to good governance requirements, sound economic policies and respect for human rights. Structural adjustment plans have to be accepted by African States for their economies – often resulting in complaints about "loss of sovereignty". International relations and views on international peace and security are changing. "Globalisation" and access to international markets constitute a framework for international relations and a yardstick for foreign policy.

These developments have had many consequences for African States. They have had to adjust to new international demands regarding their domestic policies, to bring government in line with "Western" ideals. Democratic rule, respect for human rights and clean government are the more salient features of these demands.

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[70] See previous footnote.

One of the responses by an African State to these demands would be to start with a constitution which entails rules and principles on democratic government, the rule of law and human rights. Many African States have endeavoured to adopt this route, but with varying degrees of success. Constitutional "reform" may even be directed at preventing drastic change, as happened in Zimbabwe recently. Return to civilian rule (e.g. Nigeria in 1999) was a more promising effort and included "real" constitutional reforms. All these emerging trends cannot be analysed here; our focus is on the Namibian experience, which is not an example of such a new constitution as part of an adjustment effort of the Government-of-the-day. But how is its Constitution perceived internationally? How important is a "good" constitution for a country's international standing?

The answers will obviously depend on constitutional practice as well, but a comprehensive and enforceable constitution based on the rule of law is generally viewed as an important starting point. Namibia's Constitution is internationally respected. The Constitution has not been "torn up" and is often invoked as evidence of Namibia's democratic credentials. Indeed, it is a ticket towards international respectability – even more so when perceived against the background of the less inspiring picture of Africa as a whole.

There are limits to the distance that the constitutional ticket will allow a State to travel internationally. Actual practice will have to match the constitutional model. There are, however, also limits to the leverage of international organisations and foreign Governments over African States who, in principle, are "sovereign equals". Western Governments have also sometimes stated that African States still display "traditional" values that cannot simply be destroyed. Modernisation is a slow and expensive process.

During its first ten years of independence, Namibia has done quite well as far as its international reputation is concerned. The Constitution's content and the manner in which Government generally respects it are cited in support of this positive evaluation. Nonetheless, the period ahead may prove to be more difficult and more demanding. Regional peace[71], more domestic development, the ability to attract international investment and secure access to international markets[72], and respect for human rights will require new policies and new action. There are signs that Western Governments are becoming more critical of African States, less sympathetic with respect to their calls for aid (and when aid is granted, NGOs – and not Governments – are the favoured recipients), and less involved in African af-

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[71] At the time of writing, Namibian troops are fighting in the DRC and some of the battles between the Angolan Government and UNITA are conducted on Namibian soil, with Namibia's consent and involvement on the side of the MPLA Government.

[72] SADC trade protocols will have to be concluded and implemented and a new Lomé agreement with the EU has to be worked out. The Customs Union with South Africa, Botswana, Lesotho and Swaziland is also to be renegotiated.

fairs generally. The past ten years might have been somewhat of a honeymoon period for Namibia and more testing times may lie ahead. This may be true of domestic conditions as well as international relations.

A new dimension may also enter this particular debate when southern African regional pressures to implement constitutional reforms and ensure democratic rule and good governance are applied. The whole of the region stands to be influenced by a refugee problem as well as an economic decline in certain member states. The quest for peace and stability in the Southern African Development Community (SADC) region already suggests the need for urgent answers to the problems of Angola and the DRC. Political and economic reforms are called for in Zimbabwe. In these respects, joint action and policies are provided for under SADC protocols and their implementation may, indeed, become unavoidable.

The Namibian State could play an important role in these developments. Moreover, the relation between its own constitutional ideas and its regional policies will hopefully be recognised. There will be a firm basis for Namibia to play such a role: the Constitution expressly calls for, amongst other things, the promotion of "international co-operation, peace and security".[73]

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[73] Article 96, which deals with "Foreign Policy".

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Appendix

List of human rights abuse cases brought to court from 1989
(Compiled by Mr Deon Obbes; used with permission)

1. ***Cabinet for the Interim Government of SWA vs. Bessinger* 1989(1) SA 618 (SWA)**
   Deals with provisions of the Internal Security Act and court's interpretation of its provisions on discretionary arresting powers and grounds for arrest. Courts attempted some latitude in interpretation.

2. ***Ex Parte Attorney-General, Namibia In re: Corporal Punishment by Organs of the State* 1991(3) SA 76 (NmS)**
   Criminal procedure – sentence of whipping by a judicial or quasi-judicial authority in conflict with Article 8 of the Namibian Constitution.

3. ***Federal Convention of Namibia vs. Speaker of the National Assembly* 1994(1) SA 177 (Nm)**
   Enforcing compliance with the pre-emptory provisions of the Namibian Constitution is the duty of the courts, unless such jurisdiction is specifically and lawfully ousted (e.g. in internal matters of the Houses of Parliament). In casu, court has jurisdiction to direct Speaker in terms of Article 48(1)(b) of the Namibian Constitution, and to replace him in terms of Article 48(2).

4. ***Government of Namibia vs. Cultura 2000* 1994(1) SA 407 (NmS)**
   Deals with Article 140(3) of the Namibian Constitution. It is to be so interpreted as to enable it to play a creative and dynamic role in expression and achieving of ideals and aspirations of the Namibian Constitution. Case also refers to Articles 16 and 19 of the Namibian Constitution. The case does not favour a narrow, mechanistic, rigid and artificial interpretation of the Namibian Constitution.

5. ***Minister of Defence, Namibia vs. Mwandinghi* 1992(2) SA 355 (NmS)**
   Liability of State for delicts committed by servants thereof prior to Independence. Article 140(3). Case confirms that successor Government would inherit liability unless laws under which they were committed were repealed by the successor Government.

6. ***Namibia National Students' Organisation vs. Speaker of the National Assembly for SWA* 1990(1) SA 617 (SWA)**
   SWA Bill of Rights (Annexure 1 of Proclamation R 101 of 1985) – testing of legislation in conflict with the provisions thereof. In casu legislation was passed to forbid students, lecturers, etc. from peaceful boycotts of lectures and use of public services.

7. ***S vs. De Bryn* 1992(2) SACR 574 (Nm)**
   Defence of entrapment – evidence so gathered could be in conflict with Article 12(a) of the Namibian Constitution.

8. ***S vs. Heita* 1992(2) SACR 285 (Nm)**
   Mero motu recusal of judge. Scandalising of and threats to judiciary by political parties on public platforms constitute a threat to independence, per Article 78 of the Namibian Constitution.

9. ***S vs. Koekemoer* 1991(1) SACR 427 (Nm)**
   Illicit diamond buying and evaluation of entrapment.

10. ***S vs. Kramer* 1991(1) SACR 25 (Nm)**
    Further elaborates on legitimate entrapment.

11. ***S vs. Mbahapa* 1991(4) SA 668 (Nm)**
    Article 12(1)(e) of the Namibian Constitution – duty of judicial officer to inform unrepresented accused of right to legal representation. Failure to do so does not necessarily amount to failure of justice and in proceedings being vitiated.

12. ***S vs. Minnies* 1991(1) SACR 355 (Nm)**
    Admissibility of pointing out. The Criminal Procedure Act (CPA) confers discretion on courts to exclude unlawfully obtained evidence. The CPA is to be interpreted in the light of Article 12(1)(f) as read with Article 8(2)(b) of the Namibian Constitution.

13. ***S vs. Namseb* 1991(1) SACR 223 (SWA)**
    Theft sentence may be mitigated if, in casu, the appellant can prove that he committed the theft in order to give effect to his duty to provide schooling for his children, which is considered a fundamental human right and places heavy responsibilities on parents.

14. ***S vs. Pineiro* 1993(2) SACR 412 (Nm)**
    Deals with the validity of a presumption in the Sea Fisheries Act which conflicts with Article 12(1)(d) of the Namibian Constitution.

15. ***S vs. Scholtz* 1996(2) SACR 426 (NmS)**
    Deals with the accused's right of access to witness statement and the effect thereof upon a fair trial. Interprets Articles 7 and 12 of the Namibian Constitution.

16. ***S vs. Smith* 1996(2) SACR 675 (Nm)**
    Freedom of expression – whether the provisions of the Racial Discrimination Act are a permissible derogation from Article 21(1) of the Namibian Constitution.

17. ***S vs. Tcoeib* 1993(1) SACR 274 (Nm)**
Is life imprisonment a competent sentence in Namibia in view of Article 8 of the Namibian Constitution?

18. ***S vs. Van den Berg* 1996(1) SACR 19 (Nm)**
General interpretation of the Namibian Constitution – purposive, generous and balancing of rights. Deals with the right to be presumed innocent (Article 12(1)(d) of the Namibian Constitution) as well as interpreting Article 11(1)(d). Deals furthermore with who bears the onus of proving the violation of a fundamental human right.

19. ***S vs. Van Wyk* 1992(1) SACR 147 (Nm)**
The Namibian Constitution authorises Parliament to prescribe punishment expressing revulsion of the Namibian people to practices of racial discrimination and apartheid. Courts, in interpreting and sentencing such crimes, should bear said constitutional commitment and public policy in mind if racist motives are considered as aggravating circumstance. Such an interpretation places additional emphasis on retributive and deterrent objects of punishment in order to eradicate racism.

20. ***S. vs. Vries* 1996(2) SACR (Nm)**
Right to dignity – whether mandatory maximum sentencing of three years for second or subsequent sentence in terms of the Stock Theft Act is in conflict with Article 8 of the Namibian Constitution.

21. ***Vaatz vs. Law Society of Namibia* 1991(3) SA 563 (Nm)**
Disciplinary proceedings in terms of the Attorneys Act – nature of the provisions neither criminal nor civil and thus not falling within ambit of Article 12 of the Namibian Constitution.

Decentralisation and State-building at the Local Level
Gerhard Tötemeyer

> *Local democracy ensures that one must not be master of another, but rather oneself and one's life. It is in this sense that democracy is accurately defined as self-government, not government by the other*.
> (Themba Sono 1993:117)

Introduction

Successful democracy in Africa will, to no small extent, depend on an intensive and effective decentralisation process which involves the empowerment of people at local State level. Decentralisation entails a process of dividing and distributing authority, power and responsibility for programmes and policy implementation to subunits, as well as reassigning decision-making responsibilities to lower governmental units on a geographical basis.

Africa is in dire need of democratic local governance that harmonises the sharing of responsibility between Central Government and local State level, and that empowers people, democratises society, and shares the responsibility of deciding on policies which affect people's daily life.

After a history of colonisation, Namibia committed itself to cooperative democracy. The local State had to be redefined, and Bantustans replaced by a new regional dispensation within a unitary State. Namibia's history of decentralisation is still in its infancy: any value judgement on its possible success would be premature.

This chapter deals with the policy of democratisation as well as its content, intentions, objectives, feasibility and obstacles, within the context of Namibia.

Local Democracy and Empowerment

Localising democracy implies, among other things, developing – at local level – an operative and effective capacity to control power at central level. Localising democracy has gained in relevance following the increased momentum of democratisation in many African States. Government to the people at grass-roots level is increasingly being considered as one of the most important pillars for stabilising and sustaining democracy in African society. In formerly highly centralised States in particular, people at grass-roots level were either ignored or neutralised in political decision-making.

Local Government must constitute the institutionalised form of local democracy. A fully democratic system for local government can be highly successful if such system is created by the community for the community.

The ultimate goal should be open, responsible and effective local government, and the enhancement of community-based citizen participation. Active public participation on particularly socio-economic matters at local level, as an integral part of mobilisation politics, presupposes an effective socialisation programme by means of which the citizen is made aware of his/her powers and co-responsibility in local governance. It also involves the development of a culture of democracy at local level. The local citizen should be encouraged to claim co-ownership of local institutions and be prepared to be elected to represent the community's interests.

Active public participation and involvement – whether at public meetings, in the public media or by means of public enquiries, thereby demonstrating an inquisitive and challenging mind – are all important elements of the dynamics of local participatory democracy. Such participation can constitute input by individuals or via civic-based organisations. One of the greatest challenges in African States remains how to ensure people at local level, particularly in the rural areas, participate in local politics. The low turnout at Local Government elections in many African countries is a matter of concern, whatever the reasons.

Participation can, thus, take different forms. It may comprise –

- the articulation of problems and needs (e.g. housing, electricity, roads, sewerage, etc.)
- participation in decision-making
- participation in the execution of decisions
- participation as a control function, or
- most importantly, being an active and integrative participant in the community.

The latter involves the obligation to take part actively in local authority elections at regular intervals. Participation as an integral part of local democracy will become a farce if it is practised only as a privilege for the few and not as a right for all.

A workable democracy at local level presupposes the institution of stable local representative systems, characterised by a productive working relationship among all local players. Usually, such process involves the development of authoritative capacity and structures, efficient in decision-making and administration, capable of finding answers to questions regarding the nature and standard of services required, the priorities in a given community, the viability and affordability of services demanded, and the financial means to satisfy them. This will involve effective working relations with higher levels of Government, due particularly to resource scarcities in most local areas.

What is needed is a local system or structure that is sensitive and receptive to the community's needs. Local Government should correspond to community identities and interests. Popular interests should be institutionalised within a consultative and participatory framework. The methods of participation instituted by a local body such as a Local Government institution (e.g. a village council, a town council, a municipality) should not only include consultative meetings but also the improvement of the quality of citizenship.

It is often argued that the ultimate goal of localised democracy is to establish an elected representative body. Such authority can only be instituted once an entity has been identified and organised: one which possesses at least the minimum organisational capacity itself as well as the minimum power required to act on behalf of the community.

In a nutshell, it can be argued that a local authority can justify its existence when it –

- administers a clearly-defined geographical area and a sizeable population which elects its local representatives (e.g. a council, an assembly) on a regular basis
- is supported by an administrative body
- operates as a separate legal entity with some degree of legal independence
- has the power of rule adjudication
- can make decisions and implement them
- has access to property and ownership thereof
- can at least partly raise its own revenue
- can allocate all revenues
- has the power of recruitment
- has been assigned legally entrenched functions, and
- implements its assigned functions cost-effectively.

Local communities argue that, once more powers are allocated to local governance either by decentralisation or devolution, the greater the incentive will be for people and representative organisations to become actively involved in local governance and to take on co-responsibility for decisions. The more powers are devolved, the more authoritative a local council tends to become. Centralised control has been shown to affect the pace and intensity of development as well as service at local level. Red tape, priority decisions and overruling decisions of local authorities at central level often have a negative impact on the operation of such local bodies. The demand is, thus, for maximal devolution of power from higher levels of Government, which should be matched by minimal administrative control. To justify its independent existence, a local authority cannot function as the administrative extension of the Central or Regional Government.

Civil society and Local Government reinforce each other. An active and well-organised local community will expect Local Government to deliver and will hold

it accountable for its performance, both in its role as the voting constituency and as citizens acting in other situations concerned about their society (Kahane 1998:6). It is not argued that Local Government can exist totally separately from Central Government. On the contrary, Local Government as a form of government forms an integral part of the total governance of the State. Thus, it operates within the total structure dispensation of the State, its political dynamics and its economic, social and legal order. Central Government performs a dual role as promoter of change and insurer of stability and consensus. It stimulates change and innovation while maintaining stability.

Strong Local Governments, allowed to generate resources locally and responsible for administering adequate resources for local needs (e.g. primary education, housing, road construction, water and power supply, informal markets), could lessen possible resentment against a Central Government that monopolises all the power and intervenes in all aspects of local governance. Local entities have a greater knowledge of local needs which must be attended to immediately. They will only credit Central Government its status if it allows enough scope and allocates sufficient power and resources to local authorities to handle such matters locally.

Most local authorities in Africa function in communities with low incomes, insufficient housing and employment opportunities, underdeveloped infrastructure and services, and a weak economic base. They are faced by growing demands on scarce financial, managerial, administrative and planning resources. In an environment marked by deprivation, poverty and underdevelopment, it is certainly not an easy task to formulate and implement development projects, to determine priority when needs must be satisfied, to mobilise resources whether in the public or private sector, as well as to mobilise the support and active participation of the community, particularly when involved in cost recovery.

Despite all the stated problems to which local communities in Africa are exposed, local initiative should always be encouraged. Many of the problems with which African local communities are faced can only be solved through a cooperative and integrated approach to development, covering economic, social, human, technical, financial, institutional and administrative issues. Closely related to such approach is the urge for capacity-building.

In African societies, a problem-solving capacity at local level is as important as an overall capacity-building. Such capacity is seriously lacking. Technical and managerial human resources are limited. Africa also suffers from insufficient expertise in formulating and implementing development plans; poor transportation and communication networks; unresponsive leadership; inadequate financial, material, and human resources; a lack of transparency and accountability; destabilisation resulting from Government intrusion; statutory laws placing needless parameters on local self-governance; and over-centralisation of decision-making (*cf.* Rothchild 1994:6).

Often neglected is the relevance of the standard of training, capacity and professionalism with which the councillors and administrators of a local authority responsible for the efficient working of such body are endowed. An inefficient local council and administration retards local democratisation and can even put it in jeopardy.

Elected bodies should not function in isolation. They need to reconcile democracy and representation. A dichotomy between the two is counter-productive. It is claimed that once councillors have been elected to their positions, the rest of the local community is virtually excluded from participatory democracy. Local councillors in African societies bear a special responsibility, therefore, to closely interlink with community-based and other organisations and their leaderships, in order to consult with them on the relevant problems and needs in a holistic way. What is needed is a culture of democratic partnership with the community at large: the business and labour sectors, religious and traditional leaders, and other decision-making bodies and spokespersons in the cultural and economic spheres, particularly during the transition period from monistic rule to pluralistic democracy.

Such a process involves fundamental constitutional and socio-economic reconstruction and reconciliation, the intensity and quality of which will determine the success or failure of the ongoing democratisation process. The primary need is for democratic local governance that harmonises representation and participation. The combination of both, and the interlinkage between the two, may be the best guarantee for localising democracy effectively.

Decentralisation and the Parameters of National Policy

Decentralised powers refer to those which have been devolved in order to allow a sub-national-level entity to act according to its own discretion within certain prescribed limits – and to do so through officials appointed by itself. It entails some form of political devolution – weakening the degree of political control exerted by higher-tier bodies. Decentralisation shifts decision-making power, of no matter what degree, to sub-national administration and political units.

Decentralisation is only possible by means of politically and institutionally decentralised structures at either or both the Regional and Local Government levels. For this it needs a good local infrastructure, an elected body and political support from above – within the framework of political competition. Decentralisation, thus, involves a process of dividing and distributing authority and responsibility for programmes to administrative subunits as well as reassigning decision-making responsibilities to lower units on a geographical basis.

Decentralisation is often equated with maximum grass-roots participation, equality of opportunity, and reform. It is defined as a means of ensuring wider representation of legitimate interests and accountability to local communities, and should instil the feeling that ordinary citizens have a stake in the Government. The premise

is that decentralised units are more acquainted with the problems and demands prevailing within their domain and range and, thus, lend more weight to them.

The *deconcentration of powers* refers to the transfer of responsibility for implementing some of the activities of Central Government to regional and local authorities, who act as administrative agencies on the former's behalf. Functions are performed by officials who are appointed by, responsible to, and controlled by the Central Government. The motivation is to reinforce regional and local capacity. Deconcentration is, thus, an administrative process, particularly applicable to highly centralised systems in geographically extensive countries. In summary, deconcentration involves modes of transferring or assigning commitments to a unit to be executed under the control, supervision and direction of Central Government. Principal decision-making still occurs at the centre.

Deconcentration is often used as a device by Governments in undemocratic countries to provide them with greater penetration into and control over lower-level arenas and civil society (Manor 1995:81). Adam (1993:378) is of the opinion that decentralisation processes generally do not proceed further than deconcentration processes, i.e. the extension of central institutions. Thus, they remain within the context of vertical political structures and depend on central decisions.

The concepts of *decentralisation* and *centralisation* have become fundamental in the debate on Local Government worldwide, and especially in less-developed countries. While there has already been a centralising trend in many African countries, greater decentralisation is presently contemplated. Decentralisation has become part of reorganising the State. It implies devolution: the sharing and transfer of power from the top to the lowest level. It is taken to mean the sharing of part of the governmental powers of central authority with other levels of authority, such as regional or local authorities, each having its assigned responsibilities for specified functions within given administrative and political areas. This is more easily decided in a federal State than in a unitary State, where the constitution does not specify which, or whether at all, powers should be decentralised or devolved.

During the 1993 Kampala conference on strengthening African local initiative, local self-governance, decentralisation and accountability (Rothchild 1994:v-vii), effective devolution of power and resources from the central to the local level of Government and administration, within the ongoing democratisation process in Africa, was considered as a prerequisite for peace and stability in African societies and States. Local self-government and devolution, it was argued, entailed recognition and a capacity of problem-solving, reconciliation, and conflict resolution at the local level, both through "traditional" methods of seeking consensus, and restructuring and balancing budgets throughout the State hierarchy.

Another premise which has been put forward for successful decentralisation is the emphasis on the necessity for a significant transfer of financial and human resources from central to local level. There must be a clearly defined and constitu-

tionally guaranteed functional and structural relationship between the two, if devolution of power and local self-governance are to function.

Decentralisation has many dimensions, such as democratic decentralisation (elected bodies) and political decentralisation (creating political systems relating to lower levels of Government). *Decentralisation*, in effect, means granting a particular form of self-governance, whether at regional or local level, but within the parameters of the State and prevailing laws. Such decentralised bodies have a separate legal existence, their own budgets, the right to raise their own revenues (at least in part) and to allocate resources, as well as other decision-making powers with respect to staff appointments and promotions, for example.

Forms of Decentralisation

Political Decentralisation

All the sub-national level Governments at regional and local level are governmental in nature and are corporate bodies. Their status and role are legally defined. Their autonomy is determined in terms of their status and financial dependency on Central Government. Councillors gain office through direct elections. The position of the mayor is a ceremonial one. The main executive officer at Local-Government level is the town clerk or, alternatively, the village secretary. At regional level, the governor is the political head while the chief administrative official is the regional officer.

Financial Decentralisation

It is easier to decentralise political power than financial resources. No agreed definitive position exists as yet regarding financial arrangements and transfers under decentralisation. If delegation is used as an interim measure, the centre continues to provide the funds for the delegated functions, both recurrent and development-oriented. It has been agreed in principle that, under devolution, funds would have to follow functions.

Intergovernmental fiscal arrangements under decentralisation can be considered under three categories, all of which must be fully backed by the power of the law, namely –

- assignment of expenditure responsibilities (functions are devolved to sub-national Governments, e.g. regional and local authorities)
- tax responsibilities (of both Central and sub-national Governments), and
- the availability of grants to Local Governments to run decentralised services, as well as for addressing fiscal imbalances.

While Local Governments may raise revenue either locally or by virtue of Central Government grants, the practice and reality under decentralisation indicate that, for effective decentralisation to occur, amongst other things sufficient authority must be transferred in order to mobilise financial resources at these sub-

national levels of Government. The transfer of authority is to be complemented by adequate physical infrastructure, transportation and communication linkages to facilitate resource mobilisation. It is also imperative that a sound financial management system be in place, as well as financial supervision and watchdog institutions to ensure transparency and accountability in the use of financial resources.

At present, the main sources of revenue for local authorities are by way of specific service charges, levying of licence and other fees, local taxation and borrowing. Revenue collected through the provision of specific services such as the supply of water, electricity and sewerage, should be based on the principle of full or partial cost recovery, in line with the benefit principle. Fees and licences constitute the most important resources of local revenue, but the rates charged must not defeat the purpose of the activity, namely the rendering of a service. The most common form of local taxation is property tax. Borrowing can also be a source of local revenue, but for good reason it is subject to Central Government control.

It is essential that new legislation currently being proposed should provide for regional and local authorities to generate their own sources of revenue. To mobilise and increase regional and local authorities' sources of revenue is particularly important under the decentralisation policy, especially where financial self-reliance is being emphasised, which is closely related to greater autonomy and responsibility. The success of the decentralisation policy, thus, depends significantly on strengthening the regional and local authorities' capacity to generate revenue.

Personnel Decentralisation

According to the decentralisation policy, regional officials tasked with delegated functions are to be placed under the overall charge and supervision of regional officers. They become Regional Government employees. Central Government employees seconded to a regional office by a line ministry remain in the service of such ministry and cannot be controlled by the regional officer.

Personnel decentralisation is one of the key aspects of decentralisation. Such decentralisation can help to ease the pressure on the Central Government's bloated establishment. It saves the Central Government from retrenching excess staff and can help to build capacity at local and regional level.

Local Authorities in Namibia

Before Independence

Municipalities

Local authorities in the form of municipalities have been in existence in Namibia since German colonial times. They were instituted for a given community within a determined geographic area proclaimed by law. The body's powers and functions were determined by legislation. Municipalities were administered by Municipal

Councils acting under the provisions of the South West Africa Municipal Ordinance No. 13 of 1963, as amended. The Ordinance essentially applied to the then "white" and "coloured" segments of urban areas. Municipal Councils consisted only of elected white councillors, varying from seven to twelve, depending on the size of the municipal area and its population. Only whites could vote in municipal elections. Voters had to conform to prescribed residential and fixed property qualifications.

The so-called black townships within municipal areas were administered by Municipalities on an agency basis for the Central Government in terms of the Urban Areas Proclamation No. 56 of 1951, and other statutes. Local Government and administration had to comply with the South-African-imposed policy of separate development according to ethnic and racial criteria. Accordingly, each Municipality had separate residential areas for whites, coloureds and blacks.

The white-composed Municipal Councils were advised by "elected" black Advisory Boards (according to the Urban Areas Proclamation) and, where applicable, by nominated coloured Consultative Committees. The latter were established according to the Ordinance on the Establishment of Local Government in Coloured Townships No. 34 of 1965 and the Regulations Relating to Consultative Committees for Coloured Townships in Government Notice No. 15 of 1966. The two bodies could only act in an advisory capacity to the Municipal Council of a town in respect of budget proposals, resolutions, streets, housing, social welfare and the general development of the respective areas. As the white Municipal Council held the ultimate responsibility and financial authority, the two advisory bodies remained powerless. They could only make non-building recommendations to the Management Committee of the Municipal Council. Such recommendations could under no circumstances conflict with the interests of the latter. In the black and coloured communities, the advisory bodies were justifiably considered as lackeys of white interests.

Only after the inauguration of a non-representative Transitional Government of National Unity in 1978, were some apartheid measures made redundant. Despite the opening up of all residential areas and related legal changes, a high degree of de facto segregation persisted, especially outside Windhoek. Separate bodies for the racial groups remained in all municipal areas. The status and powers of these bodies were not changed. The white-composed Municipal Councils still retained overall control.

Village Management Boards

Village Management Boards were established south of the so-called Red Line, a line that formerly separated the northern part of Namibia from the rest of the country. These Boards were controlled by the Village Management Boards Ordinance No. 14 of 1963. Any area situated outside a municipal area could be pro-

claimed a Village Management Board Area, and a Board would accordingly be appointed by Central Government. The rights and duties of a Village Management Board were, generally speaking, similar to those of a Municipality. For a number of reasons (e.g. a lack of income, staff and efficiency) all these Boards were eventually taken over by the Peri-Urban Development Board.

Generally, the Ordinance made provision for a Board consisting of the magistrate of the district, who acted as ex officio chairman and treasurer, and not less than two and not more than four other members. In earlier times, the latter members were appointed by an Administrator and successive central authorities.

Village Management Boards were assigned to provide for the maintenance of good governance and law and order, as well as the health, convenience, comfort, protection and safety of the inhabitants. These Boards, like the Municipalities, were subject to overriding Central Government control in respect of the appointment of senior officials, estimates of annual expenditure, drafting of regulations, and the purchase, acquisition or hiring of fixed property.

The Peri-Urban Development Board

The Peri-Urban Development Board was instituted in terms of the Peri-Urban Development Board Ordinance No. 19 of 1970. It consisted of seven members appointed by the Government for a term of five years. The Board had the right to formulate policies and to exercise defined executive powers.

In most proclaimed peri-urban areas, Advisory Councils were instituted by way of local elections. However, the appointment of persons nominated to serve on such Advisory Councils was subject to Cabinet approval. The purpose and functions of Advisory Councils were to advise the Board on all matters related to the management and administration of the respective peri-urban areas.

The kind of services provided by the Board ranged from the whole spectrum of municipal services to the mere supply of water, and included the tasks previously assigned to Village Management Boards. In some areas the Advisory Councils were assisted by Advisory Boards representing black interests and by Consultative Committees representing so-called coloured interests.

Local Government in the "Homelands"

No Local Government was ever instituted in the so-called homelands (communal areas) in Namibia, thereby depriving more than 70% of the total population participation in third-tier Local Government. Especially in the North, a number of urban settlements developed over time but no village or municipal status was granted to them and, thus, they enjoyed no formal system of Local Government. The second-tier ethnic administration bodies in the homelands were given the responsibility for administering urban areas in these entities on behalf of the Central Government. As these peri-urban areas had not officially been declared villages or

towns, and no private land ownership was allowed, formal Local Government could either not be instituted or was considered impracticable.

The responsibility for the performance of third-tier functions in the homelands was split between the Central Government and the second-tier ethnic administrations. Only since Independence and, consequently, the disappearance of the second-tier ethnic administrations, has Central Government taken over full responsibility for administering the former homelands on all levels of government.

Since Independence

Article 102 of the Constitution states that, for the purpose of Regional and Local Government, Namibia will be divided into regional and local units, which will be governed by elected councils. Local authorities range from those which are independent and autonomous, to those which are fully dependent on Central Government support. The Constitution does not refer to any degree of autonomy for local authorities, nor to any powers to be allocated to and exercised by such bodies.

The promulgation of the Local Authorities Act, 1992 (No. 23 of 1992) provided the parameters in terms of which towns and villages could formally be constituted across the country. The Act provides for the establishment of local authority councils, and determines their powers, duties and functions.

The main responsibilities of Central Government towards local authorities are to –

- assist them to perform their duties and functions efficiently by providing the necessary resources and training
- formulate, direct and coordinate overall national policies
- control town planning, and survey land leading to the proclamation of towns
- devise and develop a national town-development strategy, and
- provide for the establishment of local authority councils and control the administration of such councils.

Although local authorities are independent bodies, certain actions such as budgeting and decisions on regulations and assessment rates can only be taken after consultation with the Ministry of Regional and Local Government and Housing.

The Local Authorities Act makes a distinction between a *municipality*, a *town* and a *village*. Municipalities represent the highest level of local authority and are divided into –

- Part I Municipalities (larger towns, including the capital, Windhoek), and
- Part II Municipalities (medium-sized towns).

Municipalities classified as "Part I" have more autonomy in their administration and more councillors (up to 15) than those listed as "Part II" (which have a maximum of seven councillors). At present, villages are permitted to elect seven councillors, but once the ward system is introduced in 2002, this number will decrease to five councillors.

Municipalities

A *municipality* is a legal body with its own assets and land. Municipalities consist of proclaimed town layouts, including town extensions with proclaimed municipal boundaries, and normally also own town lands for future extension.

A *municipality* is, according to law, an approved township. The Municipal Council, as a municipality's governing body, is able to exercise and perform the powers and duties conferred on it by law. It is capable of settling, out of its own funds, any debt it incurs in the exercise of its duties. A Municipal Council has to comply with all other liabilities and obligations so incurred as well. Although it is virtually independent from Regional and Central Government, the latter provides loans for development purposes, as well as subsidies for the construction of streets, the control of traffic and the operation of fire brigades. Such loans have to be repaid with interest over a period of 20 to 30 years. Subsidies are paid for functions that Municipal Councils perform on behalf of the Central Government.

All the municipalities are located in the more developed part of Namibia and are, as indicated previously, an inheritance of the colonial past. Namibia is marked by a totally skewed local authority development which, in the past, benefited only the more well-to-do white population in the developed and commercialised areas of Namibia. It was only in 1992, with the holding of the first Local Authority and Regional Council Elections, that the total population had an opportunity to elect their own local and regional representatives. Since then, local authority development and the establishment of new towns and villages has progressed considerably.

Towns

According to the Local Authorities Act, a *town* is an area where an approved township exists and where a Town Council is able to exercise and perform the duties and functions conferred and imposed upon it in terms of the provisions of the Act. A Town Council has to settle, out of its own funds – whether or not these are supplemented by financial or other assistance from Central or Regional Government – any debt it incurs in the exercise of its powers, duties and functions. A Town Council is also obliged to meet all its other liabilities and obligations so incurred, whether or not it receives other Government assistance.

The Ministry of Regional and Local Government and Housing (MRLGH) is encouraged to apply to the Namibian Planning Advisory Board for the establishment of towns, in order to obtain the latter's recommendation to Cabinet on the desirability and necessity or otherwise of the establishment of a proposed town. Thereafter, the matter is submitted to the Township Board for recommendation.

Section 9 of the Townships and Division of Land Ordinance of 1963, as amended, provides that, once Cabinet has accepted the recommendation of the National Planning Advisory Board, the President can grant permission for the establish-

ment of the proposed town. Thereafter, a general plan, approved by the Surveyor-General, is to be submitted to the Registrar of Deeds in terms of section 11(1) of the Ordinance. The Registrar is then required to open a register for the proposed town, and on completion thereof, the President declares, by proclamation, the area concerned a proclaimed town. Currently, the decisions taken on the establishment of towns are done largely ad hoc, i.e. as the need arises.

Villages

A *village* is at the beginning stage of local management on a very small scale. It has little infrastructure and a small community. According to the Local Authorities Act, a *village* is an area comprising a community which, in the opinion of the President, is in need of the services which are required to be rendered or may be rendered in terms of the provisions of the Act by an elected Village Council. Also in the opinion of the President, the Village Council should be able to exercise and perform – whether with or without assistance by the Government or any Regional Council or other local authority council – the powers, duties and functions conferred and imposed upon it in terms of the Act.

Settlement Areas

The Regional Councils Act, 1992 (No. 22 of 1992) makes provision for an informal tier of local administration, that of settlements. A *settlement* is the embryo stage of a local village. It usually consists of a number of informal dwellings, but possibly also a number of properly structured buildings. Standard infrastructures are, however, non-existent and need to be developed with the assistance of the Regional Council.

The Regional Council will take the initiative in establishing, managing, and controlling settlement areas. The relevant Council and its supporting administration will look after the interests of such informal settlements. Settlements can, in cooperation with the Regional Council, nominate spokespersons from their own ranks to represent their interests.

As long as settlement areas are managed by the relevant Regional Councils, the assets of such a settlement as well as any rights, liabilities and obligations associated with such assets are vested in the Regional Council concerned. The Regional Council manages a settlement in the same way as Village Councils manage village affairs.

Strengthening Local Authorities

Since Independence, major changes have been brought about in the administration and financing of Regional and Local Government. With the acceptance of the Local Authorities Act and the Regional Councils Act in 1992, representative bodies have been elected in 45 local authority areas and 95 regional constituencies.
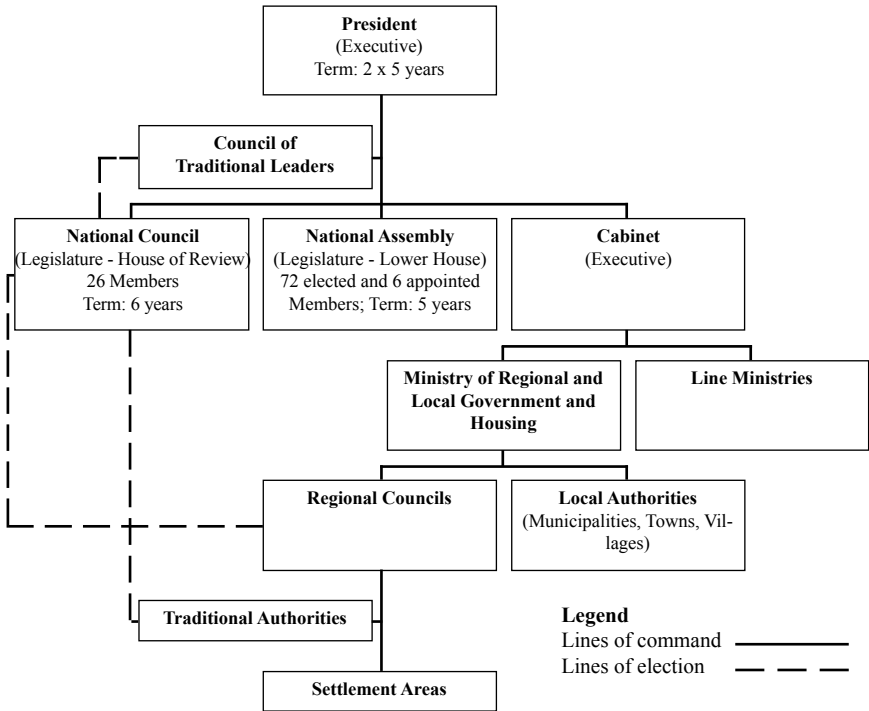
Figure 1: Structures of Government

The Peri-Urban Development Board was abolished in 1992, and its former responsibilities delegated to the local authority bodies.

According to Article 129 of the Namibian Constitution, the National Planning Commission (NPC) is responsible for planning the priorities and direction of national development. The NPC Secretariat comprises a Directorate of Development Planning, a Regional and Strategic Planning Division, a Regional Planning Subdivision, and the Central Statistics Office. The main functions of the Directorate of Development Planning concern the implementation of macro-economic planning, integrated sectoral development planning, and the maintenance and management of a special database. The NPC is, thus, responsible for development and the coordination of development on a national scale and relies on plans provided from lower levels of authority. However, it needs to be stressed that the role of the NPC is restricted to an advisory capacity, assisting the MRLGH and Regional Councils in matters related to regional planning in Namibia.

The Government is involved in a number of development projects such as rural electrification in cooperation with the parastatal, NamPower, and the privately-

owned Northern Electricity. The Government, through the MRLGH, is also in the process of providing infrastructure services to towns, villages and settlement areas, including town planning, surveying and servicing. The establishment of towns, villages and settlement areas is integrated into regional and planning systems through the MRLGH to provide improved coordination between local communities, and Regional and National Government. Projects that have already been completed include the provision of new services, and the upgrading of existing services such as water supply systems, sewerage systems and ponds, power stations and power lines.

Much progress has been made in the training of regional and local councillors and administrators with the assistance of various development partners such as the German Foundation for International Development, the Friedrich-Ebert-Stiftung, the United Nations Centre for Regional Development, the United Nations Development Programme, the Namibia Institute for Democracy, and the Centre for Public Service Training at the University of Namibia. Training is also initiated and supported by the Office of the Prime Minister. Attention is given to both in-service and formal training. The priority areas of such training are to establish a clear understanding of regional and local authorities' powers, duties and functions, as well as financial planning and management, data collection, development planning, policy-making and implementation, procedures, control, the council-customer relationship, councillors' roles, and involvement of the community in local and regional matters. The emphasis is on capacity-building.

The Government, in cooperation with the MRLGH and the NPC, is committed to accelerating the proclamation of towns, villages and settlement areas. To this end, the Government has decided on a town planning policy to assist urban areas who are under pressure from constant rural-urban migrants, in creating employment opportunities and promoting economic development. Urbanisation and internal migration are inextricably linked in the process of social change. The Government considers it an obligation to develop new, and upgrade existing, service extensions in towns, villages and settlement areas, based on comprehensive needs surveys. New erven[1] are constantly identified and established as soon as a need assessment has been made, focussing on providing smaller plots to enable more people to have their own privately-owned land. Infrastructural services are provided before building commences.

The problem of financial autonomy, which is presently limited, is constantly being addressed. The structural legacy of the colonial Administration left a distorted pattern of resource allocation. Municipalities have in the past built up huge reserves while the new local authorities lack financial resources. The Government

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[1] South African English term for an urban building-lot or stand; one *erf*, two *erven* (Afrikaans, from Dutch *erf*, "land", "inheritance") (Branford & Branford 1993).

has also been accused of not fully understanding the desperate financial position of local authorities. Some redistribution of resources needs to be considered to normalise the anomalies that have been inherited.

Most local authorities still depend heavily on Central Government funding through the MRLGH. The recurrent budget of the Ministry increased from N$53,1 million in 1992 to close on N$252,2 million in 1998/99 to cover the constant expansion of Local Government in Namibia.

At local level, information and education campaigns are conducted to encourage consumers to accept responsibility for full payment of services. Huge debts have been accumulated by local authorities as many citizens refuse or cannot afford to pay for essential services such as water and electricity. The MRLGH is currently considering a system of co-financing for the upgrading of services to acceptable standards, with Central Government providing loans to local authorities for half of the costs so incurred.

Regional Government

Regions are defined spatial areas within a given territorial entity, the State. Factors relevant to the delimitation of regions can be demography, ecological considerations, climate, geographical features (e.g. farm lands, relief, drainage, rivers, dams, the sea), economic considerations (e.g. resources, economic activities, industry), other resources (e.g. social, human), homogeneity of a region (e.g. sociocultural, economic, geographic), functional criteria (e.g. infrastructure, communication), inter- and intra-dependency, administration (e.g. types of administrative and government bodies), and historical factors.

Regions have to be viable and administratively governable, as well as constitute an area with which its inhabitants can consciously identify themselves. This implies that any sub-national unit (i.e. a region or a local authority area) should be people-based and people-oriented. A *region* is, thus, considered as a dynamic spatial concept with particular potential for and with an emphasis on development, whether administrative-political, economic, human, social, infrastructural or any other. One important objective in the Namibian regional context is the achievement of socio-economic justice and equal opportunity to all citizens.

Creating New Structures

Soon after Independence, Government set up a Delimitation Commission to eliminate the Bantustan policy of the colonial regime, which was founded on ethnic/tribal/racial criteria. In its report of 1991, the Commission recommended the subdivision of Namibia into 13 Regions, based predominantly on geographic and economic factors. In the Proclamation that instituted the Commission, it was unambiguously stated that ethnic, racial and tribal criteria could not be used in the regional division of Namibia.

Article 102 of the Namibian Constitution deals with the structures of Regional and Local Government. It states, *inter alia*, that "for purposes of regional and local government, Namibia shall be divided into regional and local units which shall consist of such region and local authorities as may be determined and defined by act of Parliament". Namibia has, thus, adopted decentralisation as a State policy.

The Constitution further stipulates that "every organ of regional and local government shall have a council as the principal governing body, freely elected" in accordance with the Constitution and subsequent Acts of Parliament. Such body will then be entrusted with executive and administrative powers to carry out all lawful resolutions and policies of such council, subject to the Constitution and any other relevant laws.

Article 105 pays attention to the composition of Regional Councils, while Article 106 relates to their election. The Constitution also stipulates that each Region be divided into constituencies, the boundaries of which are to be determined by the Delimitation Commission. Provision is further made for no fewer than six and no more than twelve constituencies in each Region. Each constituency elects one member to the Regional Council for the Region in which it is situated.

Article 108 identifies the powers of a Regional Council. In most general terms the Article states that the Regional Council shall elect the members of the National Council, and shall exercise such executive powers and perform such duties as may be assigned to it by Act of Parliament and as may be delegated to it by the President.

Regional Councils can also raise revenue, or share in the revenue raised by the Central Government within the Regions for which they have been established, as may be determined by Act of Parliament. They can also exercise powers, perform any other functions and make such by-laws or regulations as may be determined by Act of Parliament.

Article 109 of the Constitution deals with the establishment of Management Committees elected from Council members in each Region. Such Management Committees are to be vested with executive powers in accordance with the provision of an Act of Parliament. The Committee is presided over by a chairperson elected by the members of the Regional Council at the same time the Management Committee is elected. The chairperson and other members of such Management Committee hold office for three years and are eligible for re-election.

The main functions of the Management Committee are to –

- ensure that the decisions of the Regional Council are carried out
- advise the Regional Council on any matter entrusted to it
- prepare estimates of revenue and expenditure for the Regional Council
- control the expenditure of monies available to the Regional Council, and
- report to the Regional Council on the exercise of its powers and functions.

Subject to certain exemptions, a Regional Council may delegate, in writing, any of its powers to its Management Committee, its regional officers or any of its employees. It can also authorise its Management Committee, again in writing, to perform any of its functions on its behalf.

The Constitution deals with the administration and functioning of Regional Councils (Article 110) as well. In most general terms it states that the holding and conducting of Regional Council meetings, the filling of casual Regional Council vacancies and the employment of officials by Regional Councils, as well as other matters dealing with or incidental to the administration and functioning of Regional Councils, will be determined by Act of Parliament.

The first Regional Council Elections were held in 1992. Of the 95 constituencies, 71 were won by the SWAPO Party of Namibia, 21 by the DTA of Namibia and three by the UDF of Namibia. Each Regional Council elects two of its members to simultaneously serve on the Regional and National Councils.

The thirteen elected Councils are each chaired by a Governor, elected from their own members for a period of three years. The Governor is re-electable for another term of three years. The chief executive of a regional administration is the Regional Officer appointed by the MRLGH.

A Regional Council, as the principal governing body in a Region, has executive and administrative powers to carry out lawful resolutions and policies of the Council, subject to the Constitution or any other law.

Linking the Regions and the Centre

As the Regional Councils fall under the authority of the MRLGH, they remain responsible to that Ministry for all their actions. As regards planning in the Region, the MRLGH acts as a facilitator of any such proposals, bringing them to the attention of sectoral ministries and/or the NPC. All planning proposals for the Regions require MRLGH sanctioning.

The direct link in the MRLGH for Regional Councils is the Directorate of Regional/Local Government and Traditional Authorities Coordination, and the Directorate of Professional Services Coordination. The two Directorates are further subdivided as shown in Figures 2 and 3 below.

Three further Directorates in the MRLGH are the General Services and Personnel Directorate, the Housing Habitat Coordination Directorate, and the Decentralisation Coordination Directorate. Figures 4, 5 and 6 below detail the Divisions and Subdivisions within these respective Directorates.

Thus, the MRLGH is responsible for the promotion of close cooperation with regional and local authorities through the provision of the necessary supportive services and the establishment and strengthening of a facilitating Regional and Local Government.

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│                        Directorate                        │
│ Regional/Local Government and Traditional Authorities     │
│                      Coordination                         │
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        ┌──────────────────────────────────────────────┐
        │                   Division                     │
        │              Regional Coordination             │
        └──────────────────────────────────────────────┘
            ┌────────────────────────────────────────┐
            │               Subdivision               │
            │ Regional/Villages and Settlement Areas   │
            │               Coordination               │
            └────────────────────────────────────────┘
            ┌────────────────────────────────────────┐
            │               Subdivision               │
            │       Traditional Affairs Coordination   │
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        │                   Division                     │
        │             Municipality Coordination          │
        └──────────────────────────────────────────────┘
            ┌────────────────────────────────────────┐
            │               Subdivision               │
            │ General Municipal Coordination and       │
            │         Townships Board Secretariat      │
            └────────────────────────────────────────┘
            ┌────────────────────────────────────────┐
            │               Subdivision               │
            │      Civic Affairs and Land Transactions │
            └────────────────────────────────────────┘
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        │                   Division                     │
        │                Town Coordination               │
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            ┌────────────────────────────────────────┐
            │               Subdivision               │
            │ General Town Coordination and Legal       │
            │                 Services                  │
            └────────────────────────────────────────┘
            ┌────────────────────────────────────────┐
            │               Subdivision               │
            │              Land Transactions           │
            └────────────────────────────────────────┘
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Figure 2: Divisions and Subdivisions within the Directorate of Regional/Local Government and Traditional Authorities Coordination

The Functions

The Regional Council is tasked to take care of the needs and development of all areas outside existing municipalities, towns and villages on behalf of the Central Government. Regional Councils, despite their limited power, are important intermediate bodies between Central Government and local authorities. The most important of the Council's tasks are socio-economic planning, the upliftment of the people in the Region, and encouraging people at the lowest level of Local Government, such as those in settlements and villages, to become actively involved in the administration and development of defined local areas in the Region.

Directorate
Professional Services Coordination

Division
Regional and Local Authority Planning Coordination

Subdivision
Regional and Local Authority Planning Coordination

Subdivision
NAMPAB Secretariat and Records Office

Subdivision
Policy Research and Legislation

Division
Technical Services and Inspections

Subdivision
Technical Services and Coordination

Subdivision
Technical Standards Development and Monitoring

Subdivision
Capital Projects Coordination

Division
Financial Management and Information Systems

Subdivision
Local Authorities Finance

Subdivision
Regional/Villages Finance Coordination and Accounts

Subdivision
Information Systems

Figure 3: Divisions and Subdivisions within the Directorate of
Professional Services Coordination
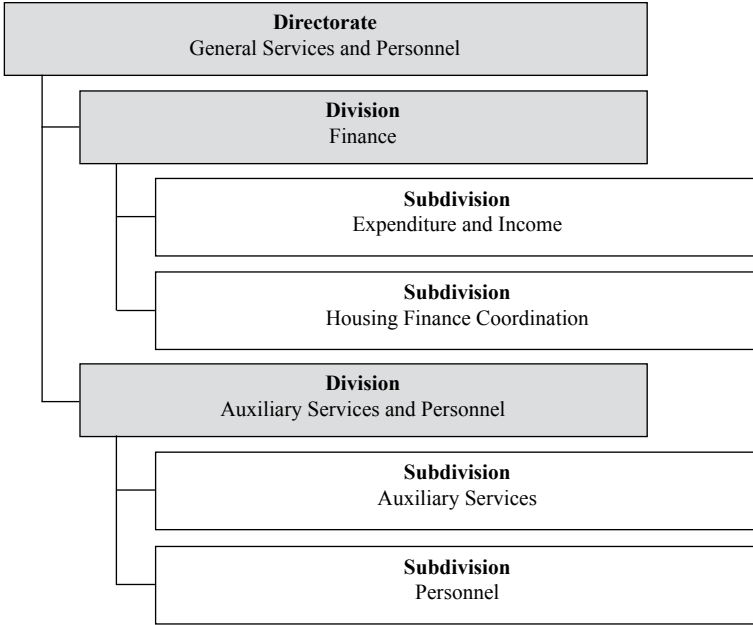
*Figure 4: Divisions and Subdivisions within the Directorate of
General Services and Personnel*
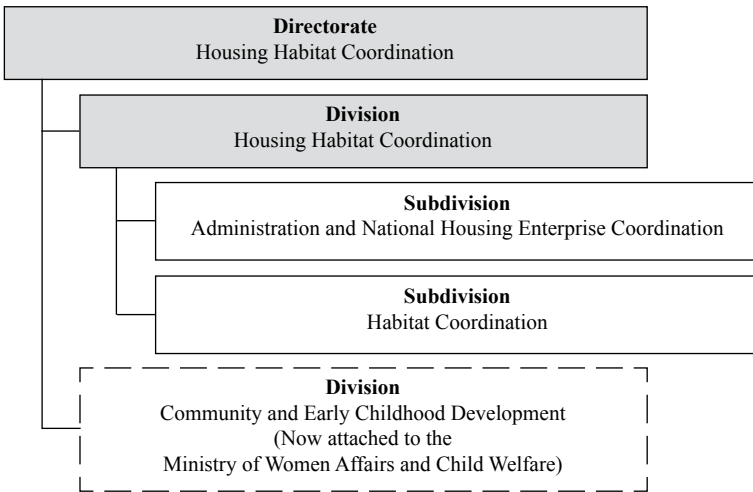
*Figure 5: Divisions and Subdivisions within the Directorate of
Housing Habitat Coordination*
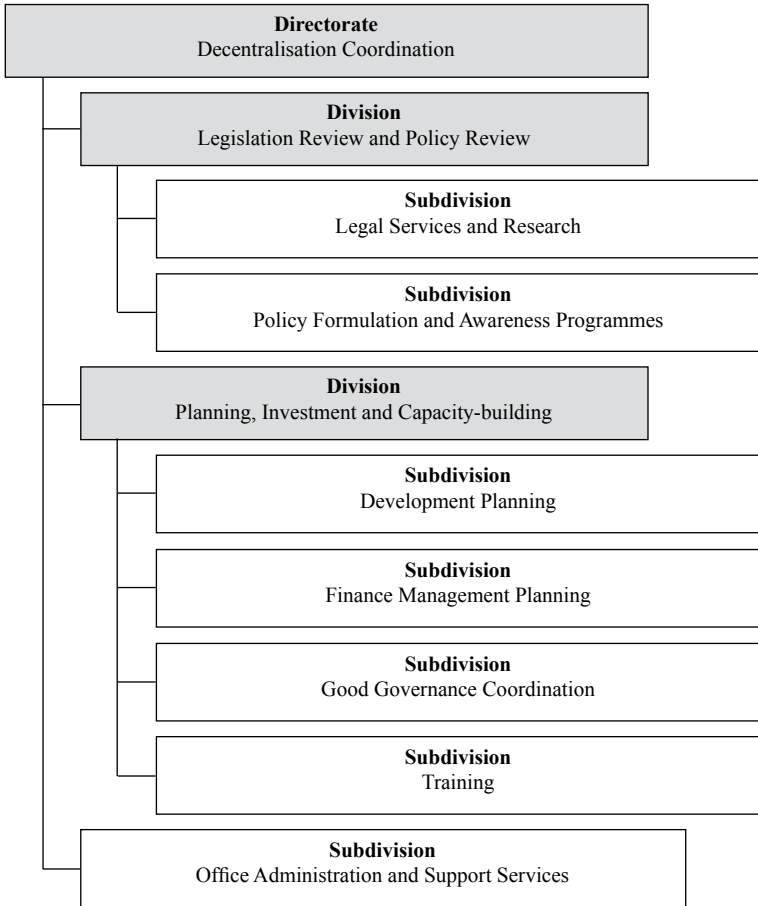
Figure 6: Divisions and Subdivisions within the Directorate of Decentralisation Coordination

Planned village development is practically non-existent in the communal areas of Namibia, where the majority of the people reside. Local entities are encouraged to have their own input agenda in local and regional development and to actively participate in its conception and execution.

The communal areas, in particular, have in the past been administratively and economically neglected. The restructuring of these areas and their integration into the total national economy is a task which demands total commitment. In this respect, Regional Councils have a special responsibility.

The practical duties of the Regional Council in the regional planning process include the following major functions:

- the collection of data, including statistics relevant to planning activities
- the identification of development projects, socio-economic potential and problems of the Region concerned
- the preparation of medium- and long-term development plans
- the coordination of development projects in the Region concerned, and the monitoring and evaluation of ongoing projects.

Planning-related functions delegated to the Regional Councils, as stipulated in section 28 of the Regional Councils Act, are –

… to undertake, with due regard to the powers, duties and functions of the National Planning Commission referred to in Article 129 of the Namibian Constitution and any other law related to planning, the planning of the development of the region for which it has been established with a view to –

- the physical, social and economic characteristics of such region and, in so far as any neighbouring region has or is likely to have any effect on the physical development of that region, the physical, social and economic characteristics of any such neighbouring region
- the distribution, increase and movement and the urbanisation of the population in such region
- the natural and other resources and the economic development potential of such region
- the existing and planned infrastructure, such as water, electricity, communication networks and transport systems, in such region
- the general land utilisation pattern, and
- the sensitivity of the natural environment.

Another important task of a Regional Council is to look after the development and effective functioning of Local Government in a Region. A Regional Council has to see to it that decisions by municipalities, towns or villages in a Region do in fact serve the interests and well-being of that particular Region. Thus, Regional Councils have a supervising, initiating, coordinating and implementing task when dealing with Local Government entities.

Development does not only involve improved housing, more clinics, better social pensions, enough schools, winning the fight against illiteracy, and sound infrastructure. Even more important is the empowerment of people through local capacity-building so that they can actualise their potential and live according to their expectations. To achieve this objective, people have to be mobilised and encouraged to become actively involved in issues that affect their daily lives and in community-building.

Although Namibia adheres to the principle of participatory democracy, such democracy cannot flourish if it operates in conditions of absolute poverty. What

needs to be established is an enabling environment – one that can actualise democracy at regional and local level. To democratise in an environment which is marked by poverty and poor economic conditions is not an easy task. Regional Councils can, thus, play a pivotal role in goal achievement.

Regional Councils can assist any local authority council in the exercise or performance of its powers, duties and functions, if so requested. A Regional Council can make recommendations to the Minister of Regional and Local Government and Housing in relation to a local authority situated within its Region.

A Regional Council can also exercise its advisory powers. It can advise the President or any Minister on any matter referred to it by the President or a Minister. For purposes of the preparation of the annual national budget (estimates of revenue, expenditure and income), Regional Councils can also make recommendations to the Minister of Finance insofar as the budget relates to matters concerning the Region.

In addition, the Regional Council may be consulted by and make recommendations to any Ministry in respect of legislation which may have an effect on the Region concerned. Furthermore, Regional Councils may enter into cooperative agreements with any other Regional Council, local authority or the Central Government with regard to the carrying out of its functions or the carrying out of the function of that local authority or the Central Government. Under such an agreement the Regional Council may carry out functions on behalf of another Regional Council, local authority body or the Central Government, or those bodies may carry out functions for the Regional Council. A Regional Council may also enter into a joint venture with another Regional Council, local authority or the Central Government in the carrying out of its functions.

Where Regional Councils are obliged to perform functions on behalf of the Central Government, the latter has to make the necessary funds available for the performance of such functions. At present, Regional Councils depend heavily on Government grants, particularly those Regional Councils that do not benefit from the 5% levy on property in local authority areas, to which they are entitled. Most Regional Councils in rural areas do not receive this entitlement.

A Regional Council will at all times remain accountable for all its activities and expenditure to the Central Government. Regional Councils and their supportive administrative staff face an arduous task: both are challenged to contribute actively to the development of Namibia. Their quality and abilities will become crucial in the process of transformation and in the restructuring of Namibian society. Regional Councils, as totally new bodies in the constitutional dispensation of Namibia, can largely determine for themselves how relevant they are in the governing and administration of the State.

Traditional Authorities

Customary law, as the "living" or unofficial law, has been entrenched in the Namibian Constitution. Article 66 explicitly states that both customary law and common law stay in force on the date of Independence (21 March 1990) and remain valid to the extent to which such customary or common law does not conflict with the Constitution or any other statutory law.

The establishment of Regional and Local Government authorities also affected the political-administrative status of traditional leaders. The main function of these leaders is to act as custodians of inherited culture and tradition. Although their administrative functions will be limited and their political functions minimal, provision has been made for traditional leaders to have particular juridical functions and to serve on Regional Land Boards and Development Committees. If entering the political arena, traditional leaders must relinquish such position. Traditional leaders of different tribes serve on the National Council of Traditional Leaders advising the President on the control and utilisation of communal land and on all such other matters as may be referred to that Council by the President for advice.

The role of traditional leaders in their relationship with governmental institutions is, thus, restricted to advisory, supportive and assistance functions. This is in accordance with the principal statement in Article 1(2) of the Constitution that "all power shall vest in the people of Namibia who shall exercise their sovereignty through the democratic institutions of the State". This Article makes it unambiguously clear that administrative and political power shall not rest with a particular tribal group or with traditional leaders.

Local Government status is, thus, not assigned to the traditional authority. In this sense, the latter does not constitute a body in competition to Local or Regional Government authorities. The Traditional Authorities Act, 1995 (No. 17 of 1995) stipulates that a traditional authority can assist and cooperate with the organs of Central, Regional and Local Government in the execution of their policies by keeping the members of the traditional community informed of development projects in their area. A traditional authority is compelled to support the policies of all Government tiers and must refrain from any acts which undermine the authority of Central, Regional and Local Government institutions.

Although limited in its functions, a traditional authority performs the role of an informal local authority body. It still allocates land, a practice in conflict with the Constitution but still executed. Regional and local authorities in communal areas to a large extent still depend on the support given by traditional authorities for development plans and projects. It is realised that traditional institutionalised structures can be an obstacle in the decentralisation process when conflicts of interests prevail. Customary law must, thus, be duly considered in the decentralisation process. What needs to be achieved is a symbiotic relationship between traditional

systems and modern forms of Government. It is also a matter of synchronising responsibilities.

Decentralisation within the Namibian Context

During the Namibian pre-Independence period an important policy document on the governance of an independent Namibia was compiled by the United Nations Institute for Namibia. The document is contained in the publication *Namibia: Perspectives for national reconstruction and development*, published in 1986. In the chapters on constitutional and administrative development in an independent Namibia the concepts of *decentralisation* and *centralisation* figure prominently. The emphasis is on administrative decentralisation at provincial and/or district level and on decentralised planning, but not on political decentralisation, implying political decision-making at decentralised level. Administrative decentralisation tends to extend the reach of Central Government, by moving agencies controlled by the Central Government to a lower Government level.

When deliberating on decentralised planning, it is argued that a centralised system will not allow direct mass participation, while the decentralisation of power and authority provides for the distribution of authority. The latter enhances participation at the local level, which is vital for translating policies into local terms. It is furthermore argued that the ultimate objective for Namibia would be to decentralise, with a view to balancing the requirements of democracy and popular participation with those of viability, efficiency and effective administration.

During the deliberations on the Constitution for an independent Namibia, it was decided to entrench decentralisation within a unitary State as a fundamental principle. Chapter 12 of the Constitution, which deals with Regional and Local Government, provides for institutionalisation and the implementation of decentralisation, but in a different form than originally planned by SWAPO.

Politico-administrative regionalisation and the establishment of Regional Councils was not what SWAPO had envisaged in its pre-Independence programme. The institution of Regions and Regional Councils were the result of a compromise between SWAPO and opposition parties during the constitutional deliberations. All parties emphasised the need to unite and integrate Namibian society. The former division of Namibia into eleven "homelands", and the selective distribution of limited power to such entities according to ethnic/racial/tribal criteria while the final control was exercised in Pretoria, was still vivid in the memory of the founding fathers of the Constitution. The "homeland/Bantustan" system has since irreversibly been replaced by the thirteen Regions as politico-administrative and socio-economic units.

In November 1996 a policy document on decentralisation, development and democracy was published by the MRLGH. This document was sanctioned by Cabinet at its 37th session on 11 December 1996. On March 1998, the decentralisation

programme for Namibia was officially launched. A Cabinet Memorandum deal-ing with the decentralisation implementation strategy was issued on 9 June 1998. In this document the Government reconfirmed its commitment to decentralisa-tion. Regional Councils and local authorities were identified as the principal agents for the delegation of functions and services under the overall direction of the cen-tre (through the respective sector's line ministries with delegated functions/serv-ices), with Central Government remaining primarily responsible for policy and financing the costs of the programmes involved. The Government has reiterated that the final responsibility for the supervision of the decentralisation policy rests with the Office of the Prime Minister.

The principal legal bases for the decentralisation policy in Namibia are the Con-stitution, the Regional Councils Act, the Local Authorities Act, and the Tradi-tional Authorities Act. The Regional Councils and Local Authorities Acts are set to be amended to give effect to decentralisation. The eventual outcome will be new legislation on decentralisation. In this regard, the Decentralisation Enabling Act was tabled in Parliament in 1998 and will come into operation in due course. It provides for a continuous process of decentralisation whereby functions, pow-ers and responsibilities are transferred from Central Government to Regional and Local Government in a coordinated manner in order that governmental decisions are taken down as closely as possible to all those involved.

Key Elements of the Policy

Soon after its inauguration, the Government decided that the Namibian unitary State would ultimately devolve responsibility, authority and resources and/or re-source bases in accordance with the criteria relating to functions to be decentral-ised, and the timing and pace of such decentralisation.

The pace and content of devolution will have to take into account political and technical feasibility, system and individual capacity, as well as the national macro-economic and fiscal environment, and public sector and economic reform policies and activities in the country.

In order for decentralisation to be implemented effectively, the Government will effect organisational and institutional change at national, regional and local level, while identifying the functions and individual, organisational, institutional and system-wide capacities available or requiring to be developed. There will also be legislative and other rationalisation, to bring the law in line with the decentralisa-tion policy.

The Cabinet Memorandum of 9 June 1998 specifies that all delegated functions and services should be administered as a trust by the Regional Councils and local authorities, who would be fully accountable for such trust. The Memorandum also draws attention to the fact that the overall and ultimate responsibility for the dele-gated functions and services remains with the respective sector's line ministry.

The "principal agent" strategy will be used to allow the Regional Councils and local authorities to gain a state of readiness to eventually assume ultimate responsibility for the functions under devolution, and it is also meant to enable Central Government to put in place all the institutional measures and capacity required for effecting devolution.

In order to implement decentralisation under delegation, Cabinet requests line ministries to designate their field directorates, divisions and units to Regional Councils and to place delegated regional officials under the overall charge and supervision of Regional Officers. The Regional Councils, thus, become the functional areas for the Officers concerned, while the respective line ministries remain the parent bodies.

Cabinet has also tasked the Office of the Prime Minister, together with the MRLGH and the Public Service Commission, to undertake reviews of the establishment of Regional Councils. These reviews are to aim at streamlining the entire staff position in the Regions, including the status of the Regional Officers. In the meantime Regional Officers, as chief executives of the Regions, assume the overall charge and supervision of all the delegated line ministries' regional officials.

Line ministries are furthermore requested to identify and list all matters of operation for delegated functions and services for the purpose of offering guidance on them to Regional Councils and local authorities. Guidelines must be provided to both bodies in respect of delegated functions and services, including professional and technical standards. It is also the task of line ministries to establish inspectorates or quality control units for the purpose of ensuring that delegated functions and services are executed according to established professional and technical standards and guidelines to be made available to Regional Councils and local authorities.

In addition, the Cabinet Memorandum states that, under delegation, the activities of line ministries would be focussed on teaching and mentoring processes, to ensure that Regional Councils and local authorities develop the capacity and skills necessary to execute their delegated functions and services according to established standards. It is incumbent upon the line ministries to post professional and technical officers to Regions where they are lacking, and to determine and provide the optimum staff establishment required for a Region to function effectively in regard to such delegated functions and services.

Line ministries were also requested to indicate the amount of funds budgeted and approved for the delegated functions and services, by programme and per Region, for the 1998/99 financial year. However, these figures are not yet available. In the meantime, the Ministries of Finance and Regional and Local Government and Housing are expected to work out the technical details regarding the modality of financial transfers under the delegation and devolution policy. In addition, it is incumbent upon these two ministries to jointly articulate financial regu-

lations prescribing the manner in which the financial business of Regional Councils and local authorities is to be controlled and managed, and they must ensure that supervisory or watchdog institutions are constituted by local and national legislators, for proper financial management in Regional Councils and local authorities.

The key coordinating institutions in the implementation of the policy remain the MRLGH, the Ministry of Finance, the Ministry of Justice, the Public Service Commission, the National Planning Commission and the Office of the Prime Minister. It is believed that decentralisation will become cost-effective once people manage their own resources and once there is a more direct relationship between revenue, expenditure and services. Because the technical cadre for service delivery will be localised, which would imply a decentralisation of personnel, it is expected that services will be cheaper and people more readily prepared to pay their taxes. Even should this assumption prove to be unrealistic the benefit could still be popular control on money generated locally, and spent locally.

According to MRLGH policy (1996a), the assumption on which decentralisation is based in terms of cost-effectiveness is that when people manage their own resources and there is a more direct relationship between revenue, expenditure and service, there will be less wastage and more acceptance of responsibility. Cost recovery will be more feasible. It is believed that the closer to the point of service delivery the technical cadre is, the cheaper the cost of such service; and the more people see of what their money is buying, the easier it will be to raise revenue. The Government argues that, in the long run, decentralisation will be relatively cheaper to Central Government than delivering services from the centre.

To enable Regional Councils to levy taxes and other revenues, the Taxation Act will need to be amended. A suitable amendment would allow for the devolution or delegation of taxing powers to Regional Councils. The same applies to local authorities: an amendment must be made to the Regional Councils Act at the same time, to conform with Article 108(c) of the Constitution on revenue-sharing between Central Government and Regional Councils. As a matter of principle, financial resources or revenue bases related to a decentralised function would be decentralised with the function concerned.

Regions, cities, towns and villages will be encouraged to engage in partnerships with the private sector, both in terms of delivery of services (privatisation of services) as well as the generation of income for the Councils.

The Government has confirmed that, despite objections from some local authorities, it intends to pool the 5% property levy which local authorities pay to Regional Councils into a special fund, from which Regions will be funded according to their needs. The intention is to remedy the historical inequality between Regions, some of which never had local authorities. Cabinet also approved the establishment of a fund for Regional Development and Equity Provision.

Addressing the relationship between Regional Councils and local authorities, which previously lacked sufficient definition, Government's attitude is that such relationship will continue to be one of mutual autonomy within the requirements of the law. The key functional relationship will be that of collaboration and cooperation, with the Regional Council having coordinative and residual functional responsibilities in lieu of Central Government. It is envisaged that local authorities will be represented, probably in an observatory capacity, at the Regional Council level.

Powers and Functions to be Decentralised

Local authorities (municipalities, towns, villages) in Namibia already carry out a broad range of functions in terms of powers assigned to them by the Local Authorities Act. These functions are as follows (Urban Trust of Namibia 1998:25-26):

- Supply of water for household, business and/or industrial purposes.
- Maintenance and carrying out of a system of sewerage and drainage.
- Removal, destruction or disposal of night soil, rubbish, slop water, garden and stable litter, derelict vehicles, carcasses of dead animals and all other kinds of refuse, offensive or unhealthy material.
- Establishment and maintenance of cemeteries.
- Construction and maintenance of streets and public places.
- Supply of electricity or gas to residents.
- Establishment and maintenance of quarries, works for manufacturing bricks and tiles, and disposing of such goods exploited or manufactured.
- Establishment and maintenance of a public transport service.
- Establishment, with the approval of the Minister of Regional and Local Government and Housing and in accordance with conditions set by him or her, of a housing scheme, either on its own or in conjunction with others.
- Establishment and maintenance of markets, and construction of market houses, auction or sale rooms, stalls, warehouses and other buildings for sale or storage of goods at such markets.
- Establishment and maintenance of abattoirs, aerodromes, an ambulance service, bands and orchestras, dipping tanks, a fire brigade, museums, pounds and nurseries.
- Construction and maintenance of buildings or depots for the reception or storage of perishable goods.
- Establishment and maintenance of parking garages and designated areas for the parking of vehicles.
- Beautification and securing of neatness in the local authority area.
- Establishment and maintenance of any building or structure for community requirements.
- Allocation of bursaries and grant loans for educational purposes.

- Conferring of honours upon any person who has, in the opinion of the local authority, rendered meritorious service to its residents.
- Construction, acquisition and maintenance of railway sidings in industrial areas and recovering costs from users.
- Acquisition, hiring, hypothecating or letting of movable property, and selling or otherwise disposing of such property by public auction to any individual or any organ of the State.
- Buying, hiring or otherwise acquiring, with prior approval of the said Minister, in accordance with the provisions set out by him/her, any immovable property for a purpose connected with the powers, duties and functions of the local authority, or selling, letting, hypothecating or otherwise disposing of such immovable property.
- Determining charges, fees and other moneys payable for services rendered.
- With the prior approval of the said Minister, borrowing money by way of loans from any source within Namibia and against the security which the Council deems fit, or under the same conditions, grant advances or loans to any sporting club or association or charitable institution.
- Appointing advisory committees as the local authority deems necessary to assist in the performance of duties and functions.
- Guaranteeing the due fulfilment of contracts and obligations of any person, and entering into surety bonds or deeds of security.
- Opening bank accounts, including savings accounts with building societies and the post office.
- Accepting donations or receiving moneys offered to the local authority by any person in Namibia, with prior approval by the said Minister, and making, in accordance with conditions set by the Minister, grants or loans.
- Performing any other power or function or duties conferred upon the Council by any Act.

Municipalities with the highest grading are expected to assume full responsibility for their communities for all the functions they perform, as defined in terms of the criteria for decentralisation. Tables 1 and 2 provide an overview of the functions to be decentralised in the short and medium term.

From these tables it is evident that different – but sometimes also the same – functions are decentralised to Regional Councils and local authorities. The execution of functions will depend on trained personnel and the funds available. There may be other functions that are decentralisable, but the Government may be hesitant to decentralise a function that would adversely affect the character of the unitary State. Decentralisation will, therefore, be implemented in accordance with the State's commitment towards national unity and integration within the framework of a unitary State. Central Government will retain the ultimate responsibility and accountability for all delegated functions, while the Regional Councils and

Functions to be decentralised in the short term	Regions	Part I* Munici- palitie	Part II** Munici- palities	Towns	Villages
Vehicle testing and licensing		●	●	●	
Traffic control		●	●	●	
Community development (e.g. Early Childhood Development)	●	●	●		
Responsibility and accountability for electricity distribution		●	●	●	
Responsibility for town planning schemes		●			
Responsibility for the environment/conservation	●	●	●		
Emergency management	●	●			
Business registration		●	●		
Liquor licensing		●	●		
Pre-primary education	●	●	●		
Housing		●	●		
Primary health care	●	●	●		
Social services (e.g. pensions, orphanages, street children, the disabled, etc.)		●	●		
Youth, sport and other recreational activities		●	●	●	
Collection of assessment rates and taxes, excluding income tax, GST and ASL		●	●	●	●
Non-personal health services		●	●		
Libraries		●	●	●	
Collection of various taxes, levies and tariffs	●				
Responsibility over personnel, including the payment of salaries	●				
Management and control of communal lands	●				
Conservation	●				
Resettlement, rehabilitation and housing	●				
Rural electrification	●	●	●	●	
Responsibility and accountability for water provision		●		●	
Repetition check		●			
Refuse collection fees		●	●	●	

Functions to be decentralised in the short term	Regions	Part I* Munici-palitie	Part II** Munici-palities	Towns	Villages
Budgeting responsibility (with subsidy from Central Government in special cases only)				●	
Sport and recreational facilities				●	
Collection of grazing fees					●
Recreation facilities					●
Water services collection fees			●		●
Forest development and management	●				
Physical and economic planning (including capital development projects)	●				
Control of aerodromes		●	●	●	●
Agency services to villages and settlements	●				
Administration of settlement areas	●				
Rural water development and management	●				

  * Part I Municipalities are Windhoek, Walvis Bay and Swakopmund
  ** Part II Municipalities are all other Municipalities

Table 1: Functions to be decentralised in the short term by type of local authority

local authorities will be responsible for all operational matters. The MRLGH will be responsible for the overall coordination of the decentralisation policy.

Functions already decentralised to the Regions will be represented by the respective head of those functions at the Regional Council level. This implies that line ministries are to be organised in such a way that their representatives have specific regional responsibilities, and that the Regional Councils know who the relevant representatives are and which Region(s) they are responsible for.

Initially, the Government had planned to have the decentralisation policy implemented by 2000, but realised that implementation will be determined by short-, medium- and long-term goals. How the policy should be implemented, and the sequence of implementation, have now become the cardinal issues.

Efforts are under way to identify the key players in the decentralisation process, delineate their roles and how these are to be played, and clearly examine their normal institutional missions, mandates and objectives vis-à-vis how they would relate to the decentralisation process. It is also important to clearly map the different interfaces and how these are to be managed. In addition, the process will involve the assessment of the individual and collective capacity of all key stakeholders to carry out their own function in the exercise as a whole (*cf.* MRLGH 1996b:24).

Functions to be decentralised in the medium term	Regions	Part I* Municipalitie	Part II** Municipalities	Towns	Villages
Regional assets management (currently under the Ministry of Works, Transport and Communication)	●				
Small miners development	●	●	●	●	
Informal trade licenses	●	●	●	●	●
Informal market dues	●	●	●	●	●
Rural electrification	●				
Primary education	●	●			
All primary health care		●			
Policing		●	●		
Street vendor levies		●	●	●	
Tourism and management of tourist resorts		●	●	●	●
Museums		●	●		
Nursery schools and school hostels		●	●		
Control of small-scale mining		●	●	●	●
Public transport		●	●	●	●

* Part I Municipalities are Windhoek, Walvis Bay and Swakopmund
** Part II Municipalities are all other Municipalities

Table 2: Functions to be decentralised in the medium term by type of local authority

Being the leading agency for implementing decentralisation, the MRLGH has set certain preconditions for its acceptance of the role. In a policy document (MRLGH 1996b:25) it states that, in order to spearhead the policy process, the Ministry needs to have the competence to initiate and develop the policies, advocate for them, and assist the rest of Government in understanding and adopting them. The Ministry aims to achieve this by, among other things, obtaining political commitment at the highest level and by building national political consensus around the concepts and objectives of decentralisation.

To implement this agreed, nation-wide policy, the MRLGH must develop implementation strategies with clear targets, a plan of action, resource mobilisation objectives and approaches, and monitoring and evaluation mechanisms. These are required to enable the MRLGH to –

• assist other ministries and agencies in understanding and carrying out their roles

- set up and facilitate the necessary coordination between all the key players
- appropriately sequence the stages of implementation between and within functions, and
- influence the channelling of resources for the implementation of the policy for the entire enterprise, not just for the MRLGH's part in it.

To perform its leadership role at sub-national levels of Government requires that the MRLGH involves Regional Councils and local authorities in the policy process: it needs to explain decentralisation policy decisions to these bodies once they are made, changed or clarified. It is also incumbent upon this Ministry to build the institutions required for implementing the policy, develop the capacity of the institutions to carry out their functions properly, resource them adequately, and monitor the implementation of their functions.

In its task performance the MRLGH will be assisted by the National Planning Commission, which has the key role of initiating national development planning. The Office of the Prime Minister, in its role as the "manager" of Government, is expected to ensure that decentralisation – as Government policy to the extent that it affects the way Government operates – is implemented by all the relevant parties. It also should perform a coordinative function to contribute to the capacity of both the MRLGH and Regional Councils and local authorities to perform their task efficiently.

Cabinet has also resolved that a Decentralisation Policy Implementation Committee should be established and chaired by the Secretary to Cabinet. The Committee will consist of the Permanent Secretaries of the following:

- the MRLGH
- the National Planning Commission
- the Ministry of Justice
- the Ministry of Finance
- the Ministry of Basic Education and Culture
- the Ministry of Health and Social Services
- the Ministry of Agriculture, Water and Rural Development
- the Ministry of Lands, Resettlement and Rehabilitation, and
- the Ministry of Trade and Industry.

The Committee is expected, at agreed periodic intervals, to review progress in respect of implementing the decentralisation policy, and to provide guidance on and back-up for the implementation process. The proposed Cabinet Committee has not yet been inaugurated, however.

Meanwhile, a Directorate of Decentralisation Coordination has been established in the MRLGH. The Directorate is tasked with the following responsibilities:

- To review the progress made in the decentralisation process
- To give effect to the decentralisation process

- To develop a national training strategy for decentralisation
- To develop guidelines for Regional Councils on how to manage the separate personnel system
- To develop materials to sensitise Central Government officials, Regional Councillors, Regional Council officials, local authorities and the general public, and
- To tailor and assist with the logistics of intergovernmental transfers associated with decentralisation.

A task force will also be established under the chairmanship of the MRLGH in conjunction with relevant ministries and institutions to tackle implementation issues which are peculiar to specific sectors and services.

Development Coordinating Committees, and Development Committees

For effective implementation of the decentralisation policy, community involvement will be institutionalised through the establishment of development coordinating committees and development committees. It is envisaged that regional development coordinating committees will be established, along with constituency development committees, local authority development committees, village development committees, settlement development committees and, after the next local authority election in 2002, ward development committees.

Regional Development Coordinating Committee

Each committee will be composed as follows:

- the relevant Regional Officer as the chairperson
- heads of line ministries in the Region concerned
- two recognised traditional leaders, where applicable
- one designated member of each local authority in that Region, and
- one representative of a non-governmental or community-based organisation (NGO/CBO) operating in that Region.

Each committee will be responsible for the effective planning and coordination of development in its Region. It will facilitate the establishment of a sound management-information system in the Region; recommend, prepare and evaluate development plans for approval by the Regional Council; oversee the implementation of development projects; and function as the secretariat to the Regional Council for the purpose of planning and development.

One of the problems envisaged with the regional development coordination committee is how representative the decisions taken by the decentralised Government officials serving on them would be. The risk is that such decisions will not be supported and sanctioned by their superiors in the respective ministries and, thus, may lack credibility, legitimacy and authority.

Constituency Development Committee

Such committee will be comprised of not less than 7 and not more than 17 members. The chairperson will be the respective elected constituency councillor for the area, as well as – where applicable – two recognised traditional leaders, an NGO/CBO representative, a Government representative providing services to the area, three disabled persons, and two youth representatives. At least a third of the members are to be women. Tasks to be performed include the following:

- facilitating a community-based management-information system
- identifying and assessing community needs
- preparing development projects for submission to the Regional Council
- encouraging self-help projects
- monitoring administration and development projects
- providing assistance in the maintenance of law, order and security
- providing assistance during emergencies (e.g. drought), and
- serving as a communication channel between the Regional Council and the people in the constituency.

Local Authority Development Committee

The purpose of this committee is to effectively coordinate planning and development of the local authority. Not less than 5 and not more than 17 members will serve on such committee in a municipality or town. Up to two councillors will also be committee members, while its chairperson will be the mayor. One delegate will represent the local CBOs and NGOs. Others serving on the committee will be two youth representatives, one of which is to be a woman. The town clerk or village secretary serves as secretary to the committee. At least a third of all members are to be women.

The tasks of the local authority development committee correspond with those of the constituency development committee. An additional task is to discuss, evaluate and recommend for approval, any investment proposals for the respective local authority area. It is also charged with carrying out any other duty as may be authorised by the local authority council or any law.

Village Development Committee

The village development committee will comprise not less than 5 and not more than 15 members, with the chairperson of the village serving as the committee chairperson as well. A councillor, a recognised traditional leader, a representative of each line ministry and not more than five members from the community will serve as committee members, whereas the Village Council secretary will be the secretary to the committee.

The tasks of this committee largely correspond with those of the local authority and the constituency development committees. In addition, the village develop-

ment committee has to monitor and report, to the Regional Council, any possibility that the village may develop into a town. It serves as a communication channel between the Regional Council and the people in the area and generally monitors the delivery of services within its area. The committee reports to the Regional Council.

Settlement Development Committee

The officer in charge of the settlement chairs this type of committee. Additional members are drawn as follows: one member of the recognised traditional authority in the area, one representative of each line ministry in the area, where applicable, and not more than five members of the community.

The committee deals with matters related to the management, development and administration of the settlement. Development matters affecting the settlement area are relayed by the committee either to the Regional Councillor in whose constituency the settlement is located, or to the Regional Officer, where applicable. The other functions of this committee are similar to those of a Village Council. It will pay particular attention to initiating, encouraging, supporting and participating in community self-help projects and will mobilise human resources, material, financial and technical assistance in relation thereto.

Concluding Remarks

The success of decentralisation will, to a significant extent, be determined by line ministries' cooperation and willingness – which are currently still partly lacking. It will take some time before line ministries fully grasp the meaning of decentralisation and what it implies in terms of functions, particularly those intended to be decentralised.

Considering the present lack of official funds, as well as regional, economic and social discrepancies, a scarcity of trained and well-equipped officials at sub-national governmental level, a lack of the necessary infrastructure and other imperfections, development agencies such as NGOs and inter-governmental organisations can play a particularly supportive role in capacity-building and in the execution of decentralisation. Such assistance requires a full understanding of the needs of each of the affected parties, and demands consultation with Regional and local authorities and community leaders. Furthermore, development skills are needed, particularly in respect of supporting those who are implementing their own development initiatives – rather than do it for them (MRLGH 1996b:28). Finally, a participatory approach should be fostered among the population.

The goals have been set, the policy of decentralisation has been officially sanctioned: all that remains is the consequential implementation of the process. It should be seen as an extension of Government services and structures.

Preparations for the decentralisation process began in 1997, and basically involved training personnel for their tasks at Regional and Local Government level, with the emphasis on capacity-building. Line ministries were expected to identify immediate functions they wished to decentralise in the short, medium and long term. In 1998, the implementation phase of decentralised tasks was commenced. However, this phase will take longer to complete than originally envisaged.

In the Namibian context, decentralisation is not only related to capacity-building and the empowerment of people at regional and local level: it is also linked to a process of administrative reform. The improvement of administrative services, emphasising participatory administration of the public service, providing for capacity-building and the empowerment of public servants through training and education, offering equal opportunities through a policy of affirmative – and, therefore, corrective – action, and emphasising that equality of opportunity: these are all ingredients and, simultaneously, preconditions for effective decentralisation.

Some observers are concerned about Namibia's development into a dominant-party State, and express the fear that this might affect decentralisation. Indeed, SWAPO of Namibia, the ruling party, is nationally supported: it gained nearly 73% of all votes cast during the National Assembly Elections in 1994. In a developing society a dominant-party State may have its advantages. It can forcefully combine and implement the best of development and democracy. However, this can only be realised if the dominant party is committed to democracy and can rely on the support of the population. The scars of the colonial past are still evident among the Namibian people. The inherent anti-Government attitude that marked the apartheid era takes time to be converted into trust. Decentralisation can play a functional role to restore this trust. In particular, the participatory nature of a decentralisation process can significantly contribute to a balance of interests, mutual support and reconciliation.

The interrelation and interface between the State, the Government and civil society are, thus, of particular importance in a dominant-party State that is committed to democracy. Such a State, in the absence of any significant opposition in policy-making bodies, is particularly dependent on inputs deriving from within civic society. A decentralisation process can provide, par excellence, the checks and balances required to control the power of a dominant-party State. This is as important as obtaining political support.

The Namibian Constitution guarantees the right to all its people to participate in the polity and running of the State. The Government, as the agent of the State, is committed to the principles of freedom and fundamental human rights as entrenched in the Constitution. The State cannot, however, allow democratic rules to become self-destructive. This is conceivable when the practice of democracy becomes one-dimensional, when the gap widens between democratic empowerment and economic despair.

Decentralisation will suffer and is eventually condemned to fail if politico-administrative empowerment at regional and local level is not matched by economic development. Decentralisation is closely linked to economic (re)distribution. The administrative and political delegation of powers is meaningless if it is not supported by adequate resource distribution that will contribute to socio-economic development. In the final analysis, there should be cooperative governance. Decentralisation should be operative in a single economic space. Economic unity is related to administrative and political unity: they are complementary.

It is incumbent upon the State to create an optimal environment for decentralisation. Favourable conditions are achieved when decentralisation contributes to stability and development, Government responsiveness, self-determination, self-government, autonomy, self-reliance and accountability.

The underlying purpose of decentralisation is to bring Government closer to the people, to empower people, to strengthen democratic values in society, and to contribute to social and economic development. In the end, these are what will determine the survival of democracy, its credibility and functional purpose.

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Traditional Leaders
Christiaan Keulder

Introduction

Traditional leadership is an important relic of the precolonial and colonial political orders that poses a special challenge to postcolonial State-makers. Over time, the institution of traditional leadership underwent many changes: in its procedures and rules of appointment, in its roles and functions and in its jurisdictions and powers. Some of these changes resulted from the natural evolution of the institution whereas others resulted from outside interference (especially during the colonial period).

In Namibia, as is the case elsewhere on the African continent, traditional leaders' relevance for the postcolonial political order and State-craft stems from their control over (predominantly) rural communities. Traditional leaders continue to control most of the important rural survival strategies: allocation of land, natural resources, communal labour practices and in some instances law and order.

Their strength as rural leaders derives not only from their command over their communities, but is also firmly rooted in colonial policies of indirect rule or what Mamdani (1996:37) calls *decentralized despotism*. It was common for traditional leaders to be given extensive powers, especially powers of coercion. They became local-level lawmakers, tax collectors, Police commissioners and judges. Customary law became a mechanism for upholding the colonial order: perhaps even to the extent that the colonial order *became* the "customary". Colonial authorities frequently intervened in matters traditional and customary. They regularly appointed chiefs where there were none and deposed those traditional leaders that opposed them.

Although Mamdani's (ibid.) argument is a compelling one with great explanatory value he, like so many other scholars, is guilty of treating the often very complex relationship between traditional leaders and colonial authorities in an oversimplified manner. To start with, one can present sufficient evidence that not all traditional leaders accepted playing their part as despots. They resisted the colonial authorities, but not always in open confrontation. Secondly, he sets the relationship between traditional leaders and the colonial authorities in a rather rigid cast. He suggests not only that all traditional leaders were (decentralised) despots, but also that they were so all the time. This, we know, is also not entirely true. Like most other social actors, traditional leaders constantly reviewed their relationship with the colonial State, and it was not uncommon for sympathisers to become challengers. However, decentralised despotism had at least five important consequences for the institution of traditional leadership in postcolonial times:

- Many traditional leaders effectively transformed themselves from custodians of their people into custodians of the colonial order. This not only eroded their support base, but also overemphasised their coercive functions.
- Frequent interventions by the colonial authorities into matters traditional and customary, coupled by the strategy to employ customary law as a mechanism to enforce the colonial order, transformed the customary into a site of contention and struggle.
- Decentralised despotism meant that traditional leaders were incorporated into State structures. They were paid by the State and performed State functions; hence, they became civil servants in most respects.
- The fact that many traditional leaders acted in the interests of the colonial order pitted them directly against other more progressive social forces that resisted that same order. This paved the way for an inter-elite strife in the postcolonial order.
- The fact that the "tribe" was used as the political base for the colonial order, and that the subsequent development of tribalism became the dominant sociopolitical ideology, ensured that ethnicity would remain an omnipresent ingredient of the postcolonial political order.

Defining *Traditional Leadership*

Tradition is commonly regarded to be the basis of any traditional leader's authority; it is this characteristic which differentiates traditional leaders from all other leaders in any society. Any attempt to define *traditional leader* and, hence, identify such individuals, must start with a discussion of the notion of *tradition*. *Tradition* commonly refers to that which is "old". However, many scholars (e.g. Hobsbawm & Ranger 1994) have drawn our attention to the existence of what they have termed *invented traditions*. These are traditions that are claimed to have been around since time immemorial, yet historical evidence proves the opposite. According to Hobsbawm and Ranger (1994:1), an *invented tradition* constitutes –

> ... [A] set of practices, normally governed by overtly or tacitly accepted rules of a ritual or symbolic nature, which seek to inculcate certain values and norms of behaviour by repetition, which automatically implies continuity with the past. In fact, where possible, they normally attempt to establish continuity with a **suitable** historical past. (emphasis added)

According to Hobsbawm and Ranger (ibid.:4-5), traditions are likely to be "invented" when and if –

> ... [A] rapid transformation of society weakens or destroys the social patterns for which "old" traditions have been designed, producing new ones to which they are not applicable, or when such old traditions and their institutional carriers and promulgators no longer prove sufficiently adaptable and flexible, or are otherwise eliminated:

in short, when there are sufficiently large and rapid changes on the demand or supply side.

The notion of *invented tradition* suggests, therefore, that tradition can be used as a strategic resource. In this sense, tradition is considered to be flexible and fluid and can be changed to suit a current purpose. The carriers of tradition are also its creators and, hence, are agents who use this resource to shape or influence current outcomes.

Treating *tradition* in this manner freed it from the rigid mould introduced by Max Weber (as cited in Gerth & Mills 1946:78); but it also introduced some degree of cynicism amongst students of tradition and traditional leaders. The cynicism is at least partly based on the understanding of the purpose of the inventions: to give "rapid and recognizable symbolic form to developing types of authority and submission" and "to allow Europeans and certain Africans to combine for 'modernising' ends" (Hobsbawm & Ranger 1994:237). Thus, on the African continent at least, invented traditions have their roots in colonial rule. Both the coloniser and the colonised invented traditions, and in more than one way these inventions were employed in the strategies of decentralised despotism and tribalism.

Perhaps the most commonly used definition of *tradition* as a basis of authority is Max Weber's (cited in Gerth & Mills 1946:78):

> [It is] ... the authority of the "eternal yesterday", i.e. of the mores sanctified through the unimaginably ancient recognition and habitual orientation to conform. This is "traditional" domination exercised by the patriarch and the primordial prince of yore.

Many contemporary scholars have remained in this mould. Adewumi and Egwurube's (1985:20) definition of *traditional leaders* serves as an example:

> ... [T]he group referred to as traditional leaders/rulers or tribal leaders/rulers are individuals occupying communal political leadership positions sanctified by cultural mores and values, and enjoying the legitimacy of particular communities to direct their affairs. ... **Their basis of legitimacy is therefore tradition**, which includes the whole range of inherited culture and way of life; a people's history; moral and social values and the traditional institutions which survive to serve those values. (emphasis added)

But what tradition are they referring to? More often than not this question is not answered. Where answers are given, a clear preference for the precolonial traditions is expressed. The definition offered by His Royal Highness Erediauwa, the *Oba* of Benin in Nigeria (cited in Aborisade 1985:vii), is a case in point:

> Traditional ruler means the traditional head of an ethnic community whose stool conferred the highest traditional authority on the incumbent **since before the beginning of British rule**. (emphasis added)

In many respects defining *traditional leader* has become a political exercise. The quest of His Royal Highness the *Oba* of Benin is for more powers to traditional leaders in Nigeria. His project is to "purify and protect" the institution of

traditional leadership from the "contamination" of the colonial period, hence his reference to the precolonial as a source of authority. The romantic portrayal (ibid.) of such leadership as a "consensus-driven institution that involves all affected parties", as the "unifying factor" in their communities, and "as a mere catalyst for decision-making" has to be placed in the current (postcolonial) political context. The fact is that, like all other social groupings, traditional leaders compete for political space in the postcolonial dispensation. Given their tarnished image, this was never going to be easy; hence the attempts at present to "reinvent" the institution and its basis of authority.

The truth of the matter is that traditional leaders derive their authority from custom and not so much from tradition; and custom, not tradition, is the basis of appointment. Customs, although closely intertwined with tradition, are generally more flexible than tradition and thus more useful in facilitating change. Hobsbawm (1994:2) argues as follows in this regard:

> It does not preclude innovation and change up to a point, though evidently the requirement that it must appear compatible or even identical with precedent imposes substantial limitations on it. What it does is to give any desired change (or resistance to innovation) the **sanctions of precedent, social continuity and natural law** as expressed in history. (emphasis added)

Custom, therefore, is a source of legitimacy. There is no actual distinction between "real" or "invented" customs; nor is there any limitation on the time during which they supposedly developed. In many respects the only "real" or "legitimate" customs are the ones in use today. These customs may or may not be the same as those that obtained in earlier times, and they may or may not be recent in origin. In all cases, however, these customs will reflect some of the changes that took root in the various communities. In Namibia today, for example, some Nama communities have headmen and not their customary *Kaptein* ("Captain", or "chief")[1]; this is the result of direct intervention by the South African Administration. Furthermore, most Nama communities directly elect their traditional leaders, also as a result of South African interference. In other parts of the country the practice is very different. Among the remaining Owambo kingdoms the *Omukwaniilwa* ("King") still rules and little has changed about the way he is appointed. However, there is little to suggest that what is today considered to be the custom among the Nama (in respect of electing a leader) is less "true" or "legitimate" than what is found among the Owambo.

Traditional leaders are, therefore, not *traditional* leaders in the true sense of the word, but rather *customary* leaders. In fact, there is little traditional about traditional leaders. Many are educated, belong to Christian denominations, speak and

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[1] See the section marked "Chieftainships" later herein on the structure of the Nama/Orlam leadership hierarchy.

understand the official language and are by no means uninformed about what happens in areas outside their own. They are mobile and some are regular participants in affairs that are often regarded as "modern". The only real issue that distinguishes traditional leaders from other types of leaders is that they are appointed by members of a relatively closed community, usually defined in terms of some form of ethnic criteria, and that they are appointed by means of the legitimate customs of that community. Hence, *traditional leader* can instead be defined as "individuals that are appointed by members of a specific, ethnically-defined community by means of the accepted customs of the day, to preside over that community".

The Issues

This chapter focuses on two interrelated themes. Firstly, it deals with the attempts to build and strengthen the postcolonial State, and secondly, it discusses the attempts to dismantle decentralised despotism and replace it with democratic structures and procedures. Both of these themes have implications for the future role of traditional leaders in the administration of the country.

At least three important issues confronted policy-makers immediately after Namibia's Independence. The first related to the recognition of the "real" traditional leaders. Colonial policies of intervention had a great impact on customary practices of appointment and as a result it is difficult to distinguish between those who were legitimately appointed by their communities, and those who were appointed by the colonial Administration.

The second issue concerned bringing the institution of traditional leadership within the broad legal and policy framework of the State. Among those issues considered to be important were reconciling the institution with policies of gender equality; communal land administration, and environmental conservation; democratic governance; and rural development. A related aspect was how, and to what extent, traditional leaders were to be remunerated by the State.

The third issue, and one that is in many ways related to the second, dealt with finding an appropriate role for the traditional leadership institution in the day-to-day administration of the country. The debate on this issue revolved around the question of whether or not the processes and customs contained within the institution were compatible with the spirit of democratic governance and effective administration.

This chapter aims to provide details, perhaps at a more practical rather than theoretical level, of the Namibian experience in dealing with these issues. Starting with a synoptic discussion of the various past and current models of traditional leadership, the aim is to highlight the effects of colonial intervention and the current state of affairs. Subsequent sections of the chapter deal with the issues identified above.

Models of Traditional Leadership

At least three broad models of traditional leadership currently exist in Namibia. These are kingdoms, chieftainships and headmanships. Whilst the former two are modified artefacts of the precolonial area, the latter is entirely a product of colonial rule. This raises the question of how "traditional" traditional authorities are. Traditions, like customs and culture, are dynamic social artefacts. They are constantly being reviewed and altered to meet the demands of changing times and contexts. This has prompted some scholars to describe *traditions* as socio-cultural and political "inventions" (e.g. Hobsbawm & Ranger 1994). As traditions are exposed to change, so are the models of governance which they underpin. As a result, the three broad typologies of traditional leadership identified below all show some degree of deviation from what existed prior to the arrival of the colonial forces.

The Kingdoms of Northern Namibia

The Owambo peoples of north-central Namibia consist of seven related communities: the Ondonga, Uukwanyama, Ongandjera, Uukwambi, Ombalantu, Uukwaluudhi and Uukolonkadhi (Hahn 1928, Tötemeyer 1978, Williams 1994). All of these except the Uukolonkadhi were politically organised into kingdoms. The development of the centralised systems of power accompanied the development of agro-pastoral economies and the subsequent need for control over land (Williams 1994:98).

In early times, the King was selected from the royal clan, and during his reign he was assisted by a number of Councillors. These were appointed by him, not strictly from the clan structures, but from his age group.[2] The highest authority (after the King) was the King's Council. The Council consisted of six senior Councillors appointed by the King after consultation with the elders (Williams 1994:106). This Council acted as the chief executive, as well as the judicial and legislative body, and all its decisions were kept secret. One member of this Council acted as the King's closest advisor, his Chief Minister. Usually, the kingdom was subdivided into a number of wards (often as many as 57 wards existed). These were headed by Under-councillors appointed by the King. They, in turn, formed the District Council, a second-tier authority that presided over ward affairs and made inputs to the King's Council. A number of less significant bureaucratic positions existed in the kingdom, most of which were allocated to the running of the royal court. Among these were the courtiers, the bodyguards, attendants, messengers, herdsmen and cooks.

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[2] This was done during his young days, when a prospective King would observe his playmates for certain special qualities such as bravery, diligence and hard work. It was the custom of those times that a newly appointed King would "inherit" his predecessor's Councillors (Williams 1994:106).

The King's powers were wide-ranging and gave him control over the army, the clergy and all components of the polity. Some (e.g. Tönjes 1996:107) have argued that "(a) king's powers are unlimited. He rules over the life and the property of every person living in his country". Williams (1994) presents the organisational structure for the early Owambo kingdoms as follows:

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                    ┌─────────────────────────────┐
                    │       Omukwaniilwa          │
                    │          (King)             │
                    └─────────────────────────────┘
                                  │
                    ┌─────────────────────────────┐
                    │      Elenga Ekuluntu        │
                    │     (Chief Minister)        │
                    └─────────────────────────────┘
                                  │
             ┌───────────────────────────────────────────┐
             │     Omutumba gomalenga omakuluntu          │
             │    (Council of Senior Councillors)         │
             └───────────────────────────────────────────┘
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Mwene goshikandjo (District Headmen)	Ondayi yiita (War Commander)	Omumbalakulutu (Butler)	Omujambikulutu (High Priest)
Mwene gomukunda (Ward Headmen)	Aakwiita (Warriors)	Aambala (Courtiers)	Aayambi (Clergy)

Figure 1: Organisational structure of early Owambo kingdoms

These kingdoms were all seriously affected by colonial rule. The drawing of the colonial boundaries in 1891 divided the Uukwanyama kingdom between the then German South West Africa and Angola. In 1908 King Nande signed a "protection treaty" with the German Administration and Uukwanyama became a formal German Protectorate (ibid.:152). Hereafter a second treaty was signed with the British, and King Mandume was requested to surrender arms. Military offences against the Uukwanyama kingdom increased in the period that followed, first by the Portuguese from Angola, and later by the combined forces of South Africa and Britain. In February 1917 a final skirmish took place, resulting in Mandume's death and the "end" of the Uukwanyama kingdom. A similar fate awaited the Uukwambi kingdom after the offence against King Ipumbu in 1932. In both these cases, a Headmen's Council was appointed to replace the deceased King. The headman system was also applied to the areas of the Ombalantu and Uukolonkadhi (Tötemeyer 1978:44). Under the colonial Administration, the Kings became "Chiefs" and the procedure by means of which they were appointed was changed to include colonial supervision and "popular elections".

Chieftainships

The original chieftainships existed in the areas to the south of the infamous Police Zone[3], and in the Kavango and Caprivi Strip. The Kavango is currently divided into five subregions, each under the jurisdiction of a *Hompa* ("Chief").[4] It is the custom that *Hompas* are elected from a matrilineal line of succession. Each of the subregions have *timbi* (village heads or headmen) that are appointed by the *Hompa* after being elected by the community (GRN 1991:29). It is the custom that the *Hompa* must come from the royal lineage, and the *timbi* from any lineage. The *Hompa* is assisted in her duties by a Chief's Council.

A similar structure is found among the Herero communities[5], with one exception: the Herero have a "Paramount Chief".[6] There are two conflicting views (GRN 1991:22-23) on the origin of this position. Both acknowledge that, prior to the arrival of the German occupants, the Herero had no single, central leader or even a central royal house. It was only after the defeat of the Namas in 1863 that a single "Paramount Chief" emerged. One view claims that all Herero clans met to choose a single leader. The second view, put forward by some historians and anthropologists, claims that the position was created by the German Administration to promote indirect rule. Lineage and descent are currently used to determine new Chiefs and "royal houses" are often mentioned (ibid.:23-28).

A second type of chieftainship is found among the Nama of southern Namibia. Most of these communities (usually the larger ones) are administered by a *Kaptein* and a *Kapteinsraad* or *Stamraad*.[7] These chieftainships are different from the others in the sense that they are derivatives of the military-style political organisation of the Orlam immigrants. These structures had their origins in the Commando Groups formed along the frontiers of the Cape Colony, which were used by frontier farmers and colonial administrators to enforce law and order. Very similar institutions were adopted by renegades to raid livestock and assert social control on the outskirts of the Colony. The Orlam Commando Groups, upon their arrival in southern Namibia, were primarily geared toward military conquest and cattle

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[3] The Police Zone consisted of southern and central Namibia to which white settlement was directed. Unlike the territories north of this so-called Red Line, which were governed through a system of indirect rule, in the Police Zone the Administration employed policies of direct control.

[4] The Mbukushu leader's title is *Fuma*.

[5] Prior to the 1904 Uprising, at least five "great chieftainships" existed: Okahandja, Otjimbingue, Omaruru, Otjozondjupa and Okandjoze (see Vedder 1928:189).

[6] The debate on the Herero leadership has been long and intense. The current incumbent Paramount Chief – Chief Kuaima Riruako – has been an active campaigner for more powers to traditional leaders. His own position has been questioned by some as "self-appointed" and not true to custom.

[7] I have retained the Afrikaans names primarily because these structures developed from the Commando Groups that were brought into the territory by the Orlam migrants from the Cape Colony after ca. 1750 (see Lau 1987).

raising. Hence, the titles and original functions allocated within these structures reflected their paramilitary origins. The title *Kaptein*, translated from its original meaning, was therefore "Captain" rather than "Chief". The original Nama groups adopted these "modern" and European-inspired structures and to this day some of their leaders are called *Kaptein*.

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                    ┌─────────────────────────────┐
                    │         Kaptein             │
                    │      (Captain/Chief)        │
                    └─────────────────────────────┘
                                  │
                    ┌─────────────────────────────┐
                    │       Veldraadslid          │
                    │  (Vice-captain/Vice-chief)  │
                    └─────────────────────────────┘
                                  │
              ┌──────────────────────────┐
              │     Hoofmagistraat       │
              │   (Chief Magistrate)     │
              └──────────────────────────┘
                          │
              ┌──────────────────────────┐
              │    Ondermagistraat       │
              │   (Vice-magistrate)      │
              └──────────────────────────┘
                                  │
                    ┌─────────────────────────────┐
                    │        Kommandant           │
                    │       (Commandant)          │
                    └─────────────────────────────┘
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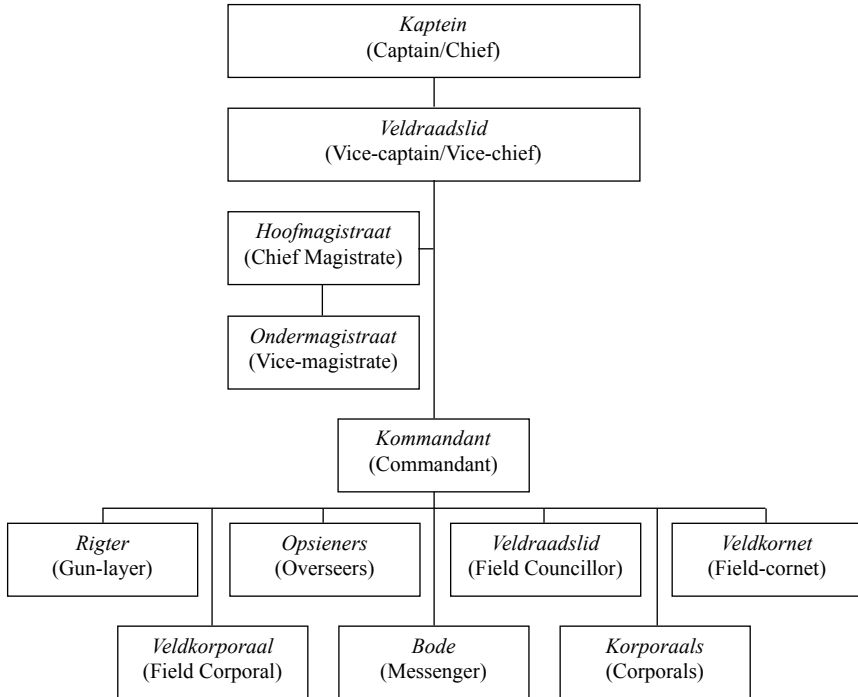

Figure 2: Organisational structure of the /Kobesin (Witbooi) Stamraad
Source: Du Pisani (1976)

Figure 2 above presents an organisational structure of the /Khobesin (Witbooi) *Stamraad*. Many of the positions have little more than symbolic value today, but their military influence and origin is still clear. Not all Nama communities have retained their military-styled traditional authority. Most commonly today, *Stamrade* consist of a *Kaptein,* an *Onder-Kaptein* and a number of Councillors.

Headmenships

It was said earlier that all headmenships have their origins in the colonial era. In some cases, these were constructed by the colonial Administration to replace other forms of traditional leadership, as was the case in at least three of the Owambo

kingdoms. In other cases, these structures were created to assert control over resettled communities, or to organise and control so-called acephalous communities.

In southern Namibia, among the Nama-speaking communities, a number of headmen were appointed to preside over areas expropriated under the Odendaal Plan to enlarge existing "homelands". Such areas include Kriess, Amper-Bo, and perhaps even Vaalgras. The resettled communities were made up from multiple parochial backgrounds, and as such had no traditional leadership structures in place. In these instances, the colonial Administration appointed headmen. Headmen were also appointed wherever and whenever the colonial Administration had problems extending its social control over defiant communities. In this respect, headmen who were sympathetic or at least not openly hostile to the colonial authorities replaced the incumbent leaders. This happened in northern Namibia as well.

Finally, headmen were appointed to preside over those communities that, traditionally, had no such leadership structures: the so-called acephalous societies. This means that certain San communities received "traditional" leaders, some of which were incorporated in the multi-ethnic, transitional Government arrangements that were attempted prior to Independence.

Postcolonial Developments

The invention, alteration and demise of traditional leadership structures is by no means complete. Several postcolonial developments are worth noting. Firstly, the passing of the Traditional Authorities Act, 1995 (No. 17 of 1995) confines the models of traditional leadership to only two: chieftainships, and headmenships. Officially, the Namibian Government no longer recognises kingdoms; these are being treated as chieftainships.[8]

Just after Independence, Government recognised 36 traditional authorities and 176 traditional leaders (Keulder 1997a). Recognised traditional leaders are paid according to three wage categories: Chiefs receive N$700 a month, Senior Headmen N$450 a month, and Headmen N$300 a month.

There are, however, new proposals to introduce new salary scales, i.e. Chiefs would receive a monthly sum of N$1 000, Senior Headmen N$800, Councillors N$700, and Secretaries N$600, respectively. Only traditional leaders without official wage employment qualify for such Government salaries. Under the new scheme only the Chief, six Councillors and the Secretary are paid by the Government. Additional office-bearers have to be remunerated from the Community Trust Fund provided for by the Traditional Authorities Act. In some communities a

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[8] Section 7 of the Traditional Authorities Act, 1995 (No. 17 of 1995) states that members of the traditional community are free to address their leaders according to the traditional titles afforded to their positions, but that such titles shall have no bearing on the status, powers and functions of the institutions, other than those assigned by the Act.

"community levy" has been introduced, as well as a levy on the sale of liquor, to generate income for the Fund.

A second important development concerns various attempts to restore old and invent new structures of traditional leadership. Shortly after Independence, the intention to "restore" the dysfunctional Uukwanyama kingdom became clear. Thereafter, the Damara community "restored" their "kingdom" under the authority of a */Goab*.[9] In the Caprivi in particular, smaller kinship-based communities have emerged to claim autonomy from the larger ethnic entities. Such claims are accompanied by claims for independent leadership structures, authority and territory, and for recognition by the Government.

Elsewhere, NGOs have facilitated a process whereby "acephalous" communities have been organised under "traditional" leadership. One such example is the Centre of Applied Social Sciences' (CASS) project in Western Bushmanland (Thoma & Piek 1997). Under this project a number of leadership structures were created and implemented by the project team through a series of workshops facilitating community participation. In the final instance, these structures were being presented as "traditional" authorities. In addition hereto, existing customs were to be codified into a single system of customary law, a concept that is also alien to the communities concerned. The central purpose of the exercise is clear: to organise and mobilise ethnic communities within the broad constitutional and legal framework laid down by the Government (ibid.:16):

> Activating customary rules in Western Bushmanland would enable the Bushman communities to prove to the government of Namibia that they can handle their own affairs according to their traditions and within the constitutional context of Namibia.

As a final assessment, one would have to conclude that these postcolonial inventions of traditional leadership are political in nature. Their primary aim is to access the State and its structures, resources and opportunities.[10] Land claims and claims for recognition are based on, and legitimised through, "tradition" (even if presented in a distorted form).

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[9] This move has to be evaluated with some degree of scepticism. Firstly, nowhere in the existing historical sources does one come across such a "kingdom". Secondly, the drive behind the "restoration" of this (imaginary) kingdom cannot be separated from what seem to be mainly political motives. However, the resurrected kingdom forms part of a larger politico-cultural exercise that includes the documentation of the Damara people's history. In a broader, national context, the Damara people's attempt to "rediscover themselves" is part of a larger process whereby ethnic minorities have expressed their dissatisfaction with the State's cultural and socio-political projects. In the context of perceived neglect and marginalisation, ethnic minorities have begun to rely on parochialism to communicate their perceived entitlements. Among those groups that have employed this type of strategy are the Rehoboth Basters, the Ovahimba, various San groups, and the Nama.

[10] These and other themes linking traditional authorities with a quest for greater representation in State structures are documented in Keulder (1997b).

The Jurisdiction of Traditional Leaders

There are two contending arguments in this regard. The first maintains that a traditional leader's jurisdiction is confined to the territory under his or her immediate control. The second is a more expansive view and maintains that the jurisdiction of a traditional leader is confined to all his/her subjects, irrespective of where they live. The latter is the official view pertaining to all traditional leaders in Namibia. Section 2(2) of the Traditional Authorities Act states that –

> [A] traditional authority established in respect of a traditional community shall in the execution of its duties and functions and exercise of its powers, have jurisdiction over **the members** of that community. (emphasis added)

Although no accurate estimations in this regard exist, one can safely assume that most – if not all – people living in the communal areas of Namibia are currently under the jurisdiction of a traditional leader of some sort. Although, in terms of the above Act, all the members of a specific community are considered to be under the jurisdiction of their traditional leader, it is unlikely that those residing outside the communal areas will be exposed to the authority of such leader on a daily basis. Based on this proposition, one can estimate that around 150 000 families or 855 000 people in Namibia are subject to the authority of a traditional leader on a daily basis (UNDP 1996).[11] Most traditional authorities are found in the communal areas of Namibia, which are spread across all thirteen Regions.[12]

Political Structures and Processes Affecting the Institution of Traditional Leadership

Traditional leaders have been seriously affected by the postcolonial process of State-building. After Independence, the Namibian State was subjected to structural reorganisation. This saw the abolition of the ethnically-based second-tier administrations implemented by the South African regime. Traditional leaders who were part of those structures and, hence, part of the colonial State, were directly affected. In addition to this, tribal police forces were abolished. This reduced traditional authorities' capacities with regard to policy implementation and law enforcement. The introduction of Regional Councils as *de jure* rural local Government is perhaps the most significant aspect of postcolonial State-building to have affected the institution of traditional leadership: in effect, all administrative powers previously allocated to traditional authorities were transferred to the newly established Councils. Together with the Traditional Authorities Act, the

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[11] The number of families living in the communal areas was obtained from the UNDP's (1996) *Human development report*, whilst the number of people was calculated from the average household size for Namibia, i.e. 5,7.

[12] That is if one includes the Rehoboth area in the Khomas Region.

introduction of Regional Councils effectively saw the subordination of traditional authorities to the structures of the State. This trend will be continued once the proposed structures of land administration are implemented.[13] In no instance does any of the legislation dealing with rural, local administration make formal provision for the inclusion of traditional leaders into local State structures. The only official role reserved for traditional leaders in the administration of the rural areas is that of supporting State structures. Section 10(2)(a) to (c) is clear in this regard:

(2) In addition to the functions specified in subsection (1), the members of a traditional authority shall have the following duties, namely –

(a) to assist the police and other law enforcement agencies in the prevention of crime and apprehension of offenders within their jurisdiction;

(b) to assist and co-operate with the organs of the central, regional and local government in the execution of their policies by keeping the members of the traditional community informed of developmental projects in their area; and

(c) to ensure that the members of their traditional community use the natural resources at their disposal on a sustainable basis and in a manner that conserves the environment and maintains the ecosystems, for the benefit of all persons in Namibia.

Section 12(1) and (2) is equally clear about the relationship that ought to exist between traditional authorities and other organs of State:

(1) In the performance of its duties and functions and exercise of its powers under customary law or as specified in this Act, a traditional authority shall give support to the policies of the central Government, regional councils and local authority councils and refrain from any act which undermines the authority of those institutions as established by law.

(2) Where the powers of a traditional authority or traditional leader conflict with the powers of the organs of the central Government, regional councils or local authority councils, the powers of the central Government, regional council or local authority council, as the case may be, shall prevail.

To date, and on the surface, the relationship between traditional authorities and their elected counterparts seems harmonious. A closer look at the state of affairs reveals that the harmony is precarious – perhaps even superficial. First and foremost to consider in this regard are the limited capacities and powers of the Regional Councils. Because of these limitations, Regional Councils have not been very active in areas that currently fall under the jurisdiction of traditional leaders. There is, thus, little overlap or room for a conflict of interests.[14] Secondly, the

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[13] The legislation dealing with the administration of communal land has not yet been finalised and, hence, cannot be included in the discussion here. It is sufficient to mention that an early draft of the Bill excluded traditional leaders from the proposed system of Land Boards. The traditional leaders have rejected this but the outcome of the process is unlikely to change.

[14] For a more detailed discussion of these and other issues pertaining to the relationship between traditional leaders and Regional Councils, see Keulder (1997b:37-47).

conflict between traditional leaders and elected councillors often stems from the competition between the two sets of incumbents aspiring for the status, power, wealth and prestige attached to the right to represent members of the locality. For the members concerned, the issue is entirely different. For them, having to survive under sometimes extremely bad ecological, economic and political conditions, the issue is not so much who represents them, but rather whether or not they are represented at all. In the process of securing access to the State, its agencies, projects and programmes, members of marginalised rural communities seem to have little preference for elected leadership over traditional ones, and vice versa (Keulder 1997b:47).

With the proposed policy of decentralisation and continuous efforts to expand the State into the rural hinterland, conflict between the two contending sets of elites may increase in the near future.

The State of the Institution

Structural Problems

Although it is difficult to assess in any exact manner the structural capacity of all local authorities in Namibia without close scrutiny of each individual case, a number of problems are immediately obvious.

Firstly, most, if not all, traditional authorities are experiencing financial difficulties. After Independence, traditional authorities lost most of their main sources of income (such as grazing fees) and currently receive little financial or institutional support from the Government. However, the Traditional Authorities Act makes provision for traditional authorities to establish a Community Trust Fund that could be used to support the traditional authority and its projects. Nonetheless, it is unlikely that these Trust Funds will be able to generate enough capital and security to overcome the existing financial problems.[15]

Secondly, a substantial number of traditional authorities lack the capacity to enforce decisions and customary law rulings. The lack of capacity in this regard stems from the abolition of their tribal police forces, and coercive infrastructure. Traditional authorities no longer have the power of detention and none are allowed to operate a jail. Although the extensive coercive powers and instruments allocated to traditional authorities by the colonial Administration were abused for political reasons, there has in fact been a rise in rural crime since Independence. One of the reasons for this is the reduction of the powers of traditional authorities,

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[15] In expressing their financial needs, traditional leaders often referred to the arrangements of the past. In a discussion with a senior Government official, the Linyanti Traditional Authority claimed that the South African Administration not only paid them better salaries, it also gave them substantial fringe benefits such as a Police force and cleaners, four-wheel-drive vehicles and a variety of wildlife for their cultural festivals (GRN 1997).

whilst another has to do with the State's failure to penetrate rural areas with its coercive apparatus.[16] In southern Namibia, customary courts fell into disuse after an offender charged with wrongful seduction and given eight lashes as punishment, brought a successful legal case against the traditional authority of Hoachanas. As a result of this case, the *Stamraad* was obliged to pay a fine of N$120 or serve a month in prison.

Thirdly, some traditional authorities (and this pertains specifically to traditional authorities in southern Namibia) are weakened by the absence of traditional leaders from their communities. Chiefs and councillors are often absent for economic reasons. A substantial number of them are employed elsewhere whilst others have taken up commercial farming. In one extreme case (the Isaak authority in Berseba), only one councillor resides in the community headquarters. The problem is compounded by the fact that traditional leaders are often not full-time incumbents. They are also farmers, Church leaders, teachers, politicians[17] and businessmen. This means that they have to divide their time, energy and resources between their employment and leadership responsibilities.

Additional Problems

Traditional authorities are affected by numerous non-structural problems. First among these are the intense leadership disputes. Some of these disputes have their roots in the precolonial era, whilst the more politically motivated ones are the legacies of colonial practices. Leadership contentions take three forms: a) two leaders disagree on who is the rightful incumbent; b) some traditional leaders claim autonomy from existing structures and seek independent recognition from the Government; and c) members of some communities contest the incumbent leader's right to the position on the grounds that such leader was appointed by the previous Administration and not by the members of the community themselves. In such cases, some community members have come forward to claim the leadership position as "rightfully" theirs.

Secondly, the weakness of State structures has caused traditional leaders some problems. Traditional leaders often complain about the lack of consultation between them and the elected representatives. They feel that the elected representatives, including those at the political centre, often bypass or marginalise them when matters pertaining to their Regions are discussed. As a result, communica-

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[16] Sharp increases in stock theft prompted at least one ethnic community to form its own "anti-stock theft unit", Epango. Formed in 1992 by the Otjiherero-speaking communities, Epango employed methods of detention and punishment commonly regarded as "unconstitutional". However, these communities defended their actions by pointing to the failure of the Police to contain crime and protect private property.

[17] This option is technically no longer available as the Traditional Authorities Act prohibits traditional leaders from holding stool (leadership of a traditional community) and public office simultaneously.

tion between people in remote rural areas and their elected Regional and Central Government representatives frequently breaks down. As a result of inadequate communication and the weakness of the regional structures, traditional authorities have found it difficult to access the State and its projects. This problem is compounded by their exclusion from the formal structures of rural administration.

Thirdly, some traditional communities find it difficult to adapt to the new legal and constitutional frameworks developed after Independence. Custom and "tradition" often conflict with the new political demands of gender equality and greater representation for women. Certain customs regulating inheritance in some communities have discriminated against widows, and in other communities, women are generally excluded from decision-making processes. This has caused tensions between traditional authorities and some institutions, including the Government.

Fourthly, some traditional authorities are negatively affected by the quality of their leadership. Although it is impossible to make a general assessment of the general quality of leadership without assessing each individual leader, it is more common for the older leaders to be illiterate and affected by illness. These leaders and, by association, the traditional authorities they govern, are at a disadvantage when dealing with the legal and technical discourse of Government.

Fifthly, traditional leaders are affected by the political climate that has prevailed in Namibia since Independence. In some circles they are still considered as "backward" and as "custodians of tribalism" and, hence, as hampering the Government's nationalist and developmental projects. For some they remain "stooges" of the colonial Administration with little, if any, contribution to make in an independent Namibia.

Another aspect related to the political climate is that party divisions, rooted in the colonial era, continue to divide local communities.[18] Regional and Central Government representatives are often accused of favouring their own support bases at the cost of others (GRN 1997).

A sixth problem is related to some of those already mentioned. It deals with the Government's quest to find and register the "rightful" traditional leaders and their authorities. It has become an increasingly difficult and important issue in the light of the establishment of a Council of Traditional Leaders, and also to cope with the increased demand for recognition, land and remuneration. The issue is complicated not only by the factors mentioned above, but also by the lack of a sound and reliable information base against which contested claims could be substantiated.

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[18] A good example of such divisions is the community of Berseba, where precolonial leadership disputes transformed themselves into political divides that persist despite several attempts to reconcile the factions. Although the Isaaks (who belong to the DTA) and the Goliaths (who belong to the SWAPO Party) are related by blood, a request was presented to the Kozonguizi Commission that the two factions be recognised as two separate peoples. Currently, each faction has its own *Kaptein* and *Stamraad*. See Keulder (1997b).

Addressing the Problems

It cannot be expected of Government to solve traditional authorities' financial problems. Most traditional authorities preside over communities with limited financial resources, which makes it difficult to extract additional resources for the maintenance of leaders. Some traditional leaders have accesses to the donor community, not to support their institutions but rather to generate funding for community projects.[19] In southern Namibia, the Nama Traditional Leaders' Council held several meetings to address the financial predicament and several proposals, such as trophy hunting, were discussed. Another possibility was to generate resources through conservancies or to raise levies from activities such as selling alcohol.

Current proposals with regard to the establishment of community courts under the Ministry of Justice may help to improve traditional authorities' capacity to enforce customary law and address the crime problem in general. Such structures may improve the relationship and cooperation between the State and traditional authorities in this regard.

The absence of traditional leaders is caused by a need for income. It is unlikely that even the new salary structures proposed by Government will make absent traditional leaders return to their communities, or to being full-time incumbents of the position. What it will do, however, is to support unemployed traditional leaders and make it worth their while to remain in their positions. It may thus serve as an incentive to make the institution more attractive for younger, unemployed members of the community. Such individuals could be encouraged to make themselves available for election to leadership positions.

The weakness of State structures might be reversed through the implementation of the decentralisation policy. The policy will devolve more funding and human resources to the various localities and assign to them new and increased powers to deal with the politico-administrative and socio-economic developments in the Regions. This should bring traditional authorities and Regional Councils closer to each other. Regional and local authorities should have more capacity to create local-level structures to incorporate traditional authorities into the day-to-day administration of their localities. The outcomes of such developments are difficult to predict and considerable variations across the Regions may develop. It is also quite possible that the focal point for dealing with the daily issues pertaining to traditional authorities will be shifted to the Regional Councils. This will no doubt have an impact on the existing power relations in the Regions, which, in turn, could see an increase in the levels of conflict between traditional authorities and elected representatives.

With regard to (re)moulding the institution to meet the demands of the new constitutional and legal framework, one has to say that the traditional authorities

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[19] Chief Kooitjie of the Topnaar community has raised around N$1 million for a community school.

themselves must be credited with much of the initiative shown thus far. One case in point is the Ondonga Traditional Authority, which obtained the services of an NGO (CASS) to assist them with the codification of their customary laws (ELCIN 1994). At the same time this authority abolished the heritage laws discriminating against widows. At the second meeting of the Nama Traditional Leaders' Council, a decision to include women in each delegation to the Council was adopted and included in its constitution.

As far as the leadership disputes are concerned, the Traditional Authorities Act makes provision for a judicial commission of inquiry to be appointed. Once a community has informed the relevant Minister of a dispute by way of a written petition, section 9(2) and (3) of the Act apply:

> (2) On receipt of a petition ... the Minister may in accordance with the Commissions Act, 1947 (Act 8 of 1947), appoint a judicial commission to investigate the dispute and to report to the Minister concerning its findings and recommendations.
>
> (3) On receipt of the report of a judicial commission referred to in subsection (2), the Minister shall take such decision as he or she may deem expedient for the resolution of the dispute.

In these cases the recommendations and decisions have to take cognisance of the existing customary laws of the community. Where leadership disputes develop in communities that are without customary law, or where there is uncertainty about the provisions of their customary law, leaders are to be elected by a majority vote.

Partly to deal with leadership disputes and partly to cope with the new demands for recognition, the Ministry of Regional and Local Government and Housing has embarked on a new process whereby all traditional leaders and authorities are encouraged to apply for registration as such. Registration forms, indicating current office-bearers, possible leadership disputes and the means of ascendency to the position, were distributed to all such leaders for completion. Completed forms have to be returned to the Ministry via the Regional Councils; the Ministry, in turn, submits the applications to the Cabinet Committee on Land and Social Issues.[20] An initial decision regarding the legitimacy of the claim to leadership is taken here. In all cases where leadership disputes exist, the matter is forwarded to the President and through him to the (yet to be established) Council of Traditional Leaders. Recommendations from the Council to the President shall inform the decisions made. The formal recognition of traditional authorities is published in the *Gazette*. Those communities whose leadership structures are not officially recognised will be allowed to continue their normal business but their leadership will not be entitled to remuneration from the Government.

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[20] This Committee is chaired by the Minister of Regional and Local Government and Housing, and includes the Ministers of Lands, Resettlement and Rehabilitation; Health and Social Services; Basic Education, Sport and Culture; and Agriculture, Water and Rural Development.

Traditional Authorities and the State

It was said earlier that traditional authorities have been subordinated to the structures and branches of Government. The figure below maps the relevant decision-makers and links them in a line of authority.
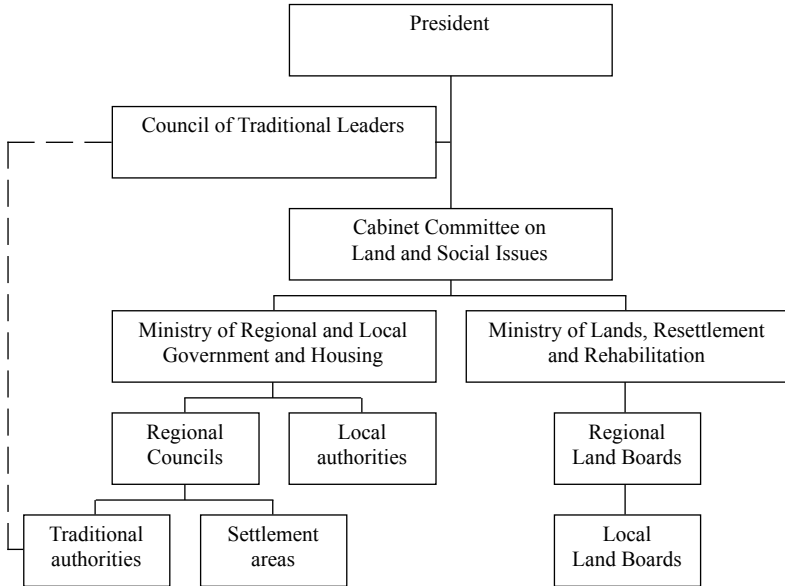
Figure 3: Organisational structure - State and traditional leaders

The structures dealing with the recognition of traditional authorities are the President, the Council of Traditional Leaders (to be formed), the Cabinet Committee on Land and Social Issues, the Ministry of Regional and Local Government and Housing (MRLGH), the Regional Councils, and the traditional authorities themselves. Those dealing with the administration of the rural authorities are the MRLGH (as the main body responsible for the traditional authorities), the traditional authorities themselves, and the Ministry of Lands, Resettlement and Rehabilitation (as the main body responsible for land administration). Once established, the Land Boards will join the line of command.

The single most important feature about the postcolonial State-building project is, perhaps, the omission of traditional authorities from the main administrative structures, namely the local authorities, the Regional Councils and the Land Boards. Traditional authorities' functions are confined to supporting the State structures in the performance of their duties, and to the areas of culture.

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A Concise History of Gender, "Tradition" and the State in Namibia
Heike Becker

A Controversial Law

On 20 May 1996, President Sam Nujoma signed the Married Persons' Equality Bill, which then became law as Act No. 1 of 1996. The Married Persons' Equality Act fulfilled one of the main demands of the post-Independence Namibian women's movements, as it did away with the husband's automatic "marital power" and his position as the "head of the family". Under Roman-Dutch Common Law, these powers were vested in the husband in every civil law marriage in Namibia before the passing of the Act.

The drafting and parliamentary debate of the Married Persons' Equality Bill caused a long and highly controversial discussion in Namibian politics and society. Time and again, parliamentarians across the party-political spectrum, writers of letters to the editors of Namibian newspapers, and callers to the country's phone-in radio programmes opposed the proposed reform in the strongest terms. Reservations were also raised by members of the public who attended nationwide hearings to discuss the new law. The opponents employed "African tradition" and the Bible for their cause: according to the commands of both African "tradition" and Christianity, women and men could never be equal, or so their arguments went.[1] It must be noted that the public opposition was staged exclusively by male parliamentarians, writers, callers and discussants. No women's voices were ever raised publicly against the proposed reform.

However, there were also Namibian men who supported married persons' equality. Several high-ranking male politicians and influential non-governmental organisations (NGOs) publicly expressed support for the proposed new legislation.[2] In the end, President Nujoma threw his personal weight behind the contested reform. Whether they liked it or not, all SWAPO parliamentarians were compelled to vote in favour of the new law, which was then finally passed in the National Assembly. The vote in the National Assembly overruled the reservations of the

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[1] A number of these arguments have been compiled in an article published by *Sister Namibia* (see Becker 1996).

[2] The Deputy Speaker of the National Assembly, Zephania Kameeta, made a powerful plea for the passing of the Bill (31.10.1995; see *Debates of the National Assembly*, 1995). Twenty-five NGOs formed a vocal NGO coalition to call for the speedy passing of the Bill. This effort was supported by the Government's Law Reform and Development Commission and the Department of Women Affairs in the Office of the President.

National Council, the second house of Parliament, representing regional Government delegates.

The debate on the Married Persons' Equality Bill presents an interesting example of gender discourses and gender politics in postcolonial Namibia. For one, a broad social coalition developed between agents of the State and civil society around the drafting and discussion of the controversial Bill. The coalition of NGOs, women's organisations, trade unions, research organisations, legal bodies, and some prominent members of the ruling party, SWAPO, asserted its influence successfully through the media, and through direct access to SWAPO politicians, including President Nujoma. It has also been emphasised that those in support of the Bill carried substantial private and personal influence, were closely bonded together, and coordinated their activities into a cohesive, well-planned strategy that was implemented (Keulder 1996:18-9).

Second, the discussions around the Married Persons' Equality Bill exemplified contemporary contesting gender discourses in Namibian society and politics. The supporters of the Bill argued that the statute was necessary in order to fulfil the requirements of the Namibian Constitution, i.e. to eliminate all discrimination on the grounds of sex (Art. 10), and ensure equality within marriage (Art. 14). Those opposed to the Bill argued that it would contravene god-given gender relations, which in the first place were determined by ancient "African tradition". It appears from the debate that in contemporary Namibian society and politics a widespread perception is held that "women's rights" and African "tradition", particularly customary laws and political-judicial institutions, are eternal foes.

This perception strikes one as being shared between both supporters and opponents of gender equality. Prior to Independence the SWAPO Women's Council regarded "outdated traditional values" as a major stumbling block for women's advancement in society (Becker 1995:160,170). This point of view was perpetuated by SWAPO women politicians after Independence, when they continued to single out "centuries-old" traditions, culture, customary law and traditional authority structures as the main cause of women's oppression (see e.g. Ithana 1993:12-13). Similar views can be found among younger women in rural areas, particularly those who have obtained a certain level of formal education such as teachers, pastors, Government employees and NGO activists. These women are often highly suspicious of "tradition": some even call for an outright abolition of it, especially customary law and traditional authorities, which they perceive as invariably patriarchal and discriminating against women.[3]

On the other hand, as the debate on the Married Persons' Equality Bill has shown, "our tradition" is being employed to defend a status quo of gender inequality. Opponents of "women's rights" often maintain that African tradition and gender

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[3] This perception of tradition and law has often been conveyed to me during interviews, group discussions and informal conversations, especially in Owambo.

equality are incompatible. It appears that supporters and opponents of gender equality share a perspective on tradition as allegedly invariably patriarchal, timeless, and unchangeable.

Theoretical Perspectives on Gender, Tradition and the State

The example of the controversial debate on Namibian marriage law leads to several questions to be asked regarding gender discourses and the gender politics of the Namibian State, non-governmental women's movements, and society as a whole. Which are the main gender discourses and politics in contemporary Namibian society and politics? What are their points of reference? Which are the main issues? Who are the actors? What are the political and historical origins of contemporary gender politics and gender discourses in Namibia?

It is apparent from the debate on the marriage law reform that representations of gender and the State are closely linked to those of tradition. This necessitates a closer look at these three concepts and their interlinks.

The Construction of Gender

Gender is a significant historical force in determining complex social relations, as well as collective and individual identities in any society. Whether or not, and how, women and men engage in politics, among other social activities, owes much to how they perceive themselves as "men" and "women". However, gender identity is not a direct consequence of exposure to and compliance with particular cultural and social constructions of gender. Rather, it is mediated through practical engagement in the lives lived and, thus, through processes of compliance and acceptance, but also through those of resistance and change. Male and female gender identities are both collective and individual: they are mediated not only through social attributes such as age, class, ethnicity, and so forth, but also through conscious and subconscious individual aspirations and desires, although social attributes certainly influence individual identities as well. Multiple gender identities and discourses may, therefore, be present in a given society, and may even be competing (Moore 1994:53-56). Rather than simply investigating determining social and cultural forces, the analysis of gender politics and gender discourses ought to explore the ways in which women and men themselves negotiate and renegotiate femininities and masculinities vis-à-vis politics and the State.

Gender and "Tradition"

A human agency perspective[4] on gender entails revisiting the notion of *tradition* as a closed corporate system. In their seminal work, Hobsbawm and Ranger (1983) have shown how traditions have been invented, often purposefully, through the

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[4] A human agency perspective insists that, following Ramphele (1990:7), "human beings are active agents in history and not just passive, hapless victims of circumstances".

eclectic "freezing" of certain precedents. Such invented traditions are marked by fixed norms, in contrast to flexible customs. This is how *tradition* is generally understood in contemporary Namibia, i.e. that it is supposedly based on fixed cultural norms which represent a largely imagined African past. It would be simplistic to regard an invented tradition merely as a purposeful tool which is used by those in power, and which has been translated into identity for general consumption. Yet, there is often an instrumentality to such inventions: they may indeed serve to prevent reforms of social institutions, as the example of the married persons' equality debate has shown.

Historical studies of customary laws in Africa have shown the complex and often contradictory negotiation of tradition. Chanock's (1985) much-cited study of colonial Malawi and Zambia has demonstrated how these processes were characterised by claims and counter-claims. Elders and younger people, men and women, "traditional" and "modern" elites and the rural poor have contested what is and should be *tradition*. That there is much competition over what presents tradition is now generally accepted in the academic literature. There are divergent views, however, about how traditions affect gender relations, particularly as regards the role women play in the construction of tradition. Older views such as Cutrufelli's (1983:13,41) that "all African women are politically and economically dependent" and that, in "the traditional society", social organisation was based on male control over access to women, have been criticised for their representation of women as invariably passive victims of male dominance (see e.g. Mohanty 1991:58-9).

Numerous studies have shown how women have been actively involved in the making and remaking of tradition (see e.g. Arnfred 1988; Peters 1997; Crehan 1997; Geisler [n.d.]). It has been debated, however, whether women's agency in the construction of tradition has been working to their benefit or detriment. Some authors have argued that a re-reading of gender relations in precolonial African societies indicates that gender relations were more egalitarian in the precolonial past, and have thus refuted the image of African tradition as oppressive. Marjorie Mbilinyi (1992:40) agrees that there is evidence for this, but warns against creating a new myth of "a progressive tradition and a backward modernity": this would simply mirror the traditional/modern dichotomous thinking. A different view has been presented by Gisela Geisler (n.d.) in a paper on female initiation in southern and eastern Africa. Geisler admits that these rites are a part of "women's culture", but claims that they serve primarily to perpetuate women's subordination to men. She maintains, therefore, that "African women have at times appeared as the custodians of 'tradition' and thus the agents of their own subordination" (Geisler n.d.:2). On the other hand, the detailed Mozambican, Malawian and Zambian case studies by Signe Arnfred (1988), Pauline Peters (1997) and Kate Crehan (1997) have shown that women, sometimes due to their age or elite status, have success-

fully invented, modified or reinforced specific traditions to their advantage. Thus, it appears not only that any generalising analyses of gender and tradition prove to be of little value, but also that gender aspects of the making and remaking of tradition need to be considered carefully in specific historical contexts.

Gender and the State in Africa

Theorising gender and the State in Africa is a fairly new enterprise. Whereas the dynamics of State–society relations have drawn substantial academic attention for many years, the relations between gender and State-related processes in Africa have remained a blind spot until recently. Feminist political scientists have contended that the discipline of political studies has been particularly slow to incorporate gender, mainly due to the discipline's traditional subject matter: the institutions and the distribution of power in the public sphere, and the focus on the exercise of power, on constitutional politics and on inputs into the formal political system (Barry 1993:41-42; Waylen 1996b:2).

The first book to have presented a systematic effort to introduce gender into the analysis of the State in Africa was published just ten years ago (Parpart & Staudt 1989a). In their introduction to the volume, the editors depicted the African State as invariably male-dominated. They maintained that whether in its indigenous, colonial, or modern forms, the State has been overwhelmingly controlled by men. Jane Parpart, a historian, and Kathleen Staudt, a political scientist, further asserted that this control has translated into laws, policies, and spending patterns "which not coincidentally benefit men" (Parpart & Staudt 1989b:1).

Most of the theoretical essays and case studies in this pioneering publication portrayed the female experience in African politics and the State as one of exclusion, inequality and neglect.[5] Women's action was presented as subsequent female reaction to these male politics and policies. The analyses generally agreed that, for all the variations of the State, "women are *never* central to state power" (Parpart & Staudt 1989b:5; original emphasis). However, Parpart and Staudt (1989b) also called for a detailed analysis of different States. In what appears as a contradiction to the above statement, they rejected the notion that all States, of necessity, are just instruments of a ruling class or dominating gender. They suggested that analyses of gender and the State bring to fruit Nicos Poulantzas' concept (as cited in Parpart & Staudt 1989b:4) of the relative autonomy of the State, with its mediating role among competing class fractions: "states are only human organizations, absorbing the values, biases, and prejudices of those that 'man' them".

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[5] During the mid-1980s, women represented only 6% of national legislative members in Africa. Women made up only 2% of national cabinet or equivalent positions. Typically, they presided over ministries of community development, education, health, social welfare or women's affairs. Half of the states in Africa had no women in cabinet at all (Parpart & Staudt 1989b:8).

More recent publications on gender and the State have extended this observation. Contrary to older views, recent approaches (e.g. Waylen 1996a:15) maintain that the State has no necessary relationship to gender relations, but that it is evolving, dialectic and dynamic:

> It is far better to see the state as a site of struggle, not lying outside society and social processes, but having, on the one hand, a degree of autonomy from these which varies under particular circumstances, and on the other, being permeated by them. Gender (and racial and class) inequalities are therefore buried within the state, but through some of the same dynamic process, gender relations are also partly constituted through the state. ... The state therefore partly reflects and partly helps to create particular forms of gender relations and gender inequality.

Attention has been drawn, therefore, to how gendered identities of both women and men are in part constructed by the law and public discourses which emanate from the State. Recent debates of the State and gender have, thus, moved away from the earlier use of institutional and functionalist terms, such as whether "the State" is "good" or "bad" for women. Central to the new approaches inspired by post-structuralist thinking is a perspective on politics as a set of debates and struggles over meaning. Power, in this view on politics and the State, largely comes from the "... success with which various groupings are able to articulate their interests and hegemonise their claims" (Franzway *et al.* 1989:63; cited in Rai 1996:27).

A perspective on politics as struggles over meaning can be particularly helpful when complemented by an analysis of the historical processes of State formation and the differences in the ways women and men have experienced them. Margot Lovett (1989) has rejected the notion that the colonial State in Africa in its processes of State formation essentially captured men, but excluded women. Instead, she holds that State formation needs to be perceived as gendered, i.e. as having differential impacts on women and men. In this perspective, both women and men are affected by and related to the emerging State (Lovett 1989:23).

Lovett's perspective on State formation as gendered informs this chapter. Her Marxian feminist approach will be complemented by a focus on the construction of gender and the State in Namibia through discourse. The argument contains both a historical and a contemporary perspective. It explores the continuities and discontinuities in the construction of gender, "tradition" and the State in the shifts from the precolonial to the colonial and postcolonial eras.

Digging into approaches of postcolonial studies has nothing to do with a representation of history as linear progress. There is no simple narrative or periodisation from the precolonial to the colonial, the colonial to the postcolonial. Instead, I shall follow Werbner's (1996:3-4) suggestion to use the postcolonial as a concept to problematise the colonial legacy, its nature and impact: for it is contested in the face of social change, sometimes with nostalgia for an imaginary precolonial past.

A Glance at Precolonial Gender in Namibia

Following Werbner's suggestion the argument of the "traditional" unequal gender relations, which emerged so fiercely during the debates of the Married Persons' Equality Bill, needs to be critically discussed. I argue that the commonly-held belief in Namibia that women's rights and gender equality would contradict African tradition indeed originates in an imagination of a precolonial African past Tom Bennett (1993:273) has summarised this invented tradition, according to which women presumably had no say in their communities, as follows:

> A woman in pre-colonial Africa generally lacked all formal capacities; she was not allowed to sue for divorce or for the guardianship of her children; she would not be entitled to hold or dispose of property; she could not approach a court unassisted, and she might not have a say in the government of her community.

How far does this imagination of the past hold true when brought face-to-face with historical facts? Recent historical-anthropological research in Namibia indicates that in the precolonial past certain women may have held much more political and social power and influence in some communities than one is commonly made to believe today.

Contrary to contemporary suppositions, women in many communities had access to property and were highly valued as agricultural producers. In the example of the Owambo culture, where the economy was based on a mixed agricultural/pastoral system, the value socially attached to men's products, i.e. cattle, was high because of its ritual significance. Women, however, contributed the bulk of subsistence through agriculture. Women, thus, were visible in the sphere of production, which was integrated with the relations of reproduction. Elements of the matrilineal system tempered the control a husband could evoke over his wife, or wives, and children. Divorce was frequent and easy to obtain in the absence of any substantial material transfer at marriage. Oral history and oral traditions indicate that women played significant roles as healers, as well as in ritual and cultural performances, e.g. as ritual leaders (*ovapitifi*) of the *efundula* (the female initiation, often referred to as "traditional wedding") in Oukwanyama. Women were a minority among traditional rulers, but at least in a number of communities in the Kavango and Owambo, queens and other female leaders were nothing exceptional. On the other hand, men, particularly male leaders, may not have been necessarily autocratic, "virile" rulers (Becker 1995; 1997a; 1998).

While definite conclusions about power and gender in the precolonial past cannot be drawn, the general assumption of women's traditionally inferior position is highly disputable. On the one hand, no productive/public/male vs. reproductive/private/female dichotomy existed in the precolonial society. On the other hand, however, it appears that women and men lived large parts of their lives in fairly separate "female" and "male" spheres. Women and men were thus conceived of as

inhabitants of different spheres in a complementary social duality rather than as beings ranked hierarchically according to gender (Becker 1995:77).

Where, then, do contemporary representations of "traditional" gender relations originate? The imagining of "traditional" absolute male dominance vs. absolute female subordination appears to be caused largely by the lack of a temporal dimension. Contrary to the notion of a fixed tradition, unchanged "since time immemorial", living culture is dynamic. It continuously develops with socio-economic and political changes. Culture changes through societies' internal developments, and not only through interactions between internal and external forces. Any image of an ahistoric, static precolonial past disowns African societies of their history prior to the appearance of the colonial forces on the continent.

Gender, "Tradition" and the State in Colonial Namibia

With respect to the construction of power relations during the colonial period, a historian who has studied social change in northern Namibia has engaged the image of a lopsided "long conversation" among the colonial rulers, other Western agents such as the Christian missions, and certain more powerful sectors of traditional societies (McKittrick 1995:80-81). This notion elucidates that there was no clear-cut divide between the precolonial and the colonial social formations. Precolonial structures and identities, including gender as a representation and relation of power, persisted into the colonial time, but also underwent fundamental change.

To start with, indications are that economic, cultural, social and political changes in Namibian societies which occurred in the course of long-distance trade relations with merchants to the Cape in the south, and Portuguese Angola to the north of Namibia, were detrimental to the power of women in politics and society even before the advent of formal colonisation (Becker 1997a:34,66). Exactly how these changes were suffused with gender assumptions is still open to speculation. It might be the case, however, that pertinent processes of militarisation and centralisation of authority and power, particularly among the Owambo in northern Namibia and among the Nama/Orlam communities in the southern parts of the country, were detrimental to the authority of women in those communities. The changes which took place at different times during the 19th century may also have entailed pervasive redefinitions of gender representations and practices. It appears to be intrinsic to the broader changes many Namibian societies underwent at the time, that women disappeared from positions of authority they had held. The emerging new structures of colonial "tribal authority" evolved into all-male domains.

German and South African colonial rule reinforced these patterns, as colonial State policy and practices constructed "women" as objects of rule in a specific way, by reproducing or restructuring normative gender meanings and subordinate social and political identities in the same process (Manicom 1992:456). Linzi

Manicom (ibid.:464) has stated that in South African "native" policy "'the native' as a category of rule was masculine". Not only have women been excluded from the historical definitions of "worker", "the African" and "citizen", but those fundamental categories of social and political analysis came to be suffused with gender assumptions.

In a perception of "native" policy as "male", there was no room for powerful women. This extended to the Administration's dealings with "traditional" authorities. In 1941, for example, Kanuni, the female chief of the Kwangali in northeastern Namibia, was deposed by the then Native Commissioner for Kavango and replaced by her brother, Sivute. Her brother himself had spread false reports to the colonial Administration with the aim of suggesting that the people would prefer a male chief (Kampungu 1965:371-373). The Native Commissioner for the Kavango, Harold Eedes, was only too ready to follow these suggestions since a woman ruling over men did not fit into his white, male, early- to mid-20th-century perceptions of "male" and "female". According to the Western gender ideology of Eedes' time, women were presumably "weak" and, hence, not able to exert the amount of pressure which the colonial Administration expected a chief to exert in order to maintain law and order.

Where the appointment of "native" authorities was directly subject to decisions by the Administration, i.e. in the Police Zone[6] of southern and central Namibia, the colonial policy was even more blunt. The Native Reserve Trust Fund Proclamation No. 9 of 1924 unequivocally stipulated that the – not more than six – "native" members representing the population of a "native reserve" on the advisory board appointed by the Administration had to be adult males, to be elected by an all-male franchise.

The argumentation forwarded by the colonial officials for the exclusion of women from institutions of "legitimate native representation" was based on the colonial officials' very own interpretation of tradition and customs. On one occasion during the 1930s when Herero women at the Waterberg Reserve dared to make their grievances heard, an employee of the Assistant Native Commissioner's office in Windhoek asserted that, had the old customs of the "natives" still been in full force, the women would have been subjected to a "good hiding" by their husbands. He claimed that the social organisation of the "natives" was patriarchal, and women, being regarded as minors, could not be allowed to intervene with the public affairs of the community. In the Administration's view this endangered the entire basis of the "native" social and political system (Krüger 1996:32).

The official's argument exhibits the Administration's perceived need for gendered social control in the process of colonial State and class formation. As Margot

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[6] The Police Zone consisted of southern and central Namibia to which white settlement was directed. Unlike the territories north of this so-called Red Line, which were governed through a system of indirect rule, in the Police Zone the Administration employed policies of direct control.

Lovett (1989:26) has pointed out, social control necessitated maintaining and strengthening those social relations of power and privilege on which precolonial societies were constructed, for the State viewed the continued integrity of these hierarchies of authority as vital to ensuring the maintenance of social order and stability on which the security of colonial rule depended. The authority of male elders, and chiefs, over women and young people was deemed of utmost importance. The colonial Administration, therefore, promoted practices invoked by men, particularly those of authority, in the name of "tradition".

This was especially true for the northern territories of Owambo, Kavango, Kaoko, and Caprivi, where colonial rule was administered as a South African brand of indirect rule. Crucial to the system of indirect rule was the continued application of "ordinary native law and custom", as the Administration perceived it, and the official recognition of indigenous rulers. Whenever the Administration deemed it fit, however, this was combined with interference. Interventions ranged from the ordinary influence of administrators who made sure that "the different tribal heads have more or less come to look to the Native Affairs Staff for advice and guidance in determining their affairs"[7], to the deposition of intransigent chiefs, enforced by military violence if necessary.[8]

The colonial freezing and reinvention of "native law and custom" affected gender relations to a considerable extent. The selective use of ostensibly traditional law was exemplified in the efforts of colonial officials to prevent the migration of women from Ovamboland. Women's mobility was seen as highly threatening to the "traditional" order. It was prohibited as presumably contravening "traditional laws and customs".

Patricia Hayes (1996:372) argues that such thinking was not simply imposed from above. She maintains that it was reinforced through alliances between officials and conservative male elders and leaders who, in turn, drew selectively on African cultural precedents concerning gender norms. Oral history suggests that the colonial construction of gender indeed built on and modified precolonial gender practices, representations, and conflicts (Becker 1997a:18).

This appears to be true for the redefinition of "traditional" gender attributes – a redefinition shared between the colonial Administration and male members of the "traditional" elite, and equally for the "alternative", new construction of gender by the Christian missions. It is apparent that both colonial gender discourses perpetuated and reinforced male dominance. The missions redefined *gender* in

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[7] UG No. 33/1925; quoted in Olivier (1961:195)

[8] Examples of forceful intervention are the 1917 death of the Kwanyama King (*ohamba*), Mandume ya Ndemufayo, in battle with the Ovamboland Expedition despatched by Pretoria to remove him; and the enforced deposition and exiling of King (*omukwaniilwa*) Iipumbu yaShilongo of Uukwambi in 1932. In both cases the administration replaced the kingship with a system of headmen-in-council.

the interface of tradition and Christianity. The new "Christian" gender representations largely took the shape of the patriarchal ones prevailing in the missions' European home countries at that time (Becker 1997b:177). In the missionaries' view there was no space for certain culturally defined gender constructions. In Owambo, the female initiation ceremonies, known as *efundula*, *ohango* or *olufuko*, became particular issues in the contests over social control that emerged between the different male agents (Becker 1998:7-12).

That the reconstruction of gender built upon earlier versions may explain why many male members of Namibian communities so readily and eagerly took up the colonial interpretations of tradition and custom.[9] The colonial construction of gender further led to essentialist gender images, as it isolated the category of "women" from other social categories with which they had been intertwined in earlier representations. The colonial representation of gender negated social differences among women as well as among men and had very real consequences for their earlier power and gender identities overall. The idea was that women comprised a social group whose place, invariably, was in the "tribal areas", where they generated agricultural or animal husbandry produce to subsidise the system of cheap male migrant labour. They were to be kept under the control of male "traditional" authorities. Women's place, in line with this construction of gender, was to be in the domestic and "traditional" spheres of society, whereas men were to enter the public sphere, predominantly as migrant labourers. Women were silenced, as they were prevented from entering public fora, including those within the so-called traditional structures. "Traditional" politics and jurisdiction were redefined as exclusively male domains (Becker 1997a:18).

It comes as no surprise that the colonial constructions of gender by colonial officials and male indigenous elites, on the one hand, and by Christian missions, on the other, had long-lasting effects on gender representations and practices. Rather than being a remnant of the past, what is today presented as "tradition" in fact reflects more the complex and often contradictory interaction of the colonial Administration's ideas about "correct" gender relations with those of a conservative male elite among the indigenous communities, and those of the Christian missions.

It would be erroneous, however, to assume that women played no active part in the struggles from which contemporary gender identities and representations emerged. Information on women's strategies to cope with the changes is unfortu-

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[9] Analysing case law in colonial Zambia and Malawi, Martin Chanock (1985) has shown how male elders allied themselves with colonial rulers to re-establish control over women through a contrived "customary law". The volumes edited by Jean Hay and Marcia Wright (Hay & Wright 1982) and by Kristin Mann and Richard Roberts (Mann & Roberts 1991) add a number of case studies from different African countries.

nately scanty. However, there are indications that women attempted to make use of opportunities inherent in newly-emerging traditions.

With respect to Owambo, for instance, historians have interpreted the refusal of young women to take part in the female initiation rituals as resistance against older forms of social control (Hayes 1992:306; McKittrick 1995:172-179). Women attempted to make use of the new value system imposed by the missions, which had an ambivalent impact on women and gender relations. The promulgation of the "Christian housewife" pattern and new puritan norms and values served to control women's labour and sexuality. However, changes caused by the missions also provided new opportunities for women, such as chances to opt out of unwanted polygynous marriages. It was also through mission societies, particularly the Finnish mission, that women first had a chance to obtain professional training, e.g. in nursing, that enabled them to develop new perspectives within a changing society (Becker 1995:105). The author (Soiri 1996:47) of a recent study on Owambo women and their role in the liberation struggle has gone as far as maintaining that, overall, Owambo women regarded Christianity as a rather liberating experience.

The Gender Politics of the Nationalist Struggle

Similar to other former colonies in Africa and Asia that gained political independence after a long struggle for national liberation, the history of 20th-century Namibian women's struggles has been linked inextricably with anticolonial struggles in the country. Women participated in anticolonial resistance from its very beginning. In the later years of the nationalist struggle, organised women's movements emerged out of women's involvement in the struggle (Becker 1995:117). It is, therefore, essential for any history of gender in Namibia to discuss the characteristics of the country's anticolonial and nationalist struggles, and how they interacted with changing gender representations and gender politics.[10]

The debate surrounding the reform of the marriage law has shown how both the proponents and the opponents of gender equality have made use of different discourses of "constitutional and human rights" and "custom and tradition" respectively. These discourses mirror lines of argument which were very much part of the liberation struggle itself. African National Congress intellectual Pallo Jordan has described the southern African liberation movements as having been led by an educated elite who had embraced democracy and modernism as universal visions (*The Namibian*, 8 May 1998). The discourse of the struggle for liberation was couched in a language of "human rights", demanding an extension of (modern Western) liberal civil rights to the black majority, excluded from these rights on racist grounds.

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[10] For a more detailed discussion of the gender politics of the Namibian nationalist struggle see Becker (1995).

The human rights discourse against apartheid and colonialism was also employed by the nationalist movements in battles against contrived custom and tradition. These notions were often perceived as oppressive.[11] In Namibia the nationalist struggle was waged not only against the South African colonial regime but also against its Namibian allies. Members of the traditional elites, such as chiefs and headmen, often collaborated closely with the colonial Administration. This was the case especially in Owambo.

While ethnicity and nationalism should not be regarded as contradictory, ethnic identity and a changing sense of community contributed to the struggle for national liberation. With respect to Owambo, Soiri (1996:55) has argued that a new "Owambo" identity among the people of northern Namibia contributed to their massive involvement in the liberation struggle. In this sense, the Christian Churches and SWAPO provided a sense of community and security which the "traditional" authority structures could not provide. Since at least the 1970s, the overwhelming majority of Owambo had come to accept the Churches and the liberation organisation as their main sources of authority, rather than the traditional authorities and the Ovamboland "second-tier" authorities (Soiri 1996:50). Tötemeyer (1978:218) at the time also described the clash between the "traditional" elites, allied to the colonial regime, and the "modern" elites, e.g. clerics and teachers, as a significant contributing factor to the liberation struggle in Owambo.

The early Namibian discourse on women's rights emerged in exactly this context of modernisation as a project of liberation. The liberation movement, including its most active female members, almost invariably pointed to sexist oppression as being based on "centuries-old", "outdated" values. Tradition was, thus, clearly perceived as fixed and unchanged "since time immemorial". Secondly, it was regarded as being closely linked to the abominated colonial regime.

The analysis of the situation of women under apartheid colonialism started from a "double oppression" approach. Whereas women, like men, were regarded as being primarily oppressed by the racist colonial regime, the specific, additional oppression of women was deemed to primarily originate in a patriarchal tradition. It followed from this position that the presumably separate issues of gender imbalances had to be subordinated to the presumably gender-neutral, general aims of the nationalist movement, or, as the SWAPO Women's Council magazine had it, "the struggle for national liberation from South African tyranny" (*The Namibian Woman*, Vol. 2, February 1988:6). Yet, it emphasised the need to raise women's and men's consciousness about the double oppression that women suffered. Both men and women should be re-educated in order to develop new attitudes towards each other. The attitudes of women and men, i.e. their internalised cultural norms and

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[11] The floggings of SWAPO supporters in Owambo in 1973/74, and also in the Kavango during the 1970s, which were executed by tribal police under the command of local chiefs, present a particular case in this respect (see Hayes 1996:385-86, and Becker 1997a:79,83).

behaviour, were regarded as the major problem in gender relations. The starting point from which to tackle these problematic attitudes was the assumption that women proving their capability in formerly supposedly male public domains would both win male respect and encourage other women to develop confidence (Becker 1995:160).

SWAPO's constitution, adopted in 1976, was the organisation's first official document to make specific mention of gender. It included among its aims "to combat all reactionary tendencies of individualism, tribalism, nepotism, racism, *sexism*, chauvinism and regionalism" (*SWAPO Constitution*, Art. 3, B 4; my emphasis).

In 1969/70 SWAPO's Tanga Consultative Congress officially created a women's section of the liberation organisation, the SWAPO Women's Council (SWC). However, the SWC was only properly established in 1980 when its first Congress took place in Kwanza Sul in Angola, attended by about 60 delegates from SWAPO's settlements in Angola and Zambia, students from the Lusaka-based United Nations Institute for Namibia (UNIN), representatives from SWAPO missions in various countries and delegates of foreign women's organisations. Only a handful of women from inside Namibia could attend since the leader of the delegation, Gertrude Kandanga, had been detained by the South African "security forces" shortly before the Congress. She was, however, elected as Deputy Secretary while Pendukeni Kaulinge (now *Ithana*) was elected SWC Secretary, alongside a Central Committee of 19 women (Becker 1995:154).

From the mid-1970s onwards, SWAPO women were part of the liberation movement's guerilla forces, including their command structures. This was after initial resistance from the male-dominated SWAPO leadership in exile against the inclusion of women fighters. Women rarely participated in actual fighting in northern Namibia, however; they mostly served as drivers, mechanics or medical personnel. From the beginning of the armed struggle many women in the northern war zone provided active support to the SWAPO fighters by feeding and sheltering guerillas, and by collecting information of military and political value. These women also bore the brunt of the repression by the colonial regime and army (see Allison 1986:33-37; Herbstein & Evenson 1989:96-98; Cleaver & Wallace 1990:5-6).

Of special importance for the emergence of new gender discourses was the allocation of scholarships for women in exile to study in fields which were previously regarded as male domains, such as law, medicine and engineering. Vocational training programmes to equip women as auto mechanics and drivers were also open to women. Many women and men still remember that their academic and vocational training programmes seriously challenged their ideas about what constituted "proper" femininity and masculinity (Becker 1995:163-165).

Inside Namibia during the 1980s, particularly in the central and southern regions of the country, developments also changed the gendered face of the nationalist struggle. Mass workers' and students' movements, and the self-organisation of

communities at grass-roots level, played an important role during the final stages of the struggle for national liberation. These social movements were distinct in that they involved many women activists, and took up people's day-to-day concerns. These were more often than not women's concerns, since they were the ones responsible for the survival of their families and communities in terms of living expenses, education, and so forth (Becker 1995:189).

The Namibian Women's Voice (NWV) was formed in 1985 inside Namibia by a coalition of women from different backgrounds, and was supported by the main Christian denominations. The organisation was founded on the analysis that the conventional politics of national liberation had little appeal to women because such politics did not address women's daily problems. The NWV, therefore, set out to address not only women's practical gender interests (such as earning an income or securing child-care), but also their strategic gender interests and the project of national liberation. They insisted that their main target group, "grass-roots women" in urban locations and rural areas, were oppressed because they were black, poor women in a situation marked by a web of racist-colonial domination, exploitation and sexist subordination (Becker 1995:205-6).

The new women's organisation soon found a large membership, especially in Windhoek and the towns of southern and central Namibia. However, its independent and women-focused approach earned it not only the colonial Administration's, but also the liberation movement's, suspicion. Despite the NWV's mass basis and Church affiliation, its leaders met with the misgiving that they were "just a bunch of frustrated intellectuals" (Becker 1995:245). The SWC, in particular, was opposed to the independent women's organisation. In reaction to the NWV's endeavours the then acting secretary of the SWC inside Namibia emphasised at a well-attended rally in 1988 that no African country had ever gained independence through a "separatist feminist women's struggle" (*The Namibian*, 9 December 1988). In the end, the organisation succumbed to the pressure exerted by SWAPO and dissolved in March 1989, when the process leading to Independence was already under way (Becker 1995:215-224).

It is apparent that during the second half of the 1970s and throughout the 1980s, there was much talk within SWAPO and community movements as regards women's participation in the liberation struggle. However, any notion of "feminism" was regarded as counter-productive. There can be no doubt that, prior to 1990, women who were actively involved in Namibian political and social struggles unanimously put the goal of the country's independence first. Feminism was perceived as an ideology and as politics which gave "gender" undue priority, while neglecting the political aspects; and it was precisely those aspects which were believed to be the root of women's suffering in colonial, apartheid Namibia. Feminism was further rejected as an allegedly "Western" concept. This was expressed, for example, by well-known activist Nora Chase (now Schimming-Chase) in a

1987 article (*Crisis News*, No. 17, 1; quoted in Kemp, Madlala, Moodley & Salo 1996:4):

> ... the minute you hear about feminism one immediately puts it in the connotation of the European and North American women's struggles. These are women from societies which have long been independent – people who ... support the governments that support our oppression. I could never feel solidarity with that. I believe that if we become feminists we are going to divorce ourselves from the liberation struggle.

Feminism was, therefore, regarded as alien to – and guilty of diverting attention from – the anticolonial struggle. The experience of the Namibian Women's Voice is evidence of this.

Gender and the State in Postcolonial Namibia

There can be no doubt that Namibia's postcolonial national gender discourses and policies are a relative success story in terms of gender equality. Unlike their counterparts in many other African countries, Namibian women in politics have not contented themselves with the role of ardent but submissive party supporters. The dancing and ululating women who praise the virtues of dependent wifehood and dismiss independent women as "prostitutes" are absent from the country's political set-up.[12] Namibian women have gained considerable power and visibility in the country's postcolonial society and politics. The oft-lamented fact that women who had participated in struggles for national liberation had been sent back to "the hearth", i.e. were rendered socially invisible after the relevant country's independence, certainly does not apply in the Namibian case (Becker 1995:387).

The example of the debate and eventual passing of the Married Persons' Equality Bill has exemplified that gender equality is very much part of the national political discourse in independent Namibia. Ever since 1990, prominent female and male politicians, and particularly President Sam Nujoma, have made public statements calling for the realisation of women's rights, and more recently have started to call on Namibian men as well, to take up the challenge for change.[13]

The strongest reference point employed by proponents of gender equality has been the Namibian Constitution, adopted by the Constituent Assembly in February 1990. It would be difficult to overrate the prominent role the Namibian Constitution has played in changes which are beginning to redress gender imbalances. Article 10 of the Constitution stipulates that all persons shall be equal before the law and prohibits any discrimination on grounds of sex. The Constitution goes beyond this to make additional provision for affirmative action for women (Art. 23). Although affirmative action is not laid down as imperative, the Constitution

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[12] For a discussion of dominant patterns of women and politics in Botswana, Zambia and Zimbabwe, see the essay by Gisela Geisler (1995).

[13] A pertinent example was in the keynote speech delivered by President Nujoma at the University of Namibia's April 1998 graduation ceremony.

explicitly authorises affirmative action measures, and names the "enactment of legislation to ensure equality of opportunity for women" as one of the "Principles of State Policy" (Art. 95). The provisions of the Constitution are backed by the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which the Namibian Parliament ratified in 1992. According to Article 144 of the Constitution, the general rules of international agreements binding upon Namibia form part of the law of Namibia. Hence, the provisions of CEDAW apply in Namibia.

A national machinery for the promotion of gender equality was created shortly after Independence, and more recently a National Gender Policy was adopted. The Department of Women Affairs (DWA) in the Office of the President was established in August 1990. During the first few years of its existence, the DWA remained a small body with only a handful of employees. DWA executive members consistently complained about a lack of power, and demanded that the Department be allocated its own budget as well as be represented in Cabinet (Becker 1995:274-5). Consequently, since the 1992-1993 financial year, the DWA operates its own annual budget; and since September 1996, a Director-General with a seat in the Cabinet has headed the Department. The DWA has established nine Gender Sectoral Committees, made up of representatives of governmental and non-governmental agencies, to work in fields such as law, education, decision-making, gender violence and the role of the girl child.[14]

The law governing local elections makes provision for affirmative action for female candidates, and some 40% of all members of City, Town and Village Councils are women. In the absence of statutory affirmative action, 19,2% of the members of the National Assembly, the first house of Parliament, are women. This compares well with the 12,7% of female parliamentarians internationally. The only Namibian legislative body which is still a male domain is the second house of Parliament, i.e. the National Council, with only two female deputies out of a total of 26 members.

Despite the absence of a policy compelling the private sector to follow affirmative action guidelines prior to 1998, the formerly extremely skewed composition of the labour force has changed towards a somewhat more representative image. Whereas before Independence, with very few exceptions, Namibian women were confined to the occupations of domestic workers, subsistence farmers, some secretarial and clerical jobs, and nursing and teaching at the professional top end, the return of well-trained former exiles has led to the rapid feminisation of a broad range of jobs and professions. While the main beneficiaries of affirmative action employment policies in the public sector have been black men, 17,2% of the Government's management cadre was female by 31 March 1996 (Jauch 1998:128).

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[14] As from March 2000 the DWA has been elevated, in name at least, to a full Ministry, known as the *Ministry of Women Affairs and Child Welfare*.

These figures present a stark contrast to the pre-Independence Government service, where only two (white) women held senior positions. In the then second-tier administrations there was just one woman in a management position, namely the Director of Welfare and Pensions in the Administration for Hereros (Becker 1995:94).

The most blatant sexist discriminatory provisions in the general law, i.e. the Western-rooted, State-administered legal system, have now been abolished. The reform of legislation on civil marriages is the most outstanding success of law reform geared towards the realisation of legal gender equality, but there are also other legal efforts which have benefited women. The Social Security Act, 1994 (No. 34 of 1994), which came into force on 15 January 1995, introduced three months' paid maternity leave for women employed in the formal sector. In February 2000, the Combatting of Rape Bill was passed by the National Assembly and after consideration by the National Council, finally came into force in June 2000. This Act abolishes the marital rape exemption, and broadens the definition of the crime of rape to include violent sexual acts without penetration as well as sexual violence against men and boys.

The passage of the Combatting of Rape Bill was, however, marked by much delay, as well as a series of demonstrations staged by a coalition of NGOs and some high-ranking female politicians and civil servants at the seat of Parliament. The pressure brought to bear ensured that the draft legislation was finally tabled in the National Assembly in June 1999. During the parliamentary debate that ensued, the Bill drew some resistance on the part of male parliamentarians, including leading Government representatives. The provision to abolish the marital rape exemption in particular caused quite a stir. Male parliamentarians alleged that the inclusion of rape within marriage would lead to a break-up of the union because wives would run to the Police without good reason (*The Namibian*, 8 & 9 June 1999). Thus, it transpired again that constitutional gender equality notwithstanding, deep-seated perceptions of femininities and masculinities have begun to emerge among Namibian lawmakers across the party-political spectrum. In many ways the debate on the Bill was reminiscent of the controversial discussion of the Married Persons' Equality Bill in late 1995 and early 1996.

There have also been distinct setbacks in legal reform in Namibia. In mid-1996, the then Minister of Health, Nickey Iyambo, released the Draft Abortion and Sterilization Bill, which proposed legalising the termination of a pregnancy up to 12 weeks after conception. The envisaged process of consultation and research never got off the ground, however, and the Bill was officially withdrawn in April 1999 by the new Minister of Health Libertine Amathila. Amathila claimed that "99%" of Namibians were against the decriminalisation of abortion, and thus the Bill could no longer be promoted. Leading representatives of the main Christian denominations welcomed this move while women's organisations – and especially

the Namibian "Reproductive Rights Alliance" – expressed their disappointment (*The Namibian*, 23 & 27 April 1999). This example shows how fragile the Namibian State's commitment to matters of women's rights is at times, when and if other constituencies campaign to have their voices heard very loudly, as it happened with the proposed abortion reform.

National Gender Policy

In December 1997 the Namibian Government launched its National Gender Policy. The Policy was complemented in early 1998 by a Plan of Action, which aims at translating policy into practice. These instruments are to provide the basis of the Namibian State's gender policies for the time to come, with the explicit aim of implementing "constitutional issues" (*National Gender Policy*, para. 2.1). The National Gender Policy lists measures targetting poverty and rural development, education and training, reproductive health, violence against women and children, economic empowerment, power and decision-making, information and communication, the environment, legal affairs and the girl child. It further provides for monitoring mechanisms to oversee the implementation of the Policy.

The introductory parts of the National Gender Policy specify the need to address gender power inequalities and gender relations. However, the paragraphs which spell out the underlying ethos of the Policy focus attention almost exclusively on women[15] as people who "continue to be under represented" (para. 2.3) and "need to be enabled" (para. 4). The main purpose of the Policy is defined as a contemplation "on how the Government can encourage and value the contribution of women in national development and the development of the society as a whole" (para. 2.2). In this sense, the phrasing of the document is cast in the mould of older "Women in Development" (WID) approaches, which concentrate on compensatory measures to "bring women into development" but hardly question unequal gender relations.

Although the finalisation of the National Gender Policy was widely welcomed, a number of women working for NGOs raised critical questions on its underlying ethos. Many critical remarks invoked the impression that the document presented women as victims, but failed to take account of women's strengths, skills, abilities and the influence that they have in their communities. Activists also criticised that the Policy appeared to be aimed at social engineering rather than allowing women enough room to decide upon their own priorities, which some felt was "a male political agenda" and "paternalistic in tone" since it appeared to be aimed at deciding what is good for women (*Sister Namibia*, 1998, 10, 1:11).

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[15] This focus on *women* in a document which ostensibly deals with *gender* is common. In Namibian public discourses on gender, masculinities have been conspicuously absent until recently. The first-ever public debate by men on the changing roles of men in a changing society took place in Windhoek on 31 March 1998. This event was organised by the Center for Global Education, an organisation mostly catering for American students.

On the one hand, the National Gender Policy acclaims the prominent role of the Namibian Constitution in the promotion of gender equality. On the other hand, the Policy expresses the conviction that "traditional and cultural behaviours" are to be blamed for the "beliefs that women must play secondary roles" (*National Gender Policy*, para. 4). Thus, the Policy reiterates the common belief that "tradition" and gender equality are eternal foes.

Non-governmental Women's Movements in Postcolonial Namibia

When Namibia attained her independence in March 1990, the playing field of Namibian gender politics changed dramatically. For the first time, Namibian women's activists attempted to formulate their own distinctive agendas: distinct from male-dominated SWAPO and pro-SWAPO Church politics, and distinctive in terms of their approach to base such agendas on women's experiences and aspirations. The agendas themselves were also distinct from each other. In this situation women's organisations felt the need to develop their relationships with, and approaches towards, the new Namibian State.

Priority Issues

Despite many differences in terms of, *inter alia*, their membership, ideological background and strategy (see Becker 1995:295-307), the main issues raised by Namibian women's organisations since 1990 have concentrated on three distinct areas. First, many activists have shared a strong sense of the need for the political and legal empowerment of women, who until Independence had been marginalised on racist and sexist grounds. Despite the newly adopted Constitution's explicit prohibition of any gender-based discrimination, sexist discrimination continued blatantly not only in daily practice, but also in the law books: the grossly unequal marriage laws remained on centre stage for several years (see Becker 1995:327-49).

Second, the feminisation of poverty has been an issue of major concern. Many activists have been aware that women's poverty has deeply historical and structural causes. In practice, however, these insights were hardly ever followed up by attempts to discuss or challenge the prevalent patterns of gender, power and technology, for example. Women's organisations, ranging from groups affiliated to Christian denominations to the Young Women's Christian Association (YWCA) and the SWAPO Women's Council, set up "income-generating" activities for women, such as sewing, knitting, gardening or baking. In most cases, these projects did not deliver the goods they were supposed to: the members generated either no or, at best, insufficient income, and many projects faltered within a short time or else became dependent on continuous donor support (see Becker 1995:320-26).

A third area which gained much prominence soon after Independence concerned violence against women. In mid-1997, public outcries about violence committed

against women and children reached another climax after several gruesome cases of child rape drew much attention. In Windhoek and some of the country's towns, public demonstrations took place and a vivid debate emerged in the print and electronic media (see e.g. *The Namibian*, 18 June 1997). Namibia's has been and still is an extremely violent society. The deprivation of human dignity under colonialism and apartheid as well as the war that went on for 25 years have produced a culture of violence in the country, i.e. a social climate where violent acts are rampant and, indeed, widely socially acceptable. Dual gender projections have amplified the masculine (self-)image of aggressiveness, combined with much emphasis on physical force and a general feeling of male supremacy and men's right to exert power over women and children.

These attitudes have not changed since Independence. On the contrary, threatening violent incidents in social life have been on the increase since 1990. This unfortunate development appears to be primarily rooted in the high expectations that blossomed at Independence, namely that the social and economic problems of the black majority would be solved in the near future. Since these illusionary – though justified – hopes have been grossly disappointed, they have caused a further increase of despair and violence in social life. In Namibia's society today, the least powerful, i.e. women and children, are easy targets of male frustration that has turned into aggression (Becker 1995:349-353).

Efforts to combat gender violence have not been confined to women's organisations or civil society, but have also been taken up by State agencies. In late 1996 and early 1997 the governmental Law Reform and Development Commission (LRDC) conducted public hearings on violence against women and children in all thirteen Regions of Namibia, and at the national level in Windhoek in May 1997. Several studies were commissioned to investigate the legal and social aspects of gender violence.[16] A multimedia campaign against gender violence is jointly run by State agencies, women's organisations and a range of other civil society bodies. Gender violence has, thus, proven to be the main rallying point of State and civil society alliances around gender.

Strategic Debates and Attempts to Forge "Women's Unity"

After Independence, among activists of women's organisations the term *feminism* lost the threatening and negative connotations it bore previously. Within women's activist circles, proclaiming oneself a feminist no longer meant calling for reprimands. Two small, but influential, Windhoek-based women's groups have publicly stated their nature as being feminist organisations. These are the *Sister Namibia* Women's Media Project, which publishes a magazine and runs a resource centre of material focusing on feminist and gender issues, and Women's Solidar-

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[16] Becker & Claassen (1996), LeBeau (1997), Hubbard (1996)

ity, a group engaged in research, campaigning and counselling on the problems caused by gender violence. Many prominent activists of a variety of Namibian women's organisations, including, among others, leading female SWAPO politicians, interviewed by this analyst in 1990 and 1991 saw no problem in describing themselves as "feminists". However, many qualified that they thought of themselves as "black" or "Third World" feminists, stressing significant differences between women on the basis of race, class and nationality. Some emphasised the need to develop appropriate locally-based feminist approaches and strategies.

However, hardly any public debate has taken place to date on the issue of what feminist politics may entail for the Namibian situation. Due to the persistent lack of discussions of a theoretical and strategic nature among Namibian women's activists, it would be an exaggeration to proclaim the existence of a New Namibian Feminism, as was done by some South African feminists. The latter claim that a New South African Feminism has emerged, which would both challenge a formerly dominant Western feminist perspective, and assert that the liberation of black people as a whole is a feminist issue (Kemp, Madlala, Moodley & Salo 1996:6).

Very few strategic debates have taken place among activists and organisations committed to gender equality. However, around the time of Independence there was a general feeling among women's activists that a strong women's network was needed "to support women and to provide them with a political base to advocate for social and political change" (former NWV General Secretary, Nashilongo Elago, quoted in *The Namibian*, 18 June 1990).

In 1990 and 1991 different women's organisations, ranging from women's wings of political parties to Church-affiliated groups and small feminist organisations, made an attempt to create an umbrella organisation, as they felt that "women's unity" was the key to success in the new Namibian society. It was apparent that, despite many differences, the organisations shared much common ground on priority issues. They rallied around slogans of the "empowerment" of women and calls for the elimination of all forms of discrimination.

Nonetheless, despite regular calls by individual participants in the deliberations that "we must organise around issues" because "women find unity in practice" (Minutes of the Steering Committee, 23 August 1990), this never materialised. In the end, personal jealousies and power struggles between leading female politicians, who represented their respective parties' women's wings at the deliberations, prevented a successful outcome. Two separate organisations were formed in the aftermath. The Democratic Turnhalle Alliance (DTA)-aligned Federation of Namibian Women never got off the ground. The Namibia National Women's Organisation (NANAWO) has remained close to the ruling party, SWAPO, and the Government. With many prominent female politicians on its membership roll, NANAWO exerts definite influence on policy-making but its public profile has remained low.

Gender, "Tradition" and Authority in Rural Namibia

There seems to be a general understanding in present-day Namibia that the changes since Independence have mostly benefited urban women with formal employment, but that very little has changed for rural women. Law reform debates, for instance, have so far pertained only to the "general" law of the country, the Western-based Roman-Dutch civil law. Problems inherent in the different communities' customary laws have hardly ever been raised in the public national discourse. This may partly be due to a lack of knowledge of the mostly urban-based activists of women's organisations. Winnie Wanzala (1994) has emphasised the problems caused by this urban/rural cleavage in her work on the role of women's organisations for changes in gender relations in rural Namibia.

But is it really true that nothing has changed in gender representations and gender politics in rural communities? Recent research into gender and rural political and judicial decision-making indicates that the simplified image of the rural–"traditional" vs. urban–"modern" dualism of Namibian society needs to be modified.

The research into gender aspects of traditional authority[17] structures in four different Regions of Namibia (Becker 1997a)[18] has shown that, in all the communities studied, most women and men interviewed were of the opinion that women should have a say in the political and judicial traditional authority structures, where they were formerly absent. In those communities where women had already had access, most people agreed that their position needed to be strengthened. Some open opposition to the empowerment of women within the traditional authority was found in only one of the communities.[19]

Across the country since Independence, women have been appointed to positions as headwomen, senior headwomen and traditional councillors, although their numbers are still very small. Women have also begun to emerge from the invisibility and silence to which they were formerly confined in the traditional fora such as customary court hearings and community meetings. The most striking developments were found in the Ongandjera community in northern Namibia, where women had started to attend and speak at these meetings only as from 1989; by 1997, however, they were said to comprise the majority of the participants at most com-

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[17] *Traditional authority* here refers to the institution of chieftainship, as defined in the Traditional Authorities Act, 1995 (No. 17 of 1995).

[18] The research was carried out between July and October 1997 in Ongandjera (Omusati Region), Otjombinde (Omaheke Region), Hoachanas (Hardap Region) and Sambyu (Okavango Region). The project was facilitated by the Centre for Applied Social Sciences' Law Department, which is affiliated to the University of Namibia's Law Faculty. The research was generously supported by the Swedish International Development Agency. Many thanks are due to Piteimo Hainyanyula, Yamillah Katjirua, Theresa Basson and Justus Hausiku, who assisted the research. For a detailed presentation of the findings, see Becker (1997a).

[19] The Otjiherero-speaking community of Otjombinde

munity gatherings, and two of the six *Ngandjera omalenga* (senior headmen/ headwomen) were female at the time of the research. These women had been appointed in 1995 and 1996, respectively.

Without any doubt the recent changes concerning the participation of women in traditional authority structures are inextricably intertwined with the political changes Namibia has undergone. Changes in national Namibian society and politics have been mirrored in the "traditional" structures, which people look upon as an integral part of Namibian society. A new discourse on gender and decision-making has emerged in rural areas since Independence, which largely refers to developments in Central Government politics. The argument goes roughly along the following lines: if one can have women as Government ministers, one can also have them as "traditional" leaders. This discourse by rural women, and some sections of male community members, dismisses the alleged antagonism of African tradition and constitutional gender equality. Unlike many urbanites on both sides of the "traditional/constitutional" divide, many rural people do not regard the "traditional" system as separate in any way from postcolonial Namibian society at large.

Women, in particular, felt that "independence" meant far more than the political independence of Namibia. To many women independence has come to mean "everything changed for the better, and no one is discriminated against any longer", as two retired teachers from Ongandjera put it.[20] *Independence* and *the Constitution* stand for a whole new set of norms and values, which Namibians have started to integrate into their "traditions". While the exact wording of Namibia's supreme law still remains unknown to the majority of Namibians, its spirit of gender equality has reached an amazingly broad spectrum of people. This is especially so in Owambo where, due to the area's long-standing unequivocal support for SWAPO, people strongly identify with "our new Namibia". It further appears that the new norms and values do not only challenge the presumptions about gender and authority at the level of community organisation and politics: representations and practices of gender have begun to be redefined in a much broader sense.

At present, colonial representations of gender, and their reflection in structures of traditional authority and customary laws, have begun to change in many respects. Representations sometimes appear to be contradictory, as in the case of current renegotiations in the Owambo communities about the "customary" payment (*ofuto*) in cases of premarital pregnancy. Many men tend to perceive the payment as a penalty. They suggest that this customary law discriminates against them since it would only "punish" the man while the woman would "go free", although she, too, had "committed a crime".[21] Women, and also some men, on the other hand, tend to see *ofuto* as support for the expectant woman and the baby to

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[20] Interview with Liina Mpanda and Lahja Angolo; Okahao, 20.7.1997

[21] Focus group discussion with male community members; Oshikuku, 8.9.1995

be born (Becker 1997b:167). Thus, while some sections of the communities in northern Namibia redefine *penalty* for socially disapproved conduct, such as pre-marital sex, as a "modern" concept to be equated with child maintenance, this has been complemented by the increasingly public female initiation ceremonies, which appear to have been resurrected in many northern communities. Interestingly, this latter phenomenon has been linked to the very "modern" problem of teenage pregnancies.[22] In a comprehensive perspective, these different developments indicate a departure from colonial gender representations and practices, which directly or indirectly relate to national politics.

Some Concluding Remarks on Gender, "Tradition" and the Postcolonial State in Namibia

In this essay I have shown how "tradition", gender and the State have interacted at different junctions of Namibian history. The formation of the colonial State altered gender in fundamental ways, while the colonial State's relations of rule were deeply gendered. Furthermore, the alliances of colonial administrators and male "traditional" elites also contributed to the creation of an image of an allegedly ancient, immutable tradition, which defined authority in the family, the community and the State as exclusively male domains.

The formation of the postcolonial Namibian State, emerging from the struggle for national liberation, came forth in opposition to the colonial dispensation. There is a strong notion that the values of postcolonial Namibia negate oppressive elements of "culture and tradition". On the other hand an image is carried forth that "the Government destroys tradition".[23] In the eyes of both its supporters and adversaries, the postcolonial State is conceived as being based on "modern" human rights. In this view, local communities may experience the repercussions of State politics and policies, but are perceived at best as being passive recipients of them. In reality, however, rather than being immune to what is happening at the national level or simply taking over national values, local values are being actively redefined by creatively translating national ones. It appears that the multiple shifting realities of the postcolonial encompass contradictory complexity. As Werbner (1996:4) has it, the postcolonial struggles for (public) authority represent reconstructions of collective and individual identities, of social subjectivity and agency.

It further appears that the postcolonial State's influence on the reconstruction of gender is an indirect one. The vaguely-worded provisions of the Traditional Authorities Act, which call for the promotion of women to positions of leadership, were known to hardly anyone we spoke to during the research in 1997 (see Becker 1997a). Rather, abstract constitutional notions of gender equality have been taken

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[22] Interview with Haikali Hamunyela; Ongha, 16.12.1996

[23] Interview with Tjiere Tjiere; Okakarara, 3.4.1998

up by rural communities in Namibia, who are at present undergoing active processes of negotiation and renegotiation of all aspects of their "traditions", including, among others, gender representations and practices.

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The State and Labour Relations: Walking the Tightrope between Corporatism and Neo-liberalism[1]

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Introduction

In most countries, including Namibia, the State exerts a major influence on labour relations. The issue at hand is thus not whether the State is involved in labour relations or not, but how and why it intervenes. In pre-independent Namibia labour relations were characterised by major intervention through the apartheid State, which closely and oppressively regulated the supply of labour through harsh legislation and when necessary, the coercive might of the State. Coercion and oppression are normally the last resort for State intervention, but are increasingly relied upon in situations where the State is perceived as illegitimate by the majority of the population. Independence has brought a legitimate Government, voted in by many of the working people in Namibia who experienced the oppressive force of the South African State in the workplace and in society as a whole. For them, *independence* means a new Government which is now there to look after their interests and to ensure that the spoils of the economy are equitably distributed. The transition to national democracy has not, however, been accompanied by fundamental structural changes in the economy. Government policy and action since Independence has attempted to address the plight and needs of the black population, but has simultaneously also (overwhelmingly) come out in the interests of promoting the long-term viability of capitalist accumulation.

  The Government is caught between two (often) conflicting demands: the needs and aspirations of the Namibian people and the interests of capital accumulation. The former constitutes the basis for political legitimacy and demands greater emphasis on consumption. The latter requires State intervention to establish and maintain an "enabling environment" and its focus is on production issues. State intervention in the economic sphere must therefore find a "balance" between the demands of consumption and of production that simultaneously allows for increased accumulation and legitimation. At the level of labour relations, this same tension is played out through the twin inclinations of a weak pulse towards corporatism on the one hand, and a dominant tendency towards neo-liberalism on the other.

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[1] This chapter has been excerpted from Klerck *et al.* (1997).

In what follows, the relationship between the State and labour relations in Namibia will be discussed. The first section lays the theoretical context in which the relationship between the State and labour relations can be located. After a cursory examination of the central concepts, we identify the meanings which the dominant theoretical frameworks of labour relations – unitarism, pluralism and the radical/conflict – attach to the State. These traditions inform the dominant analytical frameworks for understanding the relationship between the State and labour relations, namely market individualism, liberal collectivism and corporatism. This section paints the broad theoretical canvas in which the relationship between the State and labour relations in independent Namibia will be assessed. Our discussion of Namibia begins with a brief contextual account of the Namibian State. Thereafter, we look at how the theory can inform our understanding of the Namibian context. Finally, we discuss the levels at which the State directly intervenes in labour relations – as legislator, as regulator, as employer and through the judiciary.

State and *Government*

In everyday usage *State* and *Government* are often used interchangeably. There is, however, an important distinction that needs to be made between the two. "Governments consist of specific personnel and policies located at a particular time in history. But no state can be adequately summarised by the actions of any one or several of its governments" (Rodee 1985:34). The State includes the executive, legislative, civil service, judiciary, police and army. While Governments can change, this does not imply the automatic transfer of control or transformation of the State. Independence in Namibia signalled the emergence of a new Government, but labour relations were still regulated by the State structures which had been moulded by the previous Government – namely labour legislation and its enforcement by the judiciary. These State structures were only transformed in the sphere of labour relations with the passing of the Labour Act in 1992. As Salamon (1992:252) notes, "... it is the elected government of the day which is the most active and important element within the state: it determines the direction, policies and actions of the state machinery". The actions, strategies and policies of Government are therefore important in the transformation and/or reproduction of existing State structures. When we discuss the role of the State in labour relations in Namibia we will be focussing mainly on the role of Government in this process of reproduction and/or transformation of State structures.

Theories of Labour Relations and of the State

Theories of labour relations do not emerge as isolated or "neutral" attempts to explain and describe. Their theoretical assumptions are based on different views of what reality is like and what it should be like. They thus function as ideologies, justifying particular world-views (Watson 1987:214). What makes each theory

sustainable is that it presents a fairly coherent framework not only for understanding and explaining labour relations, but also for justifying particular interests in production. Thus, unitarism finds sociological support within Parsonian sociology and through economic theories which advocate utility as the source of value. Pluralism finds theoretical justification in the sociological work of Durkheim and in economic theory which derives value in economic activity from the factors of production (Hill 1984:12). The radical/conflict approach comes out of the Marxist tradition which views value as created through labour, that is, the labour theory of value.

Each of these fairly coherent frameworks also provides justification for particular interests in production. Unitarism, basically a management ideology, justifies the managerial prerogative in production in terms of skills and property rights. The economic gains accruing to shareholders are explained as the result of foregoing leisure and consumption. This "bravado" entitles them to economic rents because they facilitate utility maximisation for society as a whole. Pluralism legitimises existing power relations (and thus promotes the reproduction of capitalist relations of production) through its assumption that there is a balance of power between competing interests in society and its concept of a neutral, mediating State. The radical/conflict perspective places the interests of labour on centre stage. The social world is characterised by the fundamental contradiction between the owning and working classes. Labour, the source of value in capitalism, is exploited by the productive relations which it enters into with capital. The State in a capitalist society cannot be neutral since it is compelled to promote the interests of the owning classes.

Unitarism

Unitarism is influenced by the work of Talcot Parsons, who was concerned with how order is maintained in society. According to Parsons (1966), *society* is a unified system whose various parts are interdependent. This interdependence between parts of society produces social order. The integration of society, fundamental to promoting social order, is based on the shared values which people hold. There is thus no conflict or exploitative power relation in society. Power is rather viewed as the property of society as a whole. According to Parsons (ibid.) "power is a generalised capacity of a social system to get things done in the interests of collective goals". Similarly, unitarists believe that there is no conflict between management and employees.

A theory of the State is central to the pluralist and radical/conflict approaches, while unitarism has an implicit concept of the State. Since unitarism acts more as a form of managerial legitimation and little mention of the State is made, this silence itself indicates a form of voluntarism. The sphere of production is conceived of as a harmonious, unitary reality which is self-maintaining. Any intrusion

from outside is seen as an interference. Thus, trade unions are viewed as subversive, greedy and ignorant of elementary economics (Bluen 1984:33). State interference into labour relations would likewise be viewed with disdain. The State should thus play no role in industrial relations, other than in the tradition of liberal politics, providing an enabling environment for companies to operate unfettered from external interference and maintaining "law and order".

   In practice, however, a paradox emerges. While unitarists would ideally restrict the role of the State to providing an "enabling environment", they benefit directly from certain State interventions. Government policies which restrict unions in terms of their organisational rights and the potential for industrial action (such as anti-strike legislation) are clearly favoured by unitarist employers. Finnemore and Van der Merwe (1996:131) identify the following strategies, associated with authoritarian govermnents, which benefit unitarist employers:

- Procurement of a cheap, docile and consistent supply of labour
- Conscious subduing of the labour movement and promotion of weak workplace structures
- Little or no labour regulation, with no minimum wage legislation
- Employer incentives such as tax breaks and minimal (no) legislation which affects the efficient workings of the free market in natural price formation
- Promotion of individual labour contracts with minimal worker rights

Pluralism

Within the pluralist tradition the role of the State is more clearly spelt out. In fact, a neutral, mediating State is a core institution in the pluralist framework. For pluralists the neutrality of the State is expressed through its role as impartial mediator promoting social order through consensus. This consensus lies not only in the outcome of the processes through which disputes between different interest groups in society are resolved, but also in the framework of rules which govern conflict resolution. On the level of conflict between management and workers this is expressed through the institutions of collective bargaining. In wider society this is expressed through the idea of tripartism. Tripartism involves the idea that the State, employers' organisations and trade unions work together in the process of formulating social and economic policy. In the words of Neville Rubin (1993:4), senior advisor to the International Labour Organisation (ILO) in Namibia in 1993:

> Ideally ... real tripartism would normally mean a certain equilibrium between governments, workers and employers with no one group exercising a particularly dominant force over the others ... [There] are inevitable conflicts of interest between the social partners and government. A principal objective, therefore, must be to ensure that such conflicts do not deteriorate into civil or even political unrest or other forms of disruption in society.

By facilitating the process of consensus politics and drawing up the rules (labour legislation, etc.), the State can ensure that such disruption does not happen. In this role the State remains autonomous from all interests – including those of the dominant classes. The myth of State neutrality and its use as an ideological tool of legitimation is the point of departure for the radical/conflict approach.

Radical/Conflict Approach

In a capitalist society, according to this approach, the State is responsible for maintaining and strengthening the position of the ruling capitalist class. The dominance of the capitalist class is maintained through the ability of the State to legitimise itself by presenting itself as neutral and acting in the best interests of society as a whole. The pluralist notion of neutrality thus becomes a legitimating ideology in the radical/conflict approach. The State does not always succeed in deriving legitimacy from the population as a whole and is then compelled to rely on its control of the means of coercion in society (e.g. the Police, army and judiciary). "The State in every society has been primarily the collective expression of the dominant class interest, providing both the legitimation and coercion necessary to maintain that dominant class as a ruling class" (Cole *et al*. 1983:243).

The coercive potential of the State is reflected in the State policies prior to Namibia's independence. Coercion is usually not sustainable in the long run. It inevitably runs up against opposition and resistance. In the face of such resistance, the State is confronted with the choice of applying greater coercive force or deriving legitimacy by other means. The latter can be seen, in the Namibian context, in the attempts by the State to tinker with apartheid laws and offer "reforms" through, for example, the Internal Settlement Scheme.

The role of the State in Marxist thought has developed around the tensions between an "instrumentalist" and a "relatively autonomous" conception of the State. The instrumentalist tendency is based on Marx's idea, elaborated in the Communist Manifesto, that the State is "merely a committee for organising the common affairs of the bourgeoisie". This argument is sustained by evidence of members of the capitalist class occupying powerful positions within the State or being able to extend their influence to the State on the basis of their superior resources. In addition, the State actually implements policies which directly promote the interests of the capitalist class. The pre-Independence Master and Servant Proclamation of 1920, for example, prescribed punishment for Africans who did not work according to expectations, and also attempted to eliminate the avenues for resistance by criminalising strikes and desertion (see Mbuende 1986:83).

The instrumentalist approach is difficult to sustain since State policies cannot consistently be explained instrumentally. The argument for the "relative autonomy" of the State was developed by Nicos Poulantzas as a reaction to instrumentalism. He argued that within capitalism there are many fractions of capital (mining, manu-

facturing, agricultural, etc.) which do not have uniform interests in the process of capital accumulation. In fact, their interests can at times conflict (see Le Roux 1996:274). In Namibia, for example, the large mining multinationals, among others, support the pluralist labour relations policies enshrined in the Labour Act. Many farmers and owners of small businesses, on the other hand, are threatened by the Act as it challenges their paternalistic labour relations practices. The Labour Act, it can thus be argued, is in the interest of the long-term viability of capitalism. In order for the State to act in the interest of the long-term sustainability of capitalism, and not merely the short-term interests of capitalists, it must occupy a relatively autonomous position. In the words of Edwards *et al*. (1978:242) –

> ... the capitalist state operates to regulate the society in such a way as to serve the capitalist class interest in maintaining capitalism as a system. As the most privileged class under capitalism, capitalists are the ones who benefit most from the continuation of the system.

Pluralists and unitarists justify the interests of management in production within the context of capitalist relations of production (whether this be in the setting of laissez-faire, competitive capitalism or monopoly capitalism). The radical/conflict approach, by contrast, is grounded in a tradition which attempts to transcend the inequalities of class-based society. It is thus not, strictly speaking, justifying the position of labour within capitalism but rather identifying its agency role in transforming capitalism. The issue which has historically confronted advocates of the transformation of capitalism has been (Edwards *et al.* 1978:528) –

> ... whether or not to fight for reforms in the existing system which fall short of revolutionary change ... [S]uch reforms merely serve to strengthen the existing system and make revolution more difficult to achieve. On the other hand, it is possible that the struggle for reforms can help to build a stronger base for future revolutionary change.

It is this dilemma which has historically resulted in the schism between revolutionary socialists and evolutionary socialists. The former, in the spirit of no compromise, advocate the revolutionary overthrow of capitalism. The latter have allowed scope for strategic choices within capitalism such as support for welfare-state intervention and participation in corporatist policy formulation. According to Castenada (in Baskin 1996:viii) –

> [S]ocialists must learn to live with the most advanced forms of capitalism ... But they need not be identified, in their values or their movements, with the "soul" of capitalism. Socialists should marry democracy out of love, but their union with the market need be no more than a "marriage of convenience".

Political Ideologies and Economic Growth

We can, for the present purposes, leave aside the revolutionary socialist position as being insignificant in the current Namibian political landscape. We are then faced with the poles which span from an individualistic or neo-liberal ideology on

the one hand, to a corporatist ideology on the other. The ideals of what society could or should be like are realised or promoted by the particular Government policies and actions which, according to Salamon (1992:14), can be explained in terms of –

- the respective roles of the State and the individual in the creation and distribution of economic wealth
- the role of the State in the management and control of the economy
- the approach and priority afforded to social welfare, and
- the nature and authority of "political" decision-making and regulation at all levels of the society.

There are two broad approaches to economic growth and the role of the State in economic activity – the abstentionism of the neoclassical approach and the interventionism second approach associated with Keynes, Marx and Ricardo (see Adelzadeh 1996:41-42). These approaches can broadly be associated with the politics of neo-liberalism and corporatism (or social democracy), respectively. According to Adelzadeh (1996:41), the central features of the neoclassical approach are as follows:

- Savings are the basis of economic growth.
- Markets have an inherent tendency to the full utilisation of resources and labour.
- State intervention in the economy distorts the operation of the market.
- Employment levels are affected by the real wage rate, that is, where there is a flexible labour market the wage rate adjusts, creating a balance in demand and supply.

In a nutshell, the greater the level of savings in an economy (i.e. foregone consumption), the larger the pool of investable capital available to society. Society is made up of utility-maximising individuals who trade off their talents (e.g. marketable skills) for consumption (wages). Markets are the coordinators of individual trade-offs (i.e. society does not consist of collectives – interest groups or classes – but individuals). In the context of a free market, where there is no extra-economic interference, prices will naturally form at the level where there is maximum employment at the highest possible wage level. Where labour markets are interfered with (e.g. through State intervention), wage levels will not balance out and unemployment will result.

The approach associated with Keynes and Ricardo, according to Adelzadeh (1996:41-42), has these core characteristics:

- Economic growth is related to income and income distribution and is determined by demand (consumption, investment, Government expenditure and exports) and not savings.

- The level of employment in the economy is determined by demand; a market economy does not inherently lead to full employment.
- Because of market failures Governments have to intervene to provide relief for those marginalised by the market and to stimulate growth.

While neo-liberals assert that economic growth would result in the natural distribution of the wealth generated by economic growth – through the "trickle-down effect" – the economics associated with corporatism claim that markets on their own cannot address the plight of the poor and the unemployed. Governments thus have to intervene and "compensate" for the inadequacies of markets. In situations where there is no demand, Government must intervene to stimulate demand and, hence, economic growth.

Neo-liberalism and corporatism are associated not only with particular economic theories and political ideologies, but also with the policies of particular Governments. Typical neo-liberal policy prescriptions, in line with their assumptions about economic growth, would include reducing company taxes; deregulating the economy in terms of financial and labour markets; and reducing Government's ability to intervene in the economy (Adelzadeh 1996:42). Corporatist-type policy prescriptions, on the other hand, follow a different line of reasoning. Government intervention is important in the process of promoting the expansion of local demand and to increase employment. Included in these strategies are: active labour market and industrial policies; provision of social welfare programmes; and increasing exports through a carefully managed integration into the world economy (Adelzadeh 1996:43).

The Relationship between the State and Labour Relations

The theoretical frameworks of labour relations discussed above are thus associated with the competing theories of the State. The latter are, in turn, also informed by particular political ideologies and conceptions of the agency of economic growth, which in turn support and shape particular policy prescriptions. The relationship between the State and labour relations can also be understood within this framework.

Salamon (1992) and Bendix (1992) follow Crouch and Strinati's attempts to provide an analytical framework for understanding the relationship between the State and labour relations. They generate a number of typical or dominant forms to which this relationship has given rise. This framework uses two main variables to identify the particular form of the relationship between the State and labour relations (Salamon 1992:255):

- The relative power of trade unions, ranging from weak (regulated) to strong (autonomous).
- The dominant political ideology in society, ranging from liberalism (laissez-faire) to corporatism (interventionist).

Using this grid we can identify a number of typical forms that the relationship between the State and labour relations can assume, as follows.

Market Individualism

This approach is based on the concept of a self-regulating market system which balances competitive interests and legitimises existing property rights and the unequal distribution of wealth. Labour is simply a commodity that is bought and sold. The terms and conditions of employment are determined by a contract of employment freely entered into between equals (Salamon 1992:256).

Crouch (cited in Salamon 1992:256) has argued that market individualism is based on assumptions that are not sustainable. Employment contracts, contrary to assumptions made by market individualists, are usually not between individuals but rather between an individual and an organisation. The neo-classical assumptions that contracts represent a form of economic exchange are in fact ultimately nothing more than a means of subordinating the individual to the authority and control of the organisation. Furthermore, there is an imbalance in the mutual dependence of employer and employee. Workers' dependence on capital for their livelihood cannot be equated with capital's dependence on workers.

Liberal Collectivism

Liberal collectivism is closely associated with the notion of *pluralism* and recognises conflicting interest groups. Its ideological basis is the so-called interest-group democracy, in which organised associations are seen as crucial intermediary power centres between the State and the individual. This involves an acceptance of autonomous trade unions which represent workers, bargain for them and reconcile conflicting interests with management through the collective bargaining process. The Government's role is primarily one of providing the framework to reconcile the interests of management and workers. As such, policies which enhance the rights of workers exist alongside coercive measures which ensure the perpetuation of domination (see Salamon 1992).

Corporatism

Increasing Governmental intervention in the economy produces a shift towards a more centralised or corporatist form of labour relations. This gives rise to institutionalised arrangements whereby capital, labour and the State are jointly involved in the process of socio-economic policy formulation (Goldberg 1994:7). This is characterised by trade unions agreeing to restrain the pursuit of their members' sectional interests in order to further the "national interest". In return, however, the unions accept concessions from the Government. The Government therefore positions itself between the unions and the employers, thereby becoming their bargaining partner. It is able to offer several things which cannot be achieved

through collective bargaining (e.g. social policy reforms, workers' rights, and changes in economic and industrial policies) (see Salamon 1992). Corporatism is also characterised by extensive tripartite discussions on economic and social issues.

Corporatism has occurred in many different historical and socio-economic environments. For the present purposes, we can distinguish between bargained corporatism, social corporatism and State corporatism. Goldberg (1994:7) refers to the institutionalised arrangement whereby capital, labour and the State jointly formulate socio-economic policy as bargained corporatism. This implies that the three parties have an equal and democratic say in decision-making. Corporatism can be distinguished from tripartism in that the latter is restricted to the level of consultation and does not necessarily involve any formalised outcome or joint decision-making. Atkinson (1996:304) points out the dangers of the elitism associated with corporatism: "It excludes a whole range of social interests, and it only takes place at the leadership level". However, in terms of economic policy formulation, she argues (ibid.), it may be the only way of ensuring the consent of the major players.

The number of stakeholders and the range of interests within this tripartite form of corporatism is extended under social corporatism to include a broader range of interests in civil society. Elements of such a social corporatism can be seen in the South African context where interests in civil society are represented in the National Economic Development and Labour Council, the equivalent of Namibia's Labour Advisory Council. Social corporatism thus represents an attempt to transcend the elitism of bargained corporatism.

State corporatism is associated with many developing countries. A central feature of this form of corporatism is the political control of the labour movement to serve the political interests of the Government-of-the-day. It is, therefore, unlike the other forms of corporatism discussed above, not organised on the basis of joint decision-making, but rather on authoritarian control of the labour movement. State corporatism in the African context has involved neutralising of the labour movement through its institutionalisation into Government or party machinery, leaving it with little room to articulate independent positions – let alone be an active partner in policy formulation (see Finnemore & Van der Merwe 1996:13-14).

It is important to bear in mind that the framework outlined above to contextualise the relationship between the State and labour relations is highly generalised. Within this broad organising scheme there are many variations. Systems of labour relations in particular historical contexts will be shaped by the unique features of that social formation: the dominant social forces; the particular form of labour and capital organisation and strategy; the particular strategies and policies of the State; and the broader global context in which this takes place. Analytical frameworks should be viewed as general points of reference from which the particular dynamics at play in a specific social formation can be understood.

Contextualising the Namibian State

The relationship between the State and labour relations is affected by a number of issues which impact on the horizon of choices available to and constraints on Government. When SWAPO assumed political office as the new independent Government of Namibia it did so in such a context of opportunity and constraint. For the first time the people of Namibia could, within the framework of national democracy, make decisions for themselves regarding the kind of society they would like to see and formulate the kinds of policies necessary to achieve this. The independent nation State, however, did not emerge out of a vacuum and into a situation of unlimited choice. The historical underdevelopment by South African colonialism and apartheid could not be washed out of the socio-economic fabric of the Namibian political economy overnight. Secondly, the process of liberation had itself generated authoritarian and pragmatist practices, which would undermine the development of decision-making processes that allow inclusion and participation by the interests in society as a whole. Finally, SWAPO came to power in an international and regional environment which placed constraints on the horizon of choices and, thus, the process of strategy and policy formulation.

Inherited Constraints

Apartheid has clearly had a major impact on Namibian society. Apartheid State policies were an extreme form of mandatorism – a highly regulationist and repressive intervention in Namibian society that ensured the reproduction of racial-capitalism. South African State policies in Namibia were initially geared to making two factors of production available – land and labour: "The mechanism that was used to make land available to settlers, the reserve system, was also designed to ensure the procurement of labour for settlers' farms, mines and other industries" (Mbuende 1986:81). The historical unfolding of South African State strategies and policies, accompanied by a legislative superstructure, has left many stains and tears in the Namibian social fabric: a racially-defined underskilled and undereducated labour force; an underdeveloped manufacturing sector; rural-urban bias; undeveloped social service infrastructure; an economy geared towards primary commodity production; a population inexperienced in formal political processes; and a weak civil society.

Exile Politics – Authoritarian and Pragmatic

SWAPO's exile politics have been characterised as authoritarian and pragmatic (see Leys & Saul 1995; Dobell 1995). Leys and Saul (1995) argue that a strong authoritarian and hierarchical streak emerged within SWAPO during exile. This was evident in the organisational structure as well as in the suppression of democratic practices and criticism of the party (see Leys & Saul 1995; Saunders 1994). Dobell (1995:173) goes so far as to say that "... the sheer odiousness of the enemy

shielded SWAPO's policies and practices from the sort of critical scrutiny they might otherwise have been subjected to, both inside and outside Namibia".

SWAPO's liberation struggle was quite clearly a struggle for national liberation despite its occasional socialist rhetoric. The dominance of nationalism within SWAPO has, according to Bauer (1994:254), also been extended to its attitudes to organised labour in Namibia. The essentially national democratic politics of exile did not, however, prepare the organisation with a clear vision and strategies with which to tackle the process of policy formulation once it became Government. This can be understood through the essential pragmatism of its exile politics. As argued by Dobell (1995:172), SWAPO did not –

> ... develop a coherent vision of a radically transformed society in an independent Namibia consistent with its claim to be a national liberation movement with a scientific socialist programme ... [T]he absence of a single ideological outlook was primarily due to a deliberate pragmatism on the part of its leaders.

This pragmatism has now been translated from the politics of liberation to the politics of national development. President Sam Nujoma has expressed this as the Government's essentially "pragmatic liberal approach" (Bauer 1994:174). However, the strategy of pragmatism with which a struggle for liberation can be fought cannot be the basis for sustainable policy formulation. The SWAPO Government has expressed this through inconsistent policy and practices. For example, while promoting participatory practices of tripartism (entrenched in the Labour Act) on the one hand, it simultaneously makes unilateral decisions and implements policies which contradict this, such as the process through which the Export Processing Zone (EPZ) strategy was launched.

The Regional and International Context

Over the last decade, the central problems plaguing development thinking (and practice) have been the effects of World Bank structural adjustment programmes and how to account for the success of Asia's newly industrialised countries (NICs) (see Fine & Stoneman 1996). Both of these issues have generated debate, which has essentially revolved around the question of the mix of the market and the State in promoting sustainable development.

World Bank apologists and their neo-liberal cronies have asserted the role of the market on centre stage and, thus, advocate the retreat of the State through structural adjustment (Fine & Stoneman 1996:9):

> The politics associated with structural adjustment are to get the prices right by eliminating subsidies and protection, raising interest rates and lowering wages, devaluating the currency and privatising wherever possible ... The sweeping imposition of each of these policies irrespective of the diversity of conditions in which they are applied ... takes on the character of economic policy as lobotomy.

Ironically, structural adjustment often presupposes an interventionist political project despite pretences to the contrary (Tsie 1996:76). On the other hand, there has been a strong argument for the necessity of State intervention based on the Asian experience (see Henderson 1993; Kuruvilla 1996). Kuruvilla (1996:10) suggests that there have been two essential ingredients that account for the Asian successes. Firstly, South and Southeast Asia developed through State management, which has involved State intervention to varying degrees. Secondly, State management has been accompanied by clearly conceptualised industrialisation strategies. These tendencies of neo-liberal prescriptions and the lessons of State intervention characterise the current plight of the Namibian Government.

The increasing trend towards globalisation has many significant consequences for nation States such as Namibia. While it opens up opportunities in terms of world markets and capital investment, it also implies a far more competitive international environment. Gaining access to these international markets has major consequences for the organisation of production. Not only have attempts to world-class manufacturing resulted in more flexible forms of organising the labour process, but they have also been accompanied by more flexible labour market practices and processes such as subcontracting. These trends have, in many countries, been accompanied by shifts in State policies facilitating the process of restructuring in order to enter world markets. Namibia, however, is still largely tied into the old international division of labour through its dependence on the export of primary commodities, particularly diamonds. Its current secondary export sector is negligible, underdeveloped, reliant on unique commodities (such as semi-precious stones, karakul, etc.) and seemingly uninspired. As a result, there has as yet been no major trend towards restructuring for world-class markets. In this context, the State's EPZ strategy is an important link in Namibia's attempts to re-posture itself in the international division of labour and promote an export sector.

Nationalism and Development

Through nation-building and national reconciliation the Namibian State presents itself as the neutral arbiter and trustee of the interests of all Namibians. The ideology of nationalism is also the basis (of legitimacy) from which the Government can promote the conditions for efficient accumulation and the reproduction of capitalist relations of production. It is the core ingredient for establishing the political stability necessary for sustainable accumulation. In the context of "nationhood", the SWAPO Government offers the fruits of liberation through the framework of a "mixed economy". These fruits are the historical goals which fuelled the liberationist vision within SWAPO and which have now become the expectations of independence. National democracy in the political arena has provided Namibians with the vote. It does not automatically empower people economically, however, as witnessed in the relatively few redistributory trends in Namibia since its inde-

pendence. This is further borne out by persistingly high levels of poverty and unemployment. To deliver the fruits of national emancipation, Government has had to address the question of "development". The broad national development goals of Namibia have been defined by the Government (National Planning Commission 1996:39) as the following:

• Reviving and sustaining economic growth
• Creating employment
• Reducing inequalities
• Eradicating poverty

These goals are all intricately tied in with the industrialisation strategy and its promise to deliver on the basis of generating economic growth. Government strategy and thinking has internalised the neo-liberal imperatives prescribed by the World Bank (1992:xvi-xvii) as follows:

> The trade-off is not between equity and growth, but between immediate redistribution of assets and income and long-term sustainable growth ... Options for stimulating growth and finding ways for using the incremental income to alleviate poverty call for a clear division of labour between the public and private sectors. The Government's main task ... is to define the "rules of the game", while the private sector is to use resources efficiently within the rules specified by Government ... The idea is that growth should come primarily from the private sector and that the Government should provide social and other services to alleviate poverty and improve the distribution of income.

Central to the idea of *sustainability* is the role of the industrial sector and a move away from the structural dependence on the primary sector. Although industrialisation has been identified as the panacea in the face of marginal potential in other sectors, it, too, faces many constraints within the context of natural limitations on industrialisation; an underdeveloped manufacturing sector; limited local markets; and a competitive international environment.

Given the enormous historical and natural constraints on the manufacturing sector and the lessons from the NIC experience that substantial State intervention is necessary to coax a fragile industrial sector, one might have expected of the Namibian Government a more clearly interventionist strategy. However, the realities of the new world order, together with its rejuvenated neo-liberal imperatives (under World Bank hegemony), have tempered the Government's policy to creating "... an enabling environment within which the private sector can prosper, an internationally competitive environment in which Namibian enterprise can grow in both domestic and export markets" (Ministry of Trade and Industry 1992).

In Namibia, the option of an import substitution strategy (ISI) is very limited. Although a major feature of post-war industrialisation in South Africa, Namibia did not benefit from this ISI. This was largely due to the peripheral status of Namibia vis-à-vis South Africa – the domination of local markets and the restriction

and distortion of the industrial sector. In addition, Namibia has committed itself to the ideals of the free market, ruling out the protectionism and regulation associated with import substitution. Ultimately, the market to sustain an ISI strategy simply does not exist (Murray & Sycholt 1995). The only viable option left was to adopt an export-led industrialisation strategy. Since Independence, there has been a noticeable and concerted attempt to get an export-oriented industrialisation process under way. While there is no shortage of policy to provide an "enabling environment", there is indeed a shortage of willing investors.

With the failure to attract investment and kick-start industrialisation, the Government looked to other economies facing similar constraints and decided to take a leaf out of the Mauritian "success story". It is thus putting its faith in EPZs to stimulate an industrial economy in Namibia. The adoption of the EPZ strategy implies an attempt to enter the highly competitive terrain of export production for often highly guarded and competitive international markets. In negotiating this strategy, Namibia is also renegotiating its position in the international division of labour, both in terms of its peripheral status vis-à-vis South Africa and its status as a primary commodity producer. For Government, the intention is to provide international manufacturing with a highly profitable accumulation environment (see Murray & Sycholt 1995). However, the enabling environment required by EPZ operators is a little more laissez-faire than that provided in the Labour Act, and as a result Government has had to restructure its enabling environment to make it more competitive.

Economic Policy and Labour Relations

While there is no linear causality between development strategies and labour relations practices, the choices made concerning development strategies not only set the context for labour relations but also have a bearing on the scope of choices in the arena of labour relations (see Kuruvilla 1996). Economic strategies and policies of the Namibian State can be summarised by two tendencies, each of which have been accompanied by particular consequences for labour relations:

- Attempts to create an "enabling environment" in terms of providing a favourable climate for capital accumulation with little State intervention. This has been accompanied by the Labour Act and its voluntaristic framework for regulating labour relations. It also, however, includes corporatist elements in terms of the provision for tripartite structures.
- Attempts to establish an EPZ regime in order to promote industrial development and economic growth. This has been prompted largely by failure of the former strategy. It has been accompanied by the EPZ Act (1995) and agreements with trade unions neutralising parts of the Labour Act.

The attempts by the Government to establish an "enabling environment" have largely failed to elicit the desired response. This failure is partly the consequence of neo-liberal assumptions that if you have the right environment and free the markets, everything else will follow. Everything else has not followed in Namibia, but not because the policies have not been favourable. The World Bank, in a 1992 report (1992:xvii), already applauded the policy direction that the SWAPO Government was taking and concluded that –

> ... economic policies at the structural level are already conducive to growth and need only minor modifications. Namibia has no history of interfering with market forces in resource allocation: there are few price controls, no investment controls, no widespread subsidies, no import and export licensing.

The success of an EPZ regime hinges on the kinds of incentives which can be offered on the internationally competitive market of EPZ investment capital. While infrastructure and service provision are important considerations for EPZ investors, the decisive draw cards revolve around market access and the labour relations environment in which EPZs are to operate. Companies which locate in EPZs operate with small profit margins due to highly competitive international markets. Any disruption to production can, therefore, have significant consequences for the profitability of an enterprise. It is thus that the labour relations environment in an EPZ plays such an important role.

Internationally, most EPZ regimes offer a docile, unorganised and cheap labour force to EPZ capital. Namibia prides itself on its progressive Constitution and Labour Act. Yet, to compete on the international market for EPZ capital, it has had to effectively neutralise the legislative protection of workers and renege on the fundamental right to strike. The unequal balance of power in the party-union alliance has in no small measure assured Government of getting its own way. This has been done by forging an agreement between Government and unions based on the overriding supremacy of "national development". Unions have been encouraged to relinquish their maximum weapon – the strike – in order to promote the interests of "national development". The agreement between Government and unions, which was passed as an amendment to the Labour Act, effectively neutralises the right to strike enshrined in the Constitution and fundamental to the Labour Act for five years (interview with Offshore Development Company Director, Abu Bakar, 31 December 1996). The extent to which the union federation is a subservient partner in its affiliation to the ruling party, and can be encouraged to define its interests in terms of "the nation" at the expense of working class interests, is clear from this exercise. It also points to the continued interlacing nationalist and working class consciousness in the unions, forged during the independence struggle.

The EPZ strategy did not emerge out of a tripartite process of consultation. In fact, the tensions it raised between the labour movement and Government could only be allayed through the position of the labour movement within Government's

nationalist project. The launching of this strategy also showed Government's lack of coherent policy. Only a few years after putting a fairly liberal Labour Act in place, its economic policy and industrial development objectives are contradicting even the basic freedoms of the Labour Act. The contradictory position of the Namibian Government can be seen from the statement by the Minister of Trade and Industry that "Government was stuck between two perceptions, the EPZs which perceived unions as problematic and the unions which saw the EPZs as exploitative" (*The Namibian*, 2 March 1995). The lack of consistency within Government policy formulation has also been identified by members of the business community. Tim Parkhouse, President of the Windhoek Chamber of Commerce, expressed this as follows (interview, 13 December 1995):

> I sometimes have the feeling that Government hasn't got a firm overall strategic plan for planning; they tend to approach things on a firefighting basis ... try and do something here and something there.

Already in 1993, the then General Secretary of the National Union of Namibian Workers (NUNW) (Esau 1993:6) identified a core problem with Government as being –

> ... the lack of clear government policies towards trade union participation in the designing, planning, implementation and control of the socio-economic order of Namibia in line with the principles of a mixed economy.

The EPZ strategy has also contradicted some of the other principles of the Labour Act – the ratification of ILO conventions. Judica Amri-Makhetha, Senior Advisor for the ILO in Namibia in 1995, pointed out that the EPZ Act, the process of its formulation, and its consequences for labour relations violated three of the conventions ratified by the Namibian Government: Convention 87, Freedom of Association and the Right to Organise; Convention 98, The Right to Organise and to Bargain Collectively; and Convention 144, Tripartite Consultations to Promote the Implementation of International Labour Standards (interview 14 June 1995).

The State and the Social Partnership Challenge

What follows is an assessment of the role of the State in facilitating tripartism. While committed on paper to the ideals of joint decision-making on labour matters, the Namibian Government has not shown the same level of commitment in practice. In part, this is because of the lack of a long-term and coherent approach to labour relations. The Namibian State does not fit neatly with any of the three models outlined above, i.e. market individualism, collective liberalism and corporatism, but rather exhibits elements of all three models in its adoption of a "whatever suits it best at the time" approach. As such, the role of the State in labour relations remains framed around the immediate issues and concerns at hand, and in this sense always retains a somewhat arbitrary and ad hoc element. At the same

time, the approach of the State is not completely arbitrary. After all, the (selective) use of tripartite discourse functions as an important legitimating ideology.

Market individualism, while not explicitly promoted, is also not undermined. This is a consequence of State voluntarism which is a core tendency within the Namibian State's approach to labour relations. Voluntarism, in contrast to mandatorism, which is based on maximum State intervention in labour relations, presupposes minimal State interference. The presence of voluntarism in the Namibian context is revealed by the findings of the 1995/96 Labour Relations Survey, which indicate that clear unitarist management practices are being maintained in spite of the Labour Act. The recent EPZ Act is a further example of market individualist tendencies within the Namibian State.

The Labour Act was essentially written in the spirit of liberal collectivism. The recognition of the collective interests of workers and management and the provision for establishing collective bargaining structures at plant and sectoral levels, are in clear support of the pluralist assumptions of liberal collectivism. In addition, the Namibian Government presents itself as the embodiment of the collective interests of all Namibians, playing a mediating role in the drama of labour relations by ensuring that the actors do not improvise on the script. As such, a number of mediating, watchdog institutions have been provided for in the Labour Act. These include the Labour Court, the Office of the Labour Commissioner and the Labour Inspectorate.

Tripartism straddles both liberal collectivism and corporatism. The Government has clearly committed itself to working within a tripartite framework. As outlined in its First National Development Plan (NDP1) (National Planning Commission 1996:47), the Government states its intention –

> ... to increase employment on a significant scale, Namibian labour must become more productive. This will involve investing in skills and training but also promoting the concept of a Social Contract between labour, business and Government. In exchange for wage restraint, employers will be encouraged to make commitments to improving productivity through worker training, arrangements to increase women's productivity and the participation of workers' organisations in areas of management. The Contract would try to foster a common approach to ensuring pay does not rise faster than productivity. Over time this would make Namibia's labour costs increasingly competitive, thus supporting diversification, growth and employment creation in the economy.

There are, however, no clear indications as to how this "social contract" is to be effected. The NDP1 (ibid.:51) outlines Government's strategy of participatory planning:

> Government is committed to building a multi-party representative democracy, which entails more than just periodically electing representatives to parliament. People's participation in development is essential.

Ironically, the trade union movement was not consulted on and did not participate in the formulation of the NDP1. At best, the Government has no understanding of what participatory planning is all about. At worst, it is paying lip service to the discourse of participation to win broader support and legitimacy for its hegemonic project. In support of the latter is the fact that tripartism has emerged as a Government-imposed framework rather than through the collective efforts of employers and labour. This, in part, accounts for the current confusion displayed by all social partners of their role in such a process. It is doubtful that the social partners have the organisational capacity to engage such an arrangement. At the Prime Minister's Consultative Meeting on Labour Relations in 1993, Bernard Esau (1993:9) from the NUNW blamed employers:

> Presently it seems that tripartism cannot be practised in Namibia because of the absence of an employer's organisation with a clear mandate to negotiate on behalf of all the employers in the same sector or nationally.

Despite the launching of the Namibian Employers' Federation (NEF) in the same year, there has not yet been any meaningful tripartite interaction between the three partners, apart from the few consultative discussions which have taken place in the Labour Advisory Council. The lack of strategic vision and organisational capacity of both employers and labour indicate that a corporatist arrangement, should it ever be realised in Namibia, is light years away.

That there have been no major national agreements between State, labour and capital on any area of policy formulation is an enigma for the southern African region. Etukudo (1995:56) has identified some of the obstacles to the efficient functioning of tripartite bodies in other African countries:

- Irregularity of meetings
- Governments taking unilateral decisions without extensive consultation with social partners
- Low level of Government representation at meetings, depriving bodies of authority
- Workers' representatives often lacking the expertise needed to deal with issues

Many of these same problems plague tripartite institutions in Namibia. Many Labour Advisory Council subcommittees have been incapacitated by the lack of a quorum, with members not turning up to meetings (see Ministry of Labour 1996a). Government has, in a number of instances, taken unilateral decisions on policy issues without bringing them before any tripartite forum, let alone consulting other social partners. Referring to the fate of tripartism in other African States in the late 1960s and 1970s, Etukudo (1995:51) points out that –

> ... statutory tripartite bodies such as labour advisory councils or wages boards were hardly used to advance tripartite consultation and most of them became ineffective through neglect.

Mike Hill (interview, 13 December 1995), president of the NEF, stresses the need for active Government facilitation of tripartism:

> It is trying very hard but it is not flying. [There is currently little by way of an] under-
> standing of what the [Labour Advisory Council] can do, an understanding of the
> secretarial role that is required from the government on top of the government's rep-
> resentative role; it needs to actively make sure that the thing works. The government
> must drive the [council].

As alluded to, the danger exists that tripartism can become a legitimating ide-
ology (and process) for Government which can be utilised at will. Through the
selective use of the notion of *national interest*, the Government has managed to
traverse between tripartite consulting and unilateral decision-making on behalf of
"all Namibians". The negotiation between Government and De Beers (Consoli-
dated Diamnd Mines) in December 1994 over the joint-ownership agreement of
CDM is a case in point. In response to criticisms levelled by the Mineworkers'
Union of Namibia (MUN) on the "behind-closed-doors" negotiation, the Minister
of Mines and Energy replied: "What is taking place now is secret. We are negoti-
ating on behalf of the Namibian people" (*The Namibian*, 23 September 1994).

Another instance of Government straying from its tripartite commitments relates
to the exclusion of trade unions from the Wages and Salaries Commission which
was set up to look into the remuneration policy in the public service (*The Namibian*,
1 February 1995). Despite the fact that, in terms of the Labour Act, the wages
commissions were meant to be constituted by representatives from all social part-
ners, trade unions were only asked for comments after the commission had under-
taken its investigation. The drafting of the EPZ Act (discussed at length above), is
another example of policy formulation where trade unions and employers found
themselves marginalised.

It is not only trade unionists and employers who have felt themselves to be out-
side the "corridors of power". In 1993 the Namibian Non-governmental Organi-
sations Forum (NANGOF), together with the NUNW, staged a walkout of a con-
sultative workshop on the draft Transitional National Development Plan. The or-
ganisations concerned cited as reasons for their actions Government's lack of con-
sultation and the inefficient organisation and preparation for the workshop.
NANGOF voiced its concern about the contradiction between Government's stated
policies and actions:

> This is indicative of the government's lack of appreciation for the role that NGOs
> have to play in the national development process, despite the fact that NGOs have
> been recognised as important partners in the national development process. (*The
> Namibian*, 11 February 1993)

Corporatism is based on the assumption that conflicting interests can always be
accommodated and consensus reached. This is not always the case. Goldberg's
point about South Africa also rings true for Namibia – that many of the "problems
contributing to social tension are related to issues of employment, housing, educa-
tion and high expectations ..." (Goldberg 1994:12). As such, corporatism has been

successful in situations where, among other things, there have been low levels of unemployment, powerful interest-group representation, economic growth, centralised union structures and strong employer associations (Goldberg 1994:7).

While corporatist tendencies in South Africa have been accompanied by attempts at societal corporatism, this has not been the case in the Namibian context. Corporatism in the Namibian context is seen within the confines of a fairly narrow view of tripartism, that is, strictly around labour-related matters. In South Africa, societal corporatism, or joint decision-making on a wide range of policy issues, pertains to broader national development.

As in many other African countries, Namibia exhibits tendencies towards State corporatism. The following features of State corporatism identified in other African contexts by Finnemore and Van der Merwe (1996:13-14) can also be found in Namibia:

- The undesirability of conflict between capital and labour, which undermines the State's and employers' interests.
- The trend towards incorporating the trade union movement (which participated in the nationalist struggle) into the State. This is accompanied by trade union leadership being drawn into post-independence Government.
- Due to a limited level of industrialisation accompanied by a concentration of employment in the public and agricultural sector and massive unemployment, the union movement is relatively small and weak.

However, Namibia has not yet exhibited some of the more repressive features of State corporatism found elsewhere, such as the harassment and incarceration of trade unionists. Despite the fact that strikes are effectively outlawed in the EPZs, the fundamental right to strike is enshrined in the Constitution and the Labour Act. The essential voluntarism enshrined in the Labour Act and the decentralised practices of collective bargaining militate against the level of direct State intervention characteristic of State corporatist societies.

Baskin (1993:54-55) has identified three broad constraints on the emergence of corporatism in South Africa: voluntarism, collective bargaining and a weakness in the central organisation of unions and employers' organisations, all of which hold true for Namibia. Voluntarism allows for collective bargaining but it does not prescribe it. In South Africa this has led to major disparities between organised and less organised sectors, resulting in high wage differentials. In Namibia, voluntarism will further entrench the inequalities between, for example, the fairly well-organised sectors such as mining, and the unorganised sectors such as agriculture and domestic service. Access to labour legislation has not had much effect on farmworkers or domestic workers.

Voluntarism does not encourage key players to think in terms of long-term, structural solutions to problems in the economy or across sectors. It promotes self-interest and adversarialism. For corporatism to work there has to be a mix be-

tween plant-level and centralised bargaining so that national agreements "... enforce deals which may be good in general but bad for specific sectors and their employees" (Baskin 1993:58). In Namibia, plant-level bargaining is fairly weak, while centralised bargaining is virtually non-existent.

Without the solid commitment of the State, a corporatist arrangement is not likely to succeed in Namibia. Where the State hints at corporatism, and then promptly contradicts these initiatives, there is not likely to be a strong basis for the kind of consistency and long-term confidence required for corporatism to succeed. At the same time there are strong signs of an emerging State corporatism which seeks to contain the labour movement and incorporate it into the broad nationalist project. If the EPZ and associated export-oriented industrialisation strategy do not succeed, the Government may see the need to take more urgent and extreme steps to secure foreign investment.

Despite the bleak prospects for a real "social partnership" emerging, the findings of the 1995/96 Labour Relations Survey indicate that there is an overwhelming support among both management and workers in the public and private sectors that policy formulation should become a joint partnership (see Figure 1). This indicates an emerging corporatist consciousness among employers and workers.
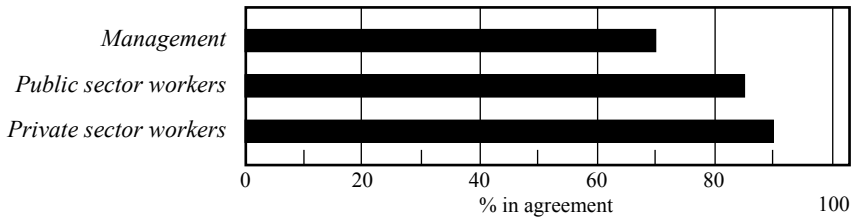
Figure 1: Management's and workers' perceived need for joint policy formulation

There are already signs that the Government's overriding neo-liberal ideology is not addressing the "national development goals" of redistribution. The 1995/96 Labour Relations Survey found that there is a marked difference in the perceptions of workers on the shop floor about Government's delivery of services and its attempts to redress the fundamental inequalities generated by apartheid (see Figure 2). While there is a generally favourable appreciation of Government service delivery in areas such as education, health care and housing, this is less so in areas which were left to the market. Government's endeavours in employment creation, redistribution of wealth and poverty alleviation have received much less praise. It must be borne in mind that these are the perceptions of the mainly urban-based wage employees and do not reflect the perceptions of the rural majority.

Furthermore, the 1995/96 Labour Relations Survey indicated widespread support for EPZs by management while only 37,5% felt that such zones would lead to
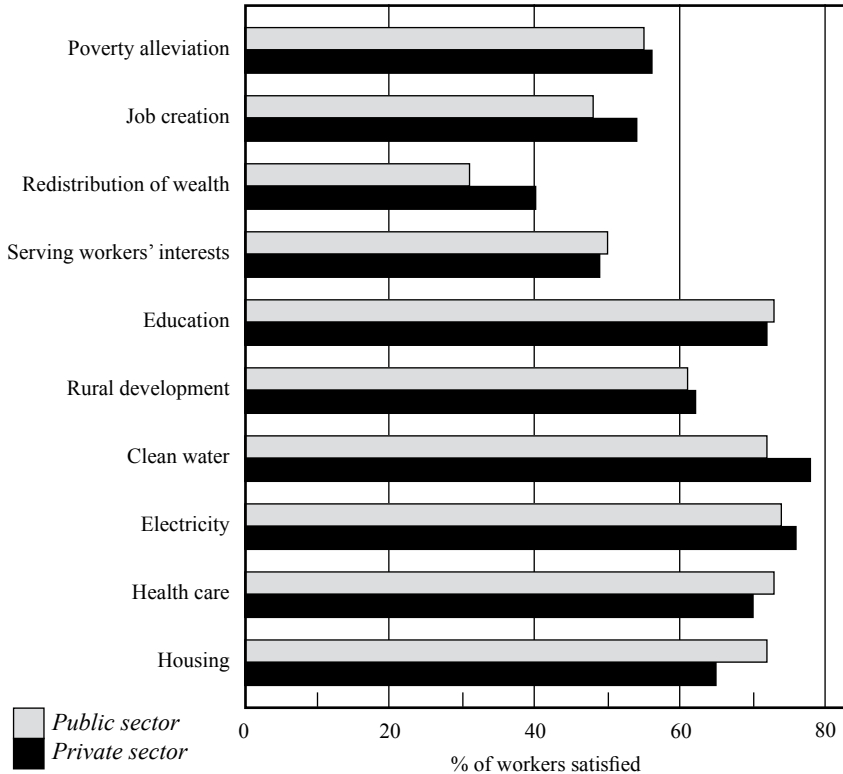
Figure 2: Workers' perceptions of Government

an increase in productivity. It is significant that most management supports Government policy without actually directly benefiting from it. Government policies in general have thus not been contrary to employers' interests. Indeed, collective bargaining in Namibia is currently an extremely decentralised and in-house affair not threatened by the voluntarist assumptions and framework of the Labour Act.

Levels of State Involvement in Labour Relations

In general, the Government's strategies in industrial relations involve providing a framework for collective bargaining and making statutory provisions relating to minimum conditions of employment (Salamon 1992). This legislative framework in the Namibian context is provided by the Labour Act. Crouch (in Salamon 1992:252-53) suggests that, like management's objective at the level of the firm, the Government's prime overall objective is economic in character, that is, to maintain and enhance the stability and productivity of the economy. However, he

(ibid.) also adds that the importance of the Government in the labour relations field is due to the fact that it is the only agent which can, through its legislative role, change the rules of the system. There are a number of levels at which the State is directly involved in labour relations in Namibia:

- Government as legislator
- Government as regulator
- Judiciary
- Government as employer

Government as Legislator

In Namibia the Labour Act is the main piece of legislation which sets the framework for labour relations. The Labour Act is based on voluntarist principles. This means that the Government's role in labour relations is kept to a minimum, that is, it should not interfere in labour relations. As legislator, however, it does set the general framework and basic rules which govern labour relations. The central thrust of the Labour Act is to facilitate the process of collective bargaining between employers and employees. It provides for the establishment of particular institutions to facilitate these processes and which guarantee fairness (Government's regulatory role). It is thus based on pluralist principles, which assumes that there are collective interests in society, and that these interests are potentially at variance with one another. In other words, the assumption is made that conflict between collective interests in society can arise, but also that they can be resolved amicably through such institutions as collective bargaining.

Government as Regulator

Through its role as regulator, the Government is responsible for the maintenance of the labour relations framework and machinery. In Namibia the Office of the Labour Commissioner has been tasked with the function of overseeing the registration process whereby trade unions and employers' organisations become legally recognised agents in labour relations. The role of the Labour Inspectorate, which inspects workplaces and responds to complaints, is to ensure that the framework of the law is applied. The labour inspectors can be seen as the direct link between legislation and ensuring that legislative provisions are adhered to.

The Role of the State in Collective Bargaining

We can identify at least three perspectives on the role the State should play in collective bargaining, as follows.

First, there is the conservative or New Right approach associated (above all) with Margaret Thatcher and Ronald Reagan. Far from improving the lot of the poor, it is argued, trade unions and collective bargaining introduce unnecessary "rigidities" in the labour market and impoverish society as a whole. Only the un-

trammelled working of market forces – devoid of constraints such as collective bargaining – can deliver prosperity and industrial justice.

Second, the pluralist belief in voluntarism accepts some degree of legal regulation but still views the State as essentially neutral in labour relations issues. Collective bargaining is regarded as a necessary and legitimate means of resolving disputes and of ensuring an equitable distribution of economic rewards. The State should only play a facilitating role to ensure the smooth functioning of collective bargaining. Labour legislation should thus set in place the procedures necessary to promote "free" collective bargaining. The substantive outcome of negotiations, however, should be determined according to the relative economic strength of the parties.

Third, a social democratic or corporatist approach relies on extensive State involvement and is less reliant upon a clear separation of politics and economics. Here the State plays an active role in facilitating and maintaining a system of tripartite (State, business and labour) regulation. While the institutional framework cannot be described as "corporatist", the Governments of many developing countries play a prominent role in labour relations. This has resulted in a "certain duality" of trade union functions: "... on the one hand defending and promoting the interests of their own members, yet at the same time being required to contribute to the national development effort" (Bean 1985:213-14). More often than not, this contribution by the unions has been reduced to the imposition of restraint on wage demands. In other words, collective bargaining is beset with a contradiction between the demands for consumption and those for production.

In Namibia the Government can be characterised in terms of elements of pluralism and social democracy/corporatism-cum-State corporatism. This is particularly evident from the relationship between labour movement and party. While collective bargaining is guaranteed on the one hand through the voluntarist Labour Act, on the other hand unions have been nudged into a compromise through their position within the nationalist project. Thus, while they have the freedom to institute collective bargaining arrangements on a bilateral basis with employers, they are simultaneously constrained within EPZs.

In Namibia the Government has not yet extended its role of regulation to the formulation of policy on income levels or to negotiating price and wage freezes. The labour policy, however, as contained in the First National Development Plan (National Planning Commission 1996) has identified initiating a social contract between State, capital and labour as the basis for a wage restraint. This, however, has not as yet been fully elaborated. Its success would in any case be highly doubtful. Such agreements require corporatist arrangements whereby strong unions and employers' organisations have the organisational discipline to make such agreements stick. In the Namibian context the organisational capacity of unions and employers' organisations militates against such an arrangement emerging.

Judiciary – the Labour Court

The Labour Court is set up in terms of the Labour Act and is the central tribunal and legal authority in Namibia's labour relations system. It has a broad series of powers which include its ability to issue orders and to compel compliance with the terms of the Act. The decisions of the court are made on the basis of equity (i.e. judicial standard). An equitable decision is one that can be justified in terms of ethical, moral and legal values and refers to notions of fairness and justice. The Labour Court has to act as a court of equity and in doing so it is less concerned with a narrow legal view than it is with the broadest understanding of what constitutes fair play. In short, it follows the spirit as opposed to the letter of the law. That is, the Labour Court must consider not only the applicable legislation, but also the social, economic and political background to a dispute.

Composition of the Labour Court

The Labour Act provides for the establishment of a Labour Court and a district labour court for each magisterial district. The Labour Court is to consist of a judge or acting judge of the High Court of Namibia designated by the Judge President. The president of the Labour Court may, on his/her own motion or at the request of any party to the proceedings, appoint two or more assessors. Such president is to select these assessors from a list of nominees compiled by representative trade unions and employers' organisations. If the Labour Court president deems it desirable in the interests of justice, he/she may select other persons on the basis of their knowledge or expertise in any field which is related to any matter before the court. The district labour courts are presided over by magistrates designated by the Ministry of Justice.

Jurisdiction of the Labour Court

The Labour Court and district labour courts are to function as courts of record. In general, most disputes concerning matters dealt with in the Labour Act are to be heard by a district labour court with a right of appeal to the Labour Court. Disputes that raise complex legal questions or that are of a serious nature would proceed directly to the Labour Court. These courts have exclusive jurisdiction over labour relations matters. This prevents the parties to collective bargaining from "forum shopping", that is, referring disputes to whichever forum is deemed to be most advantageous to their cause.

Functions of the Labour Court

Some of the most important functions ascribed to the Labour Court by the Labour Act are as follows:

- To consider applications for an interdict against a person involved in a strike or lockout. The court may only grant such an order if the application for the

interdict was served on all other parties involved in the dispute at least 48 hours before the hearing – except where the court is satisfied that compliance with this requirement will endanger the life, health or safety of any person. The interdict must be brought against individuals and not against the entire strike or lockout.

- To give an order compelling an employer to grant annual, sick or maternity leave.
- To give an order to restore the job, conditions of employment, benefits, etc., of an employee unfairly discriminated against in respect of any of these matters.
- In cases of alleged unfair dismissals, the court may order the payment of any amount owing to the employee or restore the employee to the position he/she would have been in if the employer had followed proper dismissal procedures.
- To hear appeals from any district labour court and against a wide range of decisions that may be taken in terms of the Act (spelled out in section 18).
- To review the proceedings of any district labour court on the following grounds: it lacked jurisdiction; the presiding officer acted partially or fraudulently; a gross irregularity in the proceedings; the admission of inadmissible (tainted) evidence; or the rejection of admissible evidence. The grounds for review are thus much narrower than those for appeal.
- To grant an award of compensation or damages. This includes the right to order an employer to pay an employee any amount owing to him/her or deducted unlawfully from the employee's wages.
- To order compliance with any provision of the Labour Act.
- To consider applications for urgent interim relief in certain cases. The granting of urgent interim relief became necessary to provide for a procedure that may be followed in cases where the procedure for an interdict is too slow. This provision empowers the court to grant interim interdicts which may hold good until a final order is made. The court is not required to adjudicate on the merits of the dispute.
- To issue declaratory orders pertaining to the interpretation and application of any provision of the Labour Act, or any law pertaining to the State in its capacity as employer, or any collective agreement, wage determination or contract of employment.
- The court has the power to grant various orders relating to disputes between a registered trade union or registered employers' organisation and one of its members about any alleged non-compliance with its constitution. These include cancelling or suspending the organisation's registration until it complies with certain conditions, ordering compliance with a provision in the organisation's constitution, declaring an irregular election of office-bearers null and void, and granting any other order which will give effect to the primary objectives of the Labour Act.

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- The court has wide powers to issue orders to ensure that no action subversive of orderly and proper collective bargaining takes place. These include enforcing the duty to bargain in good faith; ensuring that exclusive bargaining agents represent the interests of every employee in the bargaining unit; ensuring that employers do not unilaterally alter any conditions of employment; ensuring that employers do not compromise trade union independence through financial or other means; ensuring that employees do not stop or slow down their work for reasons not related to legitimate labour interests; and preventing the intimidation of any employee, office-bearer, official or employer.
- To issue appropriate orders relating to an alleged material irregularity in the election of workplace safety representatives, as well as to the failure of such representative to comply with the provisions of the Act; and where the employer has allegedly failed to comply with any requirement concerning safety representatives and committees.
- To deal with any matter which is necessary or incidental to its functions in terms of the Labour Act.

Powers of the Labour Court

The Labour Court is able to subpoena witnesses and require them to give evidence before it under oath. The court may also require of a witness to produce any book, document or thing which, in its opinion, is in the witness's possession and of relevance to the matter before the court. The court also has the power to order a party to pay the costs of other parties if it acted frivolously in bringing, opposing or continuing with the proceedings. Any person who fails to comply with an order of the court can be convicted of a criminal offence and sentenced to the same fines and/or imprisonment as for contempt of court.

Proceedings of the Labour Court

Proceedings in the Labour Court are similar to those in the High Court, while proceedings in the district labour courts correspond to those in any magistrate's court. Access to the court is determined by the subject matter of the dispute. The Labour Act specifies which parties may bring applications on specific matters, that is, different parties must approach the court to adjudicate different disputes. In the Labour Court, parties can represent themselves or be represented by attorneys or advocates. Labour inspectors can assist employees to present their cases in court. All proceedings are to be held in an open court, unless it is deemed to be in the interests of good order or public morals to conduct the hearing in camera.

Criticisms of the Labour Court

The Labour Court is not as cheap and expeditious as initially anticipated. There is a lack of rules of precedence, which leads to conflicting decisions. Trade unionists argue that it encourages a tradition of "legalism", meaning it is counter-productive

to relocate the site of workers' struggles from the shop floor to the courtroom: this prevents workers from developing the necessary confidence and degree of organisation to win their own struggles; and turning to the court involves sacrificing trade union control of the dispute and relying on a disinterested outsider who may understand the law but is not swayed by the politics of the shop floor.

The State as Employer

Labour relations in the public sector are also shaped by the broad environment affecting labour relations in the private sector. Apart from the army, Police and other security forces, the Labour Act provides the legislative framework and sets the tone for labour relations in the public sector. While there are many similarities between labour relations in the public and private sectors, there are also some fundamental differences which generate additional challenges for labour relations in the public sector.

Size of the Public Service

The size of the civil service in Namibia is already enormous even in comparison with other African and developing countries (see Table 1). The civil service grew with independence for two main reasons: firstly, becoming an independent State with its own boundaries and foreign policy necessitated increasing the staff of the State; and secondly, the public service is important as a political power base, so, in the words of the Prime Minister, "... we had to make room for the new civil servants who are more responsive to the aspirations of a new Namibia" (Geingob 1995:8).

   However, this has simultaneously had the effect of increasing the proportion of State expenditure on salaries and benefits in the public service, putting additional strain on Government resources and thus competing with the ability of the State to deliver welfare services. The growth in expenditure on personnel in the public service has increased dramatically, absorbing almost 15% more of the total budget.

Restructuring and Rationalisation

Since Independence, sentiments in Government have been towards rationalising, downsizing and making State-owned or -controlled enterprises more productive. This is in line with the neo-liberal prescriptions of the World Bank. Central to the austerity measures dished out to other countries in sub-Saharan Africa has been the requirement of reducing the size of the civil service. In practice, however, the rationalising and restructuring of the public service is a far more political and controversial undertaking. Many African nationalist projects have a firm support base in the civil service. In the Namibian context this trend has been compounded by the inherited responsibility for civil servants from the pre-independence civil service. This adds an additional constraint on the ability of the Government to restructure and rationalise the civil service.

Country	% of Central Government Expenditure	% of Total Population
Botswana	36-38	5,5
Germany	10,9	7
Malaysia	21	5,7
South Africa	37,5	Not available
Swaziland	Not available	3,9
United Kingdom	14	4,6
Zimbabwe	28	1,6
Namibia	54,5	3,9

Source: *Wages and Salaries Commission Report* (1995:33)

Table 1: International comparison of public service employment and personnel expenditure

Budget	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96
Cost (N$1 000)	898,5	1 278,4	1 520,9	1 589,9	1 717,4	2 027,3
% of total spending	41,3	44,1	4,5	46,7	54,5	55,4
% year-on-year increase		42,3	19	4,5	8	18

Source: *Wages and Salaries Commission Report* (1995:32)

Table 2: Government expenditure on public service personnel

Government has decided not to undertake major privatisation of parastatals. Instead, Government strategy is to "... turn parastatals into more independent, commercialised economic units, headed by a business-oriented board and managed on a commercially sound basis" (NDP1 1996:444). Through such an approach Government can abrogate the politicised management function of parastatals' responsibility for labour relations, while maintaining a stake in their operations.

Management

Many of the inherited civil servants from the former dispensation occupy managerial and supervisory positions. These positions largely set the tone for labour relations on the shop floor and are therefore crucial nodes in the process of continuity and change in labour relations in the public service. While the Labour Act provides the general context of labour relations, the internal management practices in the civil service are crucial for the actual labour relations practices in the public service. The public service is currently characterised by a lack of any coherent management approach to industrial relations (see *Wages and Salaries Commis-*

sion Report 1995) and disorganised internal dispute resolution and grievance procedures (Smit 1995).[1] The former is partly due to the fact that there is some confusion as to who in the public service constitutes management.

At the central level, however, the responsibility for managing the public service is quite clear (NDP1 1996:443): it lies with the Office of the Prime Minister, which performs this function through –

- the secretary to Cabinet, who is the head of the public service and, thus, the most senior public servant
- the Department of Public Service Management in the Office of the Prime Minister, and
- the Public Service Commission, which acts as an advisory body to the Office of the Prime Minister.

The confusion, however, lies at the shop-floor level, and has been translated into practical problems for labour relations in that there are currently no clear dispute resolution or grievance procedures, or clarity on who is tasked with the managerial function of dealing with disputes.

This can partly be understood by the very nature of the public service. The public service as a whole is not driven by the profit motive, which is the *raison d'être* for the existence of private companies. There is thus not the same compulsion for profitability and productivity in the public service. Shop-floor management in the public sector, as a result, adopts a primarily administrative role and does not therefore have the same strategic urgency in labour relations as does management in the private sector. Salamon (1992:263) suggests that, because the public service is largely responsible for providing public services, there has been the tendency for a unitary ideology developing within relations in the public service, where employees' commitment to the objectives and activities of the service is often taken for granted. In Namibia, internal legitimacy cannot be taken for granted in quite the same way, as it operates in a much more highly charged political environment. Labour relations in the public sector in Namibia are in many instances being played out in terms of the ideological battle lines of the past. In late 1996, a ballot was held in the public service (in accordance with section 58 of the Labour Act) to determine exclusive bargaining agency. The two protagonists, the Public Service Union of Namibia (PSUN) and the Namibian Public Workers' Union (NAPWU) had not been able to forge unity, despite numerous attempts, largely because of their political identities. NAPWU's membership of the NUNW put it squarely in the SWAPO camp, while the PSUN has historically been associated with the DTA.

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[1] The grievance procedures which are said to exist are those which have been inherited from the labour relations system of pre-independent Namibia, being governed by a path code which was drawn up in 1986 (Friedrich-Ebert-Stiftung Seminar on Labour Relations in the Public Sector, August 1995).

Had they been able to form a working alliance, collective bargaining in the public sector would have been expedited much earlier. The affiliation of the NUNW to SWAPO puts NAPWU in a strange dilemma. As Government, SWAPO plays the managerial role in the collective bargaining process and thus is ultimately bargaining with its affiliate.

Collective Bargaining in the Public Service

Collective bargaining in the public service, as in the private sector, is provided for in the following legislation:

- Labour Act, 1992 (No. 6 of 1992)
- Public Service, 1995 (No. 13 of 1995)
- Social Security Act, 1994 (No. 34 of 1994)

Part VIII of the Labour Act provides the basic framework within which employers and employees can enter into collective agreements in both the private and public sectors. In terms of the Act, it is the two parties who enter into the agreement who determine the collective bargaining structures, that is, centralised, decentralised, sectoral or regionalised (Kampungu, Murray & Sycholt:1996).

Despite this legislation aimed at facilitating collective bargaining in the public service, there had been, until the collective agreement signed by the Namibia National Teachers' Union (NANTU) in October 1995, "no collective bargaining in the public service, not even consultations" (Pontac 1995). This was echoed by NANTU, who claimed that before their agreement, "... decisions concerning conditions of service of teachers and other civil servants were taken unilaterally by the government" (*Teach*, No. 6, 1995). This process of Government making unilateral decisions on matters in the public service has been further entrenched with the promulgation of the Public Service Act. Section 5 of the Act restricts the agenda over which trade unions can collectively negotiate, instead giving the Prime Minister the power to make regulations on a wide range of matters.[2]

It is a different matter with regard to the determination of salary scales and other conditions of service. Section 34 of the Public Service Act states that the Prime Minister can only make regulations on the recommendation of the Public Service

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[2] Included in these are (see Kampungu, Murray & Sycholt 1996) –

- the establishment, readjustment and reorganisation of organisational components of offices, ministries or agencies
- the determination of the number and the grading of posts
- the determination of specified categories of employment in the public service
- the subcontracting or farming out of work in the public service
- the determination of qualifications and other requirements for the purposes of any appointment
- the determination of levels of staffing
- the provision of training, and
- the coordination of the functions of the public service and the promotion of efficiency in the administration of offices, ministries and agencies.

Commission. Section 32 of the Act further stipulates that the Public Service Commission can only make such recommendations after the "prescribed process of negotiation and collective bargaining".

The voluntarist thrust in State strategy, facilitated by the Labour Act, can be seen in the process of collective bargaining in the public service. The Government (Office of the Prime Minister) did not enter into collective agreements with any of the public service trade unions before October 1995 for the very reason that it was not legally bound to do so in terms of section 58 of the Labour Act (Kampungu, Murray & Sycholt 1996). The recognition and, thus, collective bargaining process in the public service has been affected by technicalities of the Labour Act. Trade unions have to prove that they represent the majority of the employees in the bargaining unit or that the majority of workers in the bargaining unit agree to the union being the exclusive bargaining agent. This section of the Act is problematic in the public service because there is currently no clarity as to the distinction between employers and employees in the public service, which impacts upon how bargaining units are defined by unions in the public service as well as how collective agreements are negotiated. This is acknowledged in the submission by the Permanent Secretaries to the Wages and Salaries Commission: "Under current labour legislation members of the Public Service can be categorised as both employers and employees. To date, however, there are no clear definitions to demarcate and outline the boundaries between employees and employers within the Public Service" (Schlettwein 1995).

Collective bargaining in the public service lends itself more to centralised collective bargaining. This is due to the highly centralised Government structures. The size and distribution of the workforce within this sector would create enormous complications for decentralised bargaining in terms of implementing the potential multiplicity of agreements at various levels. The collective agreement between Government and NANTU thus promotes highly centralised collective bargaining (see Kampungu, Murray & Sycholt 1996).

Conclusion

The results of the 1995/96 Labour Relations Survey confirm some of the latent tendencies at work in Namibia concerning the relationship between the State and labour. State strategies with regard to economic, social and labour relations policies are in a very formative stage. This fluidity and, at times, seemingly ad hoc trend in Government thinking reflects an emergent State which is caught between two dominant trends:

• A weak – almost undetectable – impulse towards corporatism
  This is restricted to a largely tripartite, bargained corporatism and elements of authoritarian, State corporatism. The fact of the matter is that a truly social

corporatism, in which the interests of civil society as a whole (and not merely organised capital and labour, nor the State) become the basis and guiding force in policy-making and economic development is just not on the cards at the moment. Apart from the (already weak) interests of capital and labour there is no sector in civil society which has the organisational capacity or strength to ensure its place at the corporatist table. This allows the Government to make unilateral decisions "in the national interest" and to extend its monopoly of acting in that interest.

Organised labour and employers are just too weak for a social bargain to succeed. Unions are not independent enough to enter into corporatist bargaining arrangements with their own identity (and policy) – outside of the often constraining political affiliation to the ruling party. Employers are by and large not even contemplating the possibility of corporatism, and why should they? The framework of neo-liberalism is a sustainable base for ensuring their long- and short-term interests of accumulation.

• A dominant trend to market-driven neo-liberalism

The weak pulse of a trend towards corporatism is being negated by Government through, for example, the EPZ strategy. Ironically, the EPZ strategy, while attempting to provide an enabling environment of a different type, has necessitated State intervention. Government is offering Namibian labour (and a potentially regulated labour movement) to "footloose" EPZ capital.

The "pragmatism" within Government strategy has led it to renege on its commitment to collective bargaining and tripartism. If investors are not equally forthcoming through the EPZ strategy and the desired effects are not realised, the question arises as to the likelihood of Government extending its intervention into labour relations. This may suggest increased tendencies towards State corporatism. How this is accommodated within the overarching neo-liberal framework remains to be seen.

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Namibia's Emerging Political Culture[1]
Christiaan Keulder, Antonie Nord and Christoph Emminghaus

Introduction

One international observer perceived democracy to be a goal that must constantly be fought for but that is never really achieved.[2] Theorists agree that the consolidation of democracy cannot be ascribed to any exact moment in time. They do, however, disagree as to what requirements or preconditions must be met for a system to be recognised as a consolidated democracy.

Loosely defined, *democracy* means "responsive rule" (Saward 1994:13-14). It is distinguished from other systems of rule insofar as it empowers citizens to choose and remove leaders, usually by means of regular, free and fair elections. Schmitter and Karl (1996:50) define *democracy* as –

> ... a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their elected representatives.

The importance of elections has led some to believe that democracies become truly consolidated only after the founding party succumbs to a peaceful transfer of power through the vote.[3] But democracy is much more than regular, free and fair elections. Seymore Lipset (quoted by Seligson 1998:10) argues that –

> [D]emocracy requires a supportive culture, the acceptance by the citizenry and political elites of the principles underlying freedom of speech, media and assembly; rights of political parties, rule of law, human rights and the like. Such norms do not evolve overnight.

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[2] Diamond (1999)

[3] Przeworski (1997)

Lipset (*op. cit.*) draws attention to two aspects of democracy that are relevant for this report: firstly, that democracy requires a supportive culture; and secondly, that such a culture does not come about overnight, nor is it something inherent in citizens and elites. Rather, a democratic political culture must be developed, nurtured and sustained.

The concept *political culture* is a problematic one. There is no single agreed-upon definition in the literature, and scholars seem to disagree on how to appropriately classify the various political cultures that exist throughout the world today.[4] Rosenbaum (1975) identifies three types of political cultures: a civic culture (coined by Almond & Verba 1963), a fragmented political culture, and an integrated political culture. Inglehart (1997), on the other hand, prefers to classify countries in terms of a modern/post-modern dichotomy (see also Taylor 1998). We follow Rosenbaum (1975:6-7) in identifying three core components to constitute political culture:

- orientations toward Government structures (regime orientation and orientation toward Government inputs and outputs)
- orientations toward others in the political system (political identification, political trust and the rules for civic life), and
- orientations toward one's own political activity (political competence and efficacy).

Not all of these components are dealt with here since space simply does not permit us to do so. We have, however, selected a few of the more prominent trends to construct a central argument.

It is not our aim to classify Namibia's political system in any of the terms set out above by Inglehart (1997) and Rosenbaum (1975) – nor any others, for that matter. Instead, our aims are much more modest: firstly, to investigate the core components of Namibia's emerging political culture in order to assess whether or not this culture is supportive of democracy; and secondly, to identify and highlight potential problems in this regard. Thus, instead of classifying, we are taking stock, and the tentative proposals at the end must be seen in this regard. For us, Namibia is still in the process of consolidating its democracy and a possible reversion to non-democratic methods of rule cannot be excluded. In line with the dominant thinking on political culture, we believe that the future of democracy lies not only in the hands of the ruling elites, but also in the hands of ordinary citizens.[5] The

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[4] See e.g. Inglehart (1988)

[5] Gilliomee and Simkins (1999), for example, argue that dominant-party regimes hold less of a threat to democracy in societies in which respect for political liberties is deeply entrenched, and which are economically well-developed and ethnically homogeneous. This suggests that, in societies like Namibia's, which fall outside the specified parameters, the future of democracy is far less certain.

question, "Can we have democracy without democrats?", is one which pertains not only to elites, but also to ordinary citizens.

Little has been done to analyse Namibia's emerging political culture in a coherent and systematic manner. After only nine years of independence and democracy, and after many decades of racist and authoritarian rule, one would expect that democratic values might not be all that well entrenched. One would be likely to find some remnants of non-democratic values installed during colonial rule to coexist with the more democratic values installed after Independence. This feature, we argue, is typical of "societies-in-transition" or "democracies-in-the-making". In this respect Namibia is neither unique nor an exception. It is in many respects very similar to other societies on a similar trajectory in their political development.

Methodology

Face-to-face interviews were conducted with 1 000 Namibians, all of whom were at least 18 years of age. Fieldwork planning began in June 1999, with the fieldwork itself having been executed by August that year. A multi-stage, stratified-area-cluster probability sample was used. During the first stage, Namibia's demarcated Regions were used as primary clusters. Three Regions were omitted, however, namely Kunene, Ohangwena and Omusati. The primary reason for this was the cost involved, with secondary reasons being the fact that the Kunene Region had a low population density and vast distances to travel to get to informants, and the Ohangwena and Omusati Regions' homogeneity. In most respects the latter two Regions, which form part of the four so-called "O" Regions (Ohangwena, Omusati, Oshana and Oshikoto) are very similar to the other two members presented in the sample, i.e. Oshana and Oshikoto. In this respect we do not expect to find the opinions from the (omitted) Ohangwena and Omusati Regions to differ radically from those expressed in the (included) Oshana and Oshikoto Regions.

The second stage of sample selection involved the random selection of census Enumerator Areas (EAs). These were selected from a random number list and identified by means of a Global Information System (GIS) database. EAs were stratified according to their urban/rural location. Urban and rural EAs were assigned in a proportional manner. Once the EAs had been allocated, the GIS database was used to select and identify a random starting point. Each EA provided 20 interviews. In total, 20 urban and 30 rural EAs, with their starting points, were selected.

The third stage involved the selection of households. These were chosen in a systematic manner, using a random point of entry into neighbourhoods or villages. A regular interval was used to select the households from the random point.

During the final stage, respondents were selected by means of the birthday method. Table 1 provides the overall sample breakdown by Region and urban/rural locality.

Region	Total popula-tion	% of national popula-tion	Urban			Rural		
			% urban popula-tion	Inter-views	Starting points	% rural popula-tion	Inter-views	Starting points
Caprivi	90 422	6,4	15	20	1	85	80	4
Erongo	55 470	3,9	63	40	2	37	20	1
Hardap	66 495	4,7	44	40	2	56	40	2
Karas	61 162	4,3	37	20	1	63	40	2
Khomas	167 071	11,8	88	140	7	12	20	1
Okavango	116 830	8,3	17	20	1	83	100	5
Omaheke	52 735	3,7	16	20	1	84	40	2
Oshana	134 884	9,6	26		2		100	5
Oshikoto	128 745	9,1	13			87	100	5
Otjozondjupa	102 536	7,3	46		2	54	60	3
TOTAL	976 350	69,1	-	400	20	-	600	30

Table 1: Sample breakdown

Survey data

Orientation towards Institutions

In the ten years of Namibia's independence, numerous elections for the various democratic institutions have been held. They have all been described as free and fair. With regard to these elections Namibia can be classified as a young democracy in the phase of institutional consolidation.

However, Namibia has yet to experience a peaceful alternation of power. At present there is little to indicate that the forthcoming elections will bring such a change. The SWAPO Party's[6] predominance is very clear. Democratically legitimised, it is in a position to shape the State and society according to its own ideas. Even though the party spectrum is changing at present, Namibia is likely to continue to develop into a consolidated single-dominant-party system.

The SWAPO Party's predominance is accompanied by a continuing trend of a decreasing voter turnout. From a 98% turnout at the elections before Independence (1989), this dropped to approximately 76% for the Parliamentary Elections in 1994 and to about 33% of the registered voters for the 1998 Local Authority Elections. During the 1999 Parliamentary Elections the turnout of registered voters was only 62%, even though a new party, the Congress of Democrats (CoD) was competing in those elections.

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[6] The South West Africa People's Organisation (SWAPO) Party of Namibia

Various studies (e.g. Keulder 1998a) have been carried out with regard to what motivates the population to participate in or stay away from elections. The results of such studies show that a desire for change and an improvement in living conditions constituted central reasons for voting. Identification with one's own party, combined with the ethnic cleavage structures of the population, after a comparatively short time resulted in a party system of high loyalty, and in which there is little volatility. On the other hand, in some sections of the population there is increasing disillusionment. According to one central finding, in the eyes of a growing segment of the population that did not vote, little seems to be changing.

Participation and Competition in Elections

Attitudes towards democracy can be measured through various variables. These include active participation, attitudes towards freedom of speech and the degree of tolerance within various segments of the population. We will begin here by focusing on participation and competition as two key elements of an electoral democracy.

The first question to the respondents in the present study aimed at assessing the significance of participation, i.e. how important it was to participate in the selection of rulers. A second question measured the significance of competition, i.e. the importance of being able to choose between different candidates or parties.[7] At first glance at least, the two results differed very slightly: both participation and competition were rated highly by the population. Closer analysis, however, reveals significant differences in the overall trend.

Participation

Being able to participate in elections is regarded as important or very important for an overwhelming majority of the population (84%), whereas only a small portion of the respondents (6%) regarded it as not important or not important at all. Thus, the democratic right to participate in the selection of office-bearers is apparently held in extremely high esteem and enjoys huge support ten years after Independence. This result is echoed – with slight variations only – across all population groups and Regions in the country.

Comparing this result with the steadily diminishing voter turnout, only one conclusion can be reached: the increasing abstention from voting cannot be interpreted as a fundamental lack of interest in elections or as "democracy fatigue". Such descriptions clearly do not go far enough.

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[7] We asked the following question: "In a democracy, elections are held on a regular basis. How important is it for you to be able to –

(a) participate in these elections, and
(b) choose among several parties?".

Degree of importance accorded	Frequency	Valid %
Very important	604	60,2
Important	247	24,6
	65	6,5
Not important	40	4,0
Not important at all	20	2,0
Don't know	27	2,7
TOTAL	1 003	100,0

N = 1 003

Table 2: Importance of participation

Degree of importance accorded	Frequency	Valid %
Very important	581	57,9
Important	228	22,7
Somewhat important		8,3
Not important	32	3,2
Not important at all	27	2,7
Don't know	52	5,2
TOTAL	1 003	100,0

N = 1 003

Table 3: Importance of inter-party competition

Competition

The second variable looked at, namely to have the opportunity of choosing from among various parties, had strong support among the population as well. Four out of every five respondents (80,6%) considered it important or very important that more than one party contested the elections. The opposite opinion, namely that this was not important or not important at all, was expressed by a very small percentage (5,9%). Table 3 provides an associated overview.

Thus, democratic competition is also regarded as important, even though the approval rate for competitiveness was slightly less than that for participation.

However, a closer examination of the results with respect to the competitiveness of elections shows a more pronounced divergence in the attitudes of different demographic groups than was the case for the results on participation in elections. In examining these differences, the influence of education as well as differences between various Regions will be highlighted.

The importance allocated to democratic competition increases with a rising level of education. Thus, from the group of persons without formal education, less than

half (45,3%) of the respondents regard competition as very important. For 75% of respondents with a university degree, competitiveness in elections becomes very important. The opinions of Primary and Secondary school-leavers lie between these two extremes. The breakdown is provided in Figure 1.
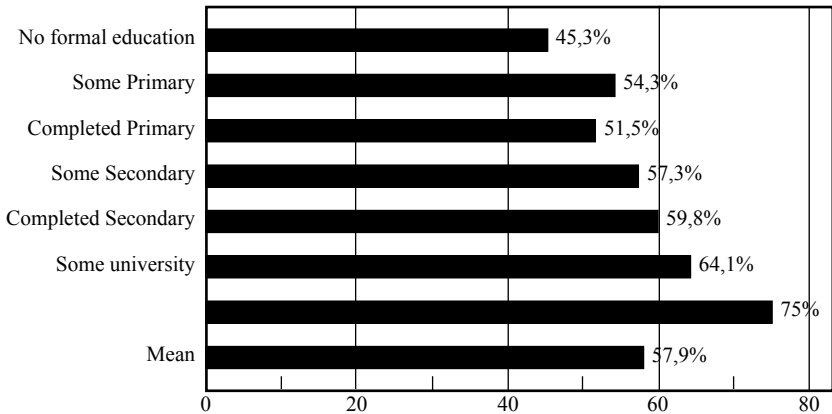
Figure 1: Importance of inter-party competition by education

Education, therefore, is the demographic factor with the strongest influence on the importance of competition. This result confirms the importance of education for the formation of a democratic culture. One may safely assume that an improved level of education in the population could also indirectly strengthen the support of democracy in Namibia. The differences in attitude between different age groups as well as between men and women are relatively small, on the other hand.   Greater differences in attitudes toward competition can, however, be observed between the various Regions of Namibia (see Figure 2). Whereas in Caprivi, Karas, Khomas and Oshana, a clear majority (more than 65%) of the respondents regarded it as very important that more than one party contested the elections, in the Omaheke and Otjozondjupa Regions less than half of the respondents held this opinion.

Several interesting patterns emerge. Firstly, Omaheke and Otjozondjupa both belong to those Regions in which past elections saw lively competition. It was not possible to predict who would win. During the 1998 Regional Council Elections, for example, different parties' candidates won different constituencies. In 1999, these two Regions were the strongholds of the Democratic Turnhalle Alliance (DTA) of Namibia. In Omaheke, the DTA won the elections with 44% of the votes while the SWAPO Party received only 37%. In Otjozondjupa, only 29% voted in favour of the DTA, whereas the SWAPO Party won 47% of the vote. Nevertheless, the existence of competition is not regarded as all that important by a large
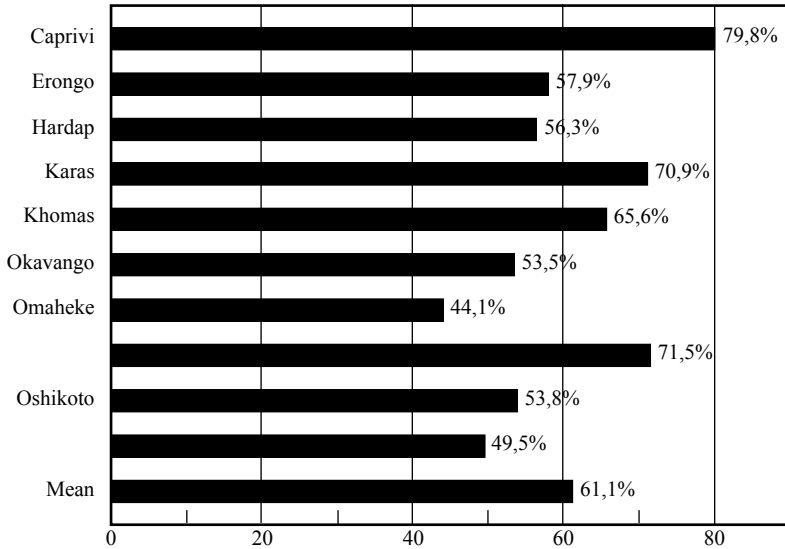
Figure 2: Importance of inter-party competition by Region

section of the population. Experience with competitive elections, thus, seems to have no direct positive influence on the regard for competition.

Secondly, an examination of the Regions in which competition was regarded as extremely important led to an interesting result. Caprivi, Oshana and Oshikoto belong to those Regions that have, thus far, been SWAPO Party strongholds. With election results in excess of 80% for the SWAPO Party at times, the competition here was more or less restricted to a minimum. However, it was here that the respondents regarded competition as very important.

Two related interpretations of this trend are possible. On the one hand, this result could be considered as a direct declaration of belief in a multi-party democracy. The SWAPO Party's predominance in these Regions could, thus, from the view-point of the respondents at least, merely be considered a result of a lack of worthy alternatives. On the other hand, the results could be interpreted as showing that a regard for competition hides a covert criticism of the SWAPO Party. In 1999, when the CoD participated in elections for the first time, competition – as a variable – was regarded as very important. Competition, thus, has no fixed value, but is linked to the alternatives on offer. This interpretation is close to the first one. Whereas competition between the SWAPO Party and the DTA in the four "O" Regions was not regarded as that important, the competition between the SWAPO Party and the CoD is marked by greater interest. However, as the results of the 1999 elections showed, the importance accorded to democratic competition did not lead to more diversified voting behaviour.

In conclusion, it can be shown that the attitudes towards participation and competition are closely linked. Individuals for whom competition is important would, in most cases, also pronounce themselves in favour of participation.[8] Approval of both principles lies at a high and nearly similar level. This result is even more striking when one takes into account the findings of research done elsewhere by Bratton and Van de Walle (1997). In their study (*op. cit.*) of 42 transformation processes in Africa they found that, historically, an extension of participation is achieved much more easily than an extension of competition.

Political Participation Outside Elections

Even if participation in elections is important, a living democracy requires ongoing political participation on the part of the population. Otherwise, the development of a democratic culture based on transparency and accountability, and backed up by a vibrant civil society, seems unlikely. For Namibians, this question is of special interest, particularly when seen in the context of the successful and popular liberation struggle. One way to gauge attitudes towards popular participation is to assess the extent to which ordinary citizens are willing to engage in political activity. We therefore asked respondents to evaluate the following statement: "Politics should be left to the politicians and not to ordinary people.".
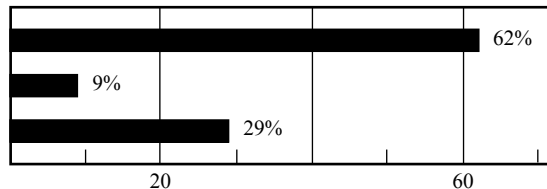
Figure 3: Politicians, ordinary citizens and involvement in politics

Although the majority (62%) voiced their opposition to the given statement, the results also show that 29% were of the opinion that politics should rather be left to the politicians. The latter response reveals an elitist view of politics.

When comparing the opinions of the various groups by way of their level of education, a correlation between level of education and participation in politics becomes apparent. More respondents without formal schooling (37,4%) compared to those with a university degree (20%) prefer to leave politics to the politicians.

Freedom of Speech and the Right to Criticise Government

A democratic system is founded not only on the elements examined thus far, but also on the rule of law. Without the rule of law, existing freedoms and basic rights would be without lasting value since they could be withdrawn, revoked or amended

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[8] = 0,75; N = 946

at any time by the ruling elite. For example, one of the basic rights being directly or indirectly curtailed by the State elsewhere in the world is freedom of speech.

The aim of this study was not to examine the existence, or the strengths and weaknesses, of the rule of law in Namibia. Instead, we were interested in gauging the extent to which Namibians were prepared to tolerate freedom of speech, especially the freedom to criticise Government. Figure 4 below records responses to the following question that was posed to our informants: "Everybody should have the right to express his or her views in public even if these views are critical of Government. Do you agree or disagree?"
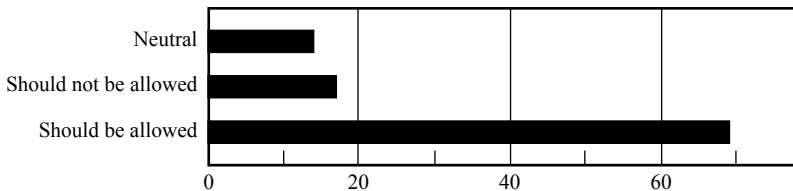
Figure 4: Freedom of speech and the right to criticise Government

The result shows that over two-thirds (69%) of the respondents were in favour of freedom of speech even when it meant criticising the Government. Only slight variations exist between the responses of various population groups. In this regard, of more interest than the various categories relating to demographics is the question of whether supporters of the ruling party accepted freedom of speech more or less readily than non-SWAPO Party supporters.

Among both the supporters of the governing party as well as the supporters of the opposition parties the right to freedom of speech enjoyed substantial support. However, and not surprisingly perhaps, the support for free speech among opposition party supporters was higher (79,8%) than that among SWAPO Party supporters (68,9%). Those who had not yet decided who they would vote for during the next election showed least support for the right to freedom of speech. Only slightly more than half of the respondents in this category (54,1%) supported unrestricted freedom of speech. These results are contained in Table 4 below.

Party alliance	Frequency	Valid %
Government	280	68,9
Opposition	181	79,8
Don't know	46	54,1
Mean	-	68,4

N = 718

Table 4: Support for unrestricted freedom of speech by party alliance

Democracy and a Culture of Conflict Resolution

One of the elements of liberal democracies is social pluralism. This element is reflected in the existence of different opinions and parties in Parliament. An important question to pose to our respondents, therefore, was whether or not they felt such diversity of opinion existed in the Namibian Parliament, and whether or not they believed the population would prefer a political elite who agreed on all issues at all times. The results are recorded in Table 5.[9]

Position	Frequency	Valid %
Strongly agree	246	24,5
Agree	220	21,9
Partly agree	190	18,9
Disagree	231	23,0
Strongly disagree	61	6,1
Don't know	55	5,5

N = 1 003

Table 5: Unanimity in Parliament

The result shows that a large portion of the respondents (46,4%) were in favour of unanimity among parliamentarians, but a similar number of respondents (43,1%) were of the opinion that the opinions of minorities should also be represented (see Table 6).[10]

Position	Frequency	Valid %
Strongly agree	169	16,8
Agree	264	26,3
Partly agree	149	14,9
Disagree	198	19,7
Strongly disagree	156	15,6
Don't know	67	6,7

N = 1 003

Table 6: Disagreement in Parliament

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[9] These are responses to the following question: "The ruling party and all other parties in Parliament should always agree on all political issues. Do you agree or disagree?".

[10] These are responses to the following question: "The ruling party and all other parties should stand by their own ideas even though the majority disagrees. Do you agree or disagree?".

As variables, age and education do not have any significant influence on the results (see Tables 5 and 6). However, if the Regions are taken into consideration, more distinct differences in the overall trend are detected. Strongest support for unanimity in Parliament came from the Oshana and Oshi-koto Regions, where over 30% strongly agreed with the given statement. These were also the two sample Regions in which the SWAPO Party obtained a very favourable electoral return.[11] This permits the conclusion that, in the four "O" Regions in particular, the idea of a pluralist democracy in which divergent opinions exist and are presented for negotiation in Parliament is less strongly supported than anywhere else in the country. These results are highlighted in Figure 5.

Figure 5: Strong agreement with unanimity in Parliament by Region

Tolerance

To determine respondents' tolerance levels, we followed the commonly used two-step approach. The first step requests respondents to identify, by means of an open-ended question, any groups that they strongly dislike. The second step constitutes a number of questions aimed at measuring respondents' willingness to afford the disliked groups civil and political liberties and rights. Only about 28% of all respondents provided an answer to the first question, meaning that only

Figure 6: Most disliked groups

about 25% of the interviewees expressed a negative attitude towards specific social groups. The recorded responses to the first question appear in Figure 6.

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[11] In the 1999 National Assembly Elections, the SWAPO Party obtained 96,1% of the vote in Oshana and 93% in Oshikoto.

Figure 6 also reveals that criminals constituted the largest disliked group (38,5%). The portion of ethnic groups mentioned as disliked groups was comparatively small, which is supportive evidence that tolerance between Namibia's various population groups is relatively high and not very politicised.[12]

The first question in the second step was to identify whether or not disliked groups were to be given equal treatment before the Police and the courts. The responses to this question are recorded in Figure 7. The replies show that 37% of the respondents[13] either disagree or strongly disagree that all citizens deserve equal treatment by the Police and the courts, but the majority of the respondents (51%) are of the opinion that all groups of the population should be treated equally.
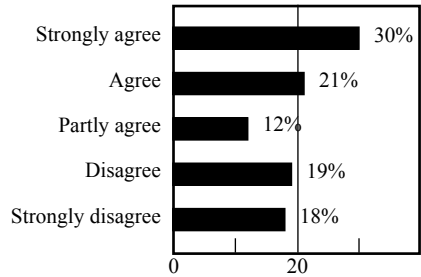
Figure 7: Disliked groups and equality before the Police and the courts

The second question in the second step required respondents to give their opinion on whether or not members of disliked groups should be allowed to teach in their neighbourhood school. For obvious reasons we omitted criminals from this response category. Figure 8 shows the relevant responses.

Whereas Figure 8 shows that half the respondents disapprove of members of these groups being allowed to teach in a school in their neighbourhood, Figure 9
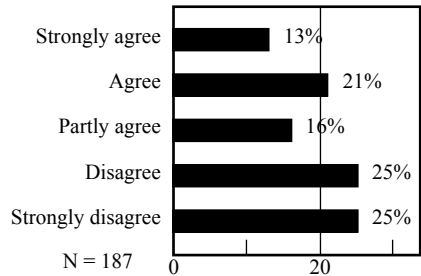
Figure 8: Disliked groups and teaching in respondents' neighbourhood school

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[12] The reasons why some population groups were nevertheless described as disliked cannot be explained here. It is, however, evident that the rejection of white Namibians is largely caused by the very unequal distribution of income between black and white citizens, as well as on account of the history of apartheid. One reason why the Owambo were described as a disliked group is their alleged dominant position in Namibian society. The Owambo not only represent the largest population group (44% of the overall population), but at the same time they are traditionally strongly represented in the ruling SWAPO Party. This is why, in parts of the smaller population groups, the impression exists that the Owambo are given preferential treatment, for instance in the public sector. This impression is not justified, according to various authors (see e.g. Fosse 1992).

The negative attitudes expressed by respondents towards the Mafwe can be attributed to a local conflict in the so-called Caprivi Strip. The conflict broke out several decades ago because of border disputes between the two largest ethnic groups in the Eastern Caprivi, namely the Mafwe and the Basubiya.

[13] The percentages mentioned in this section only refer to those who mentioned a disliked group. These are some 28% of the respondents.

shows that tolerance is even less developed towards members of disliked groups (excluding criminals) owning property in the respondents' neighbourhood. A total of 65% of the respondents disapproved or strongly disapproved of the latter.

Figure 9: Members of disliked groups owning property in respondents' neighbourhood

This makes two things clear: on the one hand the results are positive. Firstly, as already mentioned, about three-quarters of the respondents failed to mention any disliked groups. Even if one has to assume that, in a survey, not all respondents mention the groups that they do not like because they do not wish to create a negative image of themselves in the eyes of others, the figure of three-quarters of respondents is still a very high one. Furthermore, the finding that few Namibians expressed a strong dislike for specific ethnic, religious or sexual groups speaks well of Namibia's policy of national reconciliation, some ten years after the end of the racist apartheid system in this country.

However, if one looks at replies to the three second-step questions, the picture is less rosy. Tolerance clearly diminishes when members of disliked groups move into respondents' immediate spatial environment, be it to work or own property.

Orientation toward the State, Society, Culture and Identity

The attitudes of the respondents towards the State and society were also measured by means of the level of pride towards certain of Namibia's societal or institutional achievements. Low levels of pride would indicate a sense of alienation from the State and society. With regard to progress toward a national identity, we included respondents' own family and cultural roots as a measurement. The results of these measurements are presented in Table 7.

The findings show that the highest degree of pride is felt for Namibia and for one's family (78% and 78,4%, respectively). The respondents also expressed being proud of living in a peaceful country (69,1%) as well as of their cultural roots (64,4%). Some 61,4% of the respondents were very proud that Namibia had held free elections, whereas the significance of the independence struggle appears to have diminished somewhat as a source of pride (52,7%). The least-mentioned source of pride was the Constitution, which received the lowest rating (36,8%).

If the Regions are included in the measurements, clear variations in opinion are detected. For example, pride in the Constitution is significantly lower in Omaheke (20,6%), Karas (23,3%) and Erongo (24,6%), in comparison with the other Regions examined. Also, the pride of living in a country in which the Government is
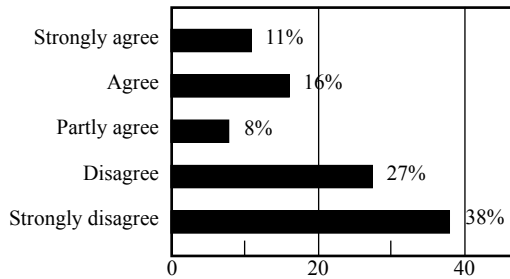
Source of pride in terms of a social/political feature	Frequency	Valid %
Namibia	782	78,0
The Constitution	369	36,8
Living in a peaceful country	693	69,1
Living in a country in which the Government is elected by all	616	61,4
One's cultural roots	646	64,4
The independence struggle	529	52,7
One's village/town/city	564	56,2
One's family	786	78,4

N = 1 003

Table 7: Levels of pride in social and political features

elected by all is much less pronounced in the southern and central Regions such as Hardap (45,6%) and Omaheke (27%), than in the northern Regions (including Caprivi). The implication, therefore, is that in certain Regions such as Omaheke, Erongo and Hardap, citizens are far more alienated from the national political system than in other Regions.

When the variables of age and level of education were factored in, there was no significant influence on the above finding. However, if the language group of the respondents was included in the analysis it was noticeable that, of all the language groups contained in the sample, the Oshiwambo-speaking respondents felt most pride in Namibia's social and political features (see Table 8).

Language	Namibia	Consti-tution	Peaceful country	Elected Govern-ment	Cultural roots	Inde-pend-ence struggle	One's village/town/city	One's family	Mean
Damara	69,3	25,3	54,7	54,7	64,0	52,0	48,0	70,7	54,8
Nama	80,3	34,2	53,9	53,9	69,7	48,7	60,5	81,6	60,4
English	77,3	31,8	77,3	59,1	63,6	50,0	50,0	86,4	61,9
Oshiwambo	83,8	47,1	75,1	66,2	63,9	61,3	65,6	78,6	67,7
Otjiherero	66,7	25,9	63,0	45,7	60,5	45,7	43,2	76,5	53,4
Afrikaans	69,0	27,2	58,2	49,4	61,4	35,4	42,4	81,0	53,0
Silozi	76,7	50,7	83,6	82,2	83,6	74,0	74,0	87,7	76,6
Rukwangali	80,7	32,5	74,7	59,0	62,7	38,6	42,2	69,9	57,5
Other	88,7	29,6	78,9	80,3	52,1	59,2	57,7	73,2	65,0

N = 1 001   *Note: Language groupings for German and Setswana are too small and have been omitted.*

Table 8: Level of pride in social and political features in Namibia by language (%)

Expectations and the Issue of Legitimacy

Two different views exist as regards what *democracy* should mean. The so-called procedural view proclaims that "... if democratic institutions are to last, they must constitute a framework that is open-ended, capable of processing divergent as well as changing interests and values" (Przeworski 1997:42). Proponents of this view invariably focus on the political regime, i.e. the political procedures that determine and regulate the distribution of power (Bratton & Van de Walle 1997:9). Participation in the political process is regarded as an achievement of greater importance than that of the acceptability of an end decision. This requires some moral choice for, and normative commitment to, democracy.

The so-called substantive view, on the other hand, holds that "... democratic institutions should generate outcomes that protect not only the liberties of citizens *but also their material well-being*" (Przeworski 1997:41, emphasis added). Here, individuals are motivated not by some moral choice or normative commitment to democracy, but by the prospects for improving their values and interests instead. Democratic regimes are evaluated by their ability to generate economic growth, enhance or achieve socio-economic justice through redistribution programmes, and improve citizens' quality of life through public policy programmes. In this view, it is the end decision – and not participation in the process – that drives a commitment to democracy.

In assessing progress towards the consolidation of democracy, the two views often produce contradictory results. The proceduralists, with their emphasis on the regime, would look at respect for civil liberties and avenues for participation. Substantialists would rather focus on socio-economic performance criteria such as economic growth rates, income disparities and quality-of-life indexes. Both would look at institutions, but for different reasons. The substantialists would be concerned about institutions' capacity to deliver, whilst the proceduralists would be more concerned with the nature (inclusive or otherwise) of institutions as well as the norms and regulations (democratic or otherwise) by which they operate.

The substantive view is not uncommon in young democracies. Given the scope of economic turmoil and hardship in the emerging democracies of Eastern Europe, Africa, Asia and Latin America, it is understandable that higher economic growth and greater social equity should be emphasised. However, the underlying assumption that democracy should be better at producing the goods than previous, non-democratic alternatives is a false one. Schmitter and Karl (1996:59-61) list four aspects in terms of which democracies are not necessarily better than their non-democratic alternatives:

- Democracies are not necessarily more efficient economically.
- Democracies are not necessarily more efficient administratively.
- Democracies are not likely to appear more orderly, consensual, stable or governable than their non-democratic counterparts.

- Democracies will have more open societies and polities than autocracies, but not necessarily more open economies.

It seems, then, that the expectations contained in the substantive view are both unfairly placed on a young, fragile democracy, and potentially dangerous to its consolidation and survival. Firstly, the nascent democracy lacks the normative commitment that "democracy is always best" and secondly, it expects tangibles that democracy in itself cannot guarantee to deliver. High expectations that are unmet can open a back door for those in power: uncomfortable with the constraints of democracy, they can revert to non-democratic means or autocratic rule. Some analysts (e.g. Bratton & Van de Walle 1997, Bratton & Mattes 1999) argue that, for democracy to be consolidated, the proceduralist view of democracy (what it is and what it can do) must become predominant in society.

Namibia fits snugly into the category of young (unconsolidated) democracies. It has a liberal-democratic Constitution, holds regular elections that are free and fair, is governed by popularly elected representatives and contains the basic, formal civic and political freedoms required for democracy. Yet the income disparities are huge: many Namibians survive on or below the poverty datum line, unemployment is substantial and a very large proportion of the country's total population comprises subsistence farmers with no access to markets or cash incomes. One would, therefore, expect the demand for improvements to one's livelihood to be high and for the substantive view of democracy to be strongly present.

Expectations

A number of surveys[14] and focus group studies[15] prior to this one suggest that Namibians do support democracy – and not necessarily for its expected substantive qualities alone. However, these studies also reveal that not all Namibians have a clear understanding of the concept of *democracy*, and that not all Namibians share the same understanding of

Requirement	%
Two strong parties that compete	67,0
Regular elections	81,4
Freedom to criticise the Government	69,4
Equal access to housing, jobs, and a decent income	73,7
Majority rule	61,0
A strong President	61,1
Little disparity between the rich and the poor	52,1
Minority rights	55,7

Source: Keulder (1998a:40)

Table 9: Essential or important requirements for democracy

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[14] See Keulder (1998a)

[15] See Becker & Bruhns (1998), and Eiseb & Fuller (1996)

that concept. These findings are reflected in the current study, in which students were asked what they regarded as essential or important requirements for a democracy (Table 9).

These and other studies (Keulder 1998a, 1999) also reveal, however, that Namibians require much more information about their elected representatives, much more contact with those representatives, and much more information about democratic processes such as voting. The lack of contact and information not only plays a crucial part in the understanding of democracy, but also shapes the demands directed towards the system.

In gauging the type of demands a society makes on the political system, it is also possible to determine the nature of that society's predominant system of values.[16] Far from being exhaustive, the list of expectations we provided (see Table 10)

Item	Expect much more	Expect more		Expect less	Expect much less
Unemployment	81,9	13,8	1,4	1,2	1,7
Rising cost of living	58,6	28,2	7,3	4,8	1,1
Disparity between rich and poor	50,3	32,6	10,6	4,6	1,9
Well-being: own language group	33,3	29,6	32,3	3,1	1,7
Well-being: other language groups	25,1	28,9	37,7	5,2	3,2
Common Namibian identity	34,7	28,1	32,5	3,5	1,1
Well-being of urban population	27,4	33,8	25,8	9,4	3,6
Well-being of rural population	51,2	32,3	11,8	3,8	0,9
Foreign policy	27,4	25,3	27,3	14,2	5,8
Protection against criminals	63,3	27,0	5,3	3,3	1,1
Preservation of family values	39,8	30,7	22,7	4,5	2,3
Cultural traditions	37,8	29,8	25,4	5,6	2,1
Gender equality	34,8	22,5	28,4	8,2	6,1
The environment	39,5	34,3	22,5	3,0	0,7
Corruption	68,6	19,1	4,7	2,7	4,8

N = 1 003

Table 10: Expectations by item (%)

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[16] See *inter alia* Inglehart (1990, 1997) and Taylor (1998)

included a mix of what have been classified as pre-material, material and post-material values. From these we constructed an expectation index intended to measure the overall level of expectations.[17] Table 11 provides the mean scores by Region with regard to the expectation index.

Firstly, it is clear that expectations are high all over the country. Secondly, there are significant interregional differences. Earlier it was shown that Regions which regarded themselves as "closer" to Government on the expectation index (e.g. Oshana and Oshikoto) were also lower (albeit only slightly so) than Regions which do not (e.g. Karas and Omaheke).

Thirdly, if we consider the individual items that comprise the expectation index, we see that economic issues embody the highest expectations. The items Namibians regard as most important are unemployment (81,9%), the rising cost of living (58,6%), the disparity between the rich and the poor (50,3%), the well-being of the rural population (51,2%), protection against criminals (63,3%) and corruption (68,6%). All these indices contribute, in various ways, to the material well-being of the population, and highlight the

Region	Mean %
Caprivi	76,8
Erongo	72,4
Hardap	74,0
Karas	80,7
Khomas	75,2
Okavango	76,4
Omaheke	78,4
Oshana	70,3
Oshikoto	70,9
Otjozondjupa	72,3
National	74,3

N = 996

Table 11: Expectations by Region

disparity between rural and urban well-being Given the much weaker performance of cultural indices such as the well-being of one's language group (33,3%), the preservation of family values (39,8%), and cultural traditions (37,8%), it is clear that the material concerns of Namibian society override its cultural or ethnic concerns. This assessment coincides with findings by Keulder (1998a, 1999) that voters vote primarily for change, and that the desired changes are material rather than ethnic. This tendency is lent further support in the current study by the large scores in the "Satisfied with things as they are" category (well-being of my language group – 32,3%; preservation of family values – 22,7%; and cultural traditions – 25,4%).

Although not completely conclusive, it seems as if material issues coexist with political issues (identified in other studies, e.g. Mattes *et al*. 2000). Thus, one can expect both substantive and procedural aspects to play a part in the conceptualisation of democracy.

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[17] Expectations were measured by way of the following question: "There are social problems all over the world in different societies. Do you think the Government should do more or less about the following?".

Satisfaction

Socio-economic indexes suggest that development has been slow in some parts of Namibia and that in some sectors it has, in fact, been deteriorating.[18] These indexes show not only racial discrepancies in development but also regional ones. This raises questions about Government's capacity to deliver overall, but also about its ability to deliver in an equitable manner. Recent events in the Caprivi showed that regional discrepancies could quickly be turned into ethnic ones. Where Regions are not developed in what is perceived to be an equitable manner, and where regional boundaries overlap with ethnic ones, ethnic brokers are ideally placed to implant ideas of deliberate neglect. Hence, we consider regional discrepancies in development coupled with perceptions of regional neglect to be a serious threat to the consolidation of democracy. The danger is most eminent where these discrepancies and perceptions lead to weak support for democratic institutions, as these could constitute the beginning of diminished legitimacy.

Region	Mean %
Caprivi	32,3
Erongo	35,9
Hardap	36,6
Karas	32,3
Khomas	40,7
Okavango	45,0
Omaheke	42,9
Oshana	49,0
Oshikoto	52,0
Otjozondjupa	57,0
National	43,5

N = 994

Table 12: Satisfaction by Region

In order to assess Namibians' satisfaction with the work of Government, we used the same 15 factors as those in the expectation index. By directly linking the expectations and the extent to which these have been satisfied, the "performance gap" can be gauged, i.e. where Government meets, exceeds or falls short in respect of popular expectations. Table 12 reports the comparative means for the various Regions on the satisfaction index.[19]

One is struck by the performance gaps in respect of all factors and in all Regions. The largest gaps are in Caprivi, Karas, Erongo and Hardap. These Regions, perhaps with the exception of Caprivi, are not traditionally close to the ruling party. In contrast, the gaps are smaller in Regions such as Oshana and Oshikoto, which are traditionally closer to the ruling party. If we compare the mean scores of those that indicated they would vote for the SWAPO Party in the 1999 National Assembly Elections with the scores of those who would vote for an opposition party, the impact of party alliance on the satisfaction index becomes clear. Table 13 com-

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[18] See e.g. the annual Human Development Indexes developed by the UNDP.

[19] The satisfaction index was prompted by the question: "How satisfied are you with the work of Government on each of the following issues?".

pares the mean scores of prospective SWAPO Party voters with those of non-SWAPO Party voters in respect of their expectations and satisfaction.

Party alliance	Expectation mean	Satisfaction mean
SWAPO Party	75,2	47,0
Non-SWAPO Party	77,9	37,7
Refuse to answer	71,0	43,1
Uncertain	69,9	43,1
National	74,3	43,5

N = 986 and N = 984

Table 13: Expectations and satisfaction by party alliance (%)

The pattern is clear: although SWAPO Party supporters expect almost just as much as non-SWAPO supporters and the average Namibian, they are significantly more satisfied with Government's achievements than non-SWAPO Party supporters, and slightly more satisfied than the average Namibian. Furthermore, it is interesting to note that those Namibians who did not want to reveal their party alliance or who expressed uncertainty at the time of the interviews, scored lower overall on the expectation index but higher than non-SWAPO Party supporters on the satisfaction index. If the satisfaction index proves to be a valid indicator of party preference, the above findings could perhaps indicate that most of those who are uncertain about their party alliance are closer to the ruling party than the opposition. The large performance gap measured in respect of SWAPO Party supporters offers some insight into the role and strength of partisanship or loyalty. Although SWAPO Party supporters have high expectations, very similar to those of the others, they show the highest level of satisfaction (47%) and seem to be more content when it comes to the party meeting their supporters' expectations. As illustrated in Table 14 below, SWAPO Party supporters are also generally more satisfied with their life than non-SWAPO Party supporters.

Degree of satisfaction	SWAPO Party	Non-SWAPO Party	Refuse to answer	Don't know
Very satisfied	23,0	12,0	11,5	20,8
Satisfied	27,3	32,1	27,0	26,7
Somewhat satisfied	29,9	26,9	36,7	28,7
Dissatisfied	13,5	17,9	16,8	13,9
Very dissatisfied	6,4	11,1	8,0	9,9

N = 983

Table 14: Satisfaction with own life by party alliance (%)

In this section we have seen that satisfaction with Government is more a product of party alliance than any of the biographical variables tested for. This leaves the question as to whether or not those who are less satisfied with Government's performance feel any different towards those who are tasked with delivering the goods, so to speak. At stake here is legitimacy; and the key issue here is whether or not dissatisfaction with Government has been translated into a lack of trust in public institutions.

Institutional Performance

From perceptions on the performance of ten public institutions we compiled a performance index.[20] Here, too, distinct regional patterns emerged. These are illustrated in Table 15.

The Oshana and Oshikoto Regions stand out because of their positive assessments of institutions and personalities. This is in line with what has been reported above: Regions that are closer to the ruling party are generally better supporters of Government, of what it has done, and of the structures by means of which it should deliver. This finding is hardly surprising, therefore. Nonetheless, what is surprising is the score for Caprivi (given its low ranking on the satisfaction index).[21] What is additionally significant about the Caprivi score is that it viewed all institutions, with the exception of the opposition parties, in a very positive light.[22] The remaining Regions that scored above the national mean (Okavango, Oshana, Oshikoto and Otjozondjupa) rated the performances of the ruling

Region	Mean %
Caprivi	56,5
Erongo	37,9
Hardap	33,2
Karas	33,8
Khomas	45,1
Okavango	47,3
Omaheke	35,2
Oshana	53,4
Oshikoto	52,6
Otjozondjupa	47,4
National	46,0

N = 980

Table 15: Institutional performance by Region

Party alliance	Mean %
SWAPO Party	52,1
Non-SWAPO Party	37,1
Refuse to answer	44,7
Uncertain	45,1
National	46,0

N = 970

Table 16: Institutional performance by party alliance

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[20] Respondents were asked the following: "How do you rate the performance of each of the following institutions and personalities?".

[21] The data were collected in the Caprivi some two weeks prior to the abortive secession attempt on 1 August 1999.

[22] In the light of what transpired after 1 August 1999, one cannot but notice the irony in the high scores afforded by Caprivians to the Defence Force (54%) and the Police (32,7%).

party and the President very highly. These, together with high scores for the Defence Force, Police and the Churches, elevated the latter Regions' mean scores above the national mean.

The four Regions (Erongo, Hardap, Karas and Omaheke) that recorded scores well below the national mean are identical to the ones in which the ruling party and the President did not achieve much approval. In general, discontent with all institutions was highest in these four Regions. Hence, it seems as if alliance to the ruling party and the President translates into allegiance with institutions: those that support the SWAPO Party and the President feel that most institutions (with the exception of the opposition parties) have performed successfully. This, then, suggests that the perception of whether or not institutions are performing well is influenced significantly by partisanship.

This explanation is supported by the data contained in Table 16, which records the performance index by party alliance. The SWAPO Party supporters scored much higher than non-SWAPO Party supporters did on the performance index.

Confidence and Trust

Thus far we have identified clear patterns of regional differentiation on the performance and satisfaction indexes. As these two factors are crucial in determining whether or not a political system has legitimacy, i.e. whether or not citizens have confidence and trust in that system, a third index – the confidence-and-trust index[23] – can be used to verify the results obtained for the first two. The regional breakdown for the confidence-and-trust index is presented in Table 17.

Despite the relatively low scores on the satisfaction index, Namibians have substantial confidence and trust in their institutions and personalities. This is positive, as it suggests that a legitimacy crisis has not yet developed. However, having said that, one must also point to the low scores recorded in four of the ten Regions, namely Erongo, Hardap, Karas and Omaheke. As was the case with the performance index, Caprivi leads the way on the confidence-and-trust index, followed by the Oshana and Oshikoto Regions.

Region	Mean %
Caprivi	72,3
Erongo	48,4
Hardap	44,4
Karas	45,1
Khomas	59,3
Okavango	59,8
Omaheke	45,8
Oshana	69,0
Oshikoto	67,4
Otjozondjupa	61,8
National	59,6

N = 977

Table 17: Confidence and trust by Region

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[23] Respondents were asked the following: "How confident are you that the following institutions or personalities are doing what is right and best for you?".

Hence, the pattern of regional differentiation is the same as with the satisfaction and performance indexes. Here too, in the confidence-and-trust index, the Regions with high scores are strong supporters of the ruling party and the President, suggesting that not all institutions are afforded the same (high) levels of confidence and trust. Caprivi is the only Region where most institutions (with the exception of the opposition parties) are afforded relatively high scores.

Party alliance	Mean %
SWAPO Party	67,6
Non-SWAPO Party	48,0
Refuse to answer	58,6
Uncertain	56,4
National	59,6

N = 967

Table 18: Confidence and trust by party alliance

Testing for the link between party alliance and confidence-and-trust, the assumed relationship is again confirmed: SWAPO Party supporters show significantly higher confidence and trust in public institutions than non-SWAPO Party supporters do. Those that chose not to reveal their party alliance or who were unsure of what it was, produced high scores close to the national mean. This could suggest that they are closer to SWAPO Party supporters than to non-SWAPO Party supporters.

Conclusion

The data presented above suggest that, after nine years of independence, the Namibian society contains sufficient social resources to consolidate its democracy. This is evident in the extent to which certain of the core values of democracy have become embedded in Namibian society. However, the data also suggest that the process is far from complete and that the society contains many aspects that are not compatible with democracy. Hence, the pattern by means of which democracy is being consolidated is not one of uniformity: there are clear regional and demographic differences, and not all segments of the population contain the same democratic values and ascribe to them with the same degree of commitment.

In the beginning we supported the argument that, for democracy to become consolidated, it needs a supportive culture. It is our argument, here, that such a culture is beginning to develop but it is not yet strong enough to secure the future of democracy in the country. Much more work has to be done, therefore. Those agencies that support interventions to strengthen democracy face a real challenge: society must be democratised as well. In the nine years since Independence, much more has been done to develop democratic institutions in comparison with what has been done to develop democratic values in the society at large. The data show that citizens' support for, and trust in, public institutions are far more the result of the citizens' partisanship than they are the result of a commitment to democracy or these institutions' capacity to deliver. The Namibian State does not face a legitimacy crisis at the moment but the data show that, in some Regions, there is a

real potential for one in the future. Not all citizens share the view that the State acts on their behalf and in their interest, and some are critical of public institutions. The correlation displayed between party affiliation and degree of support for public institutions suggests that the Namibian society is sharply divided along partisan lines. There is a clear "us" (SWAPO Party) and "them" (non-SWAPO Party) dichotomy and without much doubt this divide is still inspired by the struggle for liberation.

Namibia's single-dominant-party system, consolidated through overwhelming electoral support for the SWAPO Party, must be regarded as being a significant source of stability in the current democratic system. Support for the ruling party translates into support for institutions, and that is what will prevent a serious crisis of legitimacy during the founding years of a young democracy. The negative effect associated with this, however, is that the future of the democracy is placed in the hands of a ruling elite. This is reflected in the high number of Namibians who feel that politics should be left to politicians.

The data also show that it matters who is in power. Views and opinions are shaped by the fact that the SWAPO Party rules. The SWAPO Party seems to be the main source of both support and antagonism toward the political system. For the SWAPO Party, the role of opposition parties is limited to that of serving as an alarm system: they simply help to steer the ruling party and keep it on track. Should they begin to take votes from the ruling party, the latter simply has to shift somewhat to retain its dominance.

The data further show that Namibians are somewhat sceptical about the benefits of competition. Although they are strongly in favour of free speech, almost half of them prefer unanimity in Parliament. This view is strongest in the Regions from which the ruling party draws the bulk of its support. Furthermore, Namibians are more strongly in favour of participation than they are of inter-party competitiveness. This is so because colonialism denied most Namibians the right to participate in electoral politics. Colonialism also did not do anything to promote healthy competition. From the evidence presented here, it seems as if participation is assigned higher priority over competition, a finding that is in line with those from research done elsewhere.[24]

Although the Namibian society shows signs of democracy taking root, it cannot be considered a democratic society. The emerging political culture is neither a civic nor an integrated culture. It contains the legacies of colonial rule and a violent liberation struggle. Neither of these forces was democratic, and they tore Namibia's social fabric apart. These cleavages, especially the intense partisan divide, will continue to shape the country's political culture.

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[24] Bratton & Van de Walle (1997)

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Voting Behaviour in Namibia[1]
Christiaan Keulder

Introduction

Elections are the cornerstones of democracy. If *democracy* is broadly defined to mean "responsive government or rule"[2], then elections are one of the tools that ensure responsive government. It is through elections that citizens appoint their representatives and hold them accountable.[3] Elections also fulfil the important function of generating legitimacy for the organs of government. Together with economic growth and efficiency, legitimacy is often regarded as a key aspect for political stability.[4]

Since Independence in 1990 Namibians have been to the polls six times:

Number	Election	Year
1	Constituent Assembly	1989 (pre-Independence)
2	Regional Councils	1992
3	Local Authorities	1992
4	President and National Assembly	1994
5	Local Authorities	1998
6	Regional Councils	1998
7	President and National Assembly	1999

Table 1: Elections in Namibia

This paper will only be addressing the first *five* elections listed above. Where mention is made of the 1998 elections, this refers only to the Local Authority Elections in that year.

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[1] Excerpted and adapted from Keulder (1998).

[2] The notion of *responsive government/rule* holds that there should be "necessary correspondence between the acts of government and the equally weighted express wishes of citizens with respect to those acts" (Saward 1994:13).

[3] Most theories of representation share two assumptions: 1) that sovereignty lies with the people and that Government is responsible to the people; and 2) that the will of the majority is more important than the will of the minorities (Ball 1981:119).

[4] One often-used definition of *legitimacy* holds that it "involves the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate ones for the society" (Lipset 1984:88).

At least one trend that runs through all the elections at issue here is the declining voter turnouts. During the founding election of 1989, about 97% of all registered voters cast a vote. For the 1992 elections the voter turnout declined to 83% and for the 1994 elections it dropped further to 76%. Despite the decline, the overall or average turnout was considered "healthy". Perhaps most expected a further decline for the 1998 elections, but few expected the decline to be so sharp: only slightly more than 33% of registered voters cast a vote. This effectively suggests a drop of 50% from the last Local Authority Elections (1992), despite an increase in the number of registered voters.

Given the importance of elections, the study of voting behaviour is important as well. Thus far, two exit poll surveys of voters have been done, but generally, opinion polling does not feature strongly in Namibian politics. This adds to the importance of studies on voting behaviour when and if they are done. Given the fact that voting behaviour is such a contentious and dynamic field, exit polling is not enough. In many respects it can only provide us with useful clues or propositions about the qualitative aspects of voter behaviour.[5]

Explaining the Vote

The study of voting behaviour is perhaps the most developed field in the discipline of political science. The body of literature is enormous and the methodologies have become considerably sophisticated. At the same time, academics, party campaigners, the media and polling organisations have become bound together into symbiotic networks (Dunleavy 1990:460). Given the interest in and the importance of understanding voting behaviour, the debates on the effects of the research organisation, methodology, theories and "system biases" on our understanding of voting behaviour are as intense as ever.[6] In recent years the contributions from other disciplines such as political geography and psychology have extended the scope of voting behaviour research well beyond its traditional focus.

In sharp contrast to the state of the field in advanced democracies, the study of voting behaviour is yet to assume its rightful place in the broad discipline of African studies. In addition, relatively few African scholars and Africanists have included voting behaviour in their research programmes.[7] Instead, most of the recent work accompanying the "third wave of democracy" has maintained a strong

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[5] In the concluding part of this essay some of the alternative methodologies and unanswered questions are discussed.

[6] The body of country-specific literature is far too large to reflect here. For useful overviews in the British, Canadian and American contexts see Catt (1996), Dunleavy (1990), Kinder & Kiewiet (1981), Gidengil (1992), Dalton (1988) and Niemi & Weisberg (1978).

[7] There are exceptions. On the African continent, South African institutions such as the Institute for Democracy in South Africa, the University of Stellenbosch and the Human Sciences Research Council have led the field. Recently, the Department of Political Science at the University of

focus on institutions, policies, leadership and transformation politics in general. Where studies have focused on elections, their focus has usually been limited to the associated processes, structures and outcomes, but has not been extended to include the voters.[8] As a result, we know little about voters in Africa.[9]

We also know relatively little about the tools for studying African voters. Can we import the techniques used elsewhere? Should we use the same assumptions and explanatory frameworks? Should we develop new ones or can we successfully adapt existing ones to fit local conditions? Perhaps the most important question of all is whether voters in Africa are any different from voters elsewhere. Do they vote for the same reasons?

African scholars such as Mafeje (1991, 1996) have been calling for Africans to take ownership of their epistemology: to develop conceptual frameworks "uniquely" African both in origin and content. For him, the "indigenisation of the social sciences" is part of the battle against the "intellectual hegemony" of the North.

At least part of Mafeje's (1971) battle is against the ethnographic construction of the African reality. In this construction tribal and ethnic divisions are regarded as the primary explanatory variables. Horowitz (1985:xi) writes that -

> [E]thnicity is at the centre of politics in country after country, a potent source of challenges to the cohesion of states and of international tension. Connections among Biafra, Bangladesh and Burundi, Beirut, Brussels and Belfast were at first hesitantly made – isn't one "tribal", one "linguistic", another "religious"? – but that is true no longer. Ethnicity has fought and bled and burned its way into public and scholarly consciousness.

Although the study of ethnicity is by no means confined to African societies, its importance for scholars of Africa has contributed to the marginalisation of Africa from mainstream political science. In this way African societies and peoples have attained some unique and exotic status in scholarship. The status of African societies and peoples as the "other" reinforced the arguments in favour of a different set of methodological tools.

I do not accept these arguments. Like Sartori (1995:101), I believe that ideas should not be rejected (or accepted) on the basis of where they originated. Instead, they should be tested for validity and for their ability to "travel". They should be

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Zambia and the Electoral Institute of South Africa have circulated proposals with a special voter and electoral focus. In Europe, the programme(s) of the Institute of Development Studies at the University of Helsinki are noteworthy.

[8] One need only survey the works listed in the bibliography of Crowen and Laakso's (1997) article entitled "An overview of election studies in Africa" to realise this: none of the listed titles makes special reference to "voters" or "voting behaviour".

[9] One has to be fair to African scholars and concede that the political and institutional conditions on the continent have hardly allowed for extensive survey research. Not only is it costly, but institutional support and the infrastructure required have also been lacking. Societal distrust, violence and instability have also limited the prospects for fieldwork.

adapted, accepted or rejected in areas where local conditions demand such actions. First, however, they should be tested. I accept that, en route, new discoveries will be made and new ideas will surface. Old ones will become superfluous, lose credibility or regain it. The outcome is uncertain and the process, perhaps, one of trial and error.

The models of voting behaviour discussed here form part of mainstream debates in the USA, Britain, Canada, Germany and France. It is our aim to see how well they "travel", i.e. whether and to what extent such models help us to understand voting behaviour in Namibia.

The following models are discussed below: the ethnic vote, the party identification (loyalty) vote, the protest vote, the tactical vote, the pocket-book vote and the sociotropic vote.

The Ethnic Vote

Ethnically divided societies seem to produce ethnic voters and ethnic parties. Horowitz (1985:320) defines *ethnic voting* as -

> ... voting for the party identified with the voters' own ethnic group, no matter who the individual candidates happen to be.

According to Mattes and Gouws (1998:1), ethnic parties are those that derive an "overwhelming" proportion of their support from members of one ethnic group or cluster of groups, to the exclusion of others. For Horowitz (1985:298), ethnic parties exist where "party boundaries stop at group boundaries ... regardless of whether any group is represented by more than one party".

Ethnic parties are seldom "pure": instead, they commonly feel the need to preserve afaçade of multi-ethnicity. The inclusion of "others" in ethnic parties' leadership structures and on their candidate lists serves purposes other than those of creating truly multi-ethnic enterprises.[10] In this line of argument, then, the true nature of a political party (ethnic or multi-ethnic) is to be found in its support base, not its leaders or candidates.

In ethnically divided societies, Horowitz (1985) argues, elections are mere ethnic censuses as voting is based on ascriptive means. That is, the outcome will merely confirm the numerical dominance of the ethnic majority. What is more, where some voters express ethnic votes, they tend to drive out non-ethnic votes. He maintains that (1985:323) –

> [T]he incentives toward reactive ethnic voting are strong. When voters of one group choose, in effect, not to choose, but to give their vote predictably on an ethnic basis to an ethnically defined party, they put voters of the other group who choose among parties at a collective disadvantage. All else being equal, such voters will seek to reduce their disadvantage by concentrating their votes in a comparable ethnic party. In such a situation, ethnic votes tend to drive out non-ethnic votes.

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[10] See Horowitz (1985:320)

Ethnic voters do not choose, they register their (ethnic) identity. As a result, the exercise of voting is a predictable affair and the outcome of the elections a certainty, as it is the demographic majority that will win. The only uncertainty is whether a potential voter will vote. Voter turnout is high "at the time when it is most important that all ethnic-group members be counted" (Horowitz 1985:328).

Despite its instant appeal to many analysts, the ethnic vote theory suffers from several methodological and theoretical problems.[11] The first relates to the unit of analysis. In the ethnic vote theory, the group – and not the individual – is the primary unit of analysis. Hence, this type of analysis is based on group-level voting patterns. This in itself is not the problem: but Horowitz (1985) uses the group-level voting patterns to infer individual-level motivations, and in doing so commits a serious ecological fallacy (Mattes & Gouws 1998:2). Secondly, ethnic voting is more often assumed than proved. We need individual-level data on voter motivation and should not rely on post hoc analyses of electoral results. Linking demographic variables (such as race and language) to party choice does not provide any meaningful grounds for "proving" ethnic voting. What is needed are data on ethnic solidarity as motivation for voting and party selection. The only way to collect this is to ask voters about their voting motivations and party choices, rather than relying on post hoc inferences.[12]

Thirdly, the ethnic vote thesis eliminates all other possible explanations of the vote without putting them to the test. This amounts to a monolithic explanation of the vote. It is assumed, but not proved, that all voters are motivated and informed about party choice by ascriptive means rather than the contents of party programmes, the quality of the candidates, their own economic position, etc. Partisan support is presumably "fixed" and constant – making voter volatility impossible. It negates the impact of a range of other potential influences on the vote, such as information, perceptual filters and socio-economic conditions. The only information an ethnic voter needs is when elections will take place, and which party represents which ethnic group's interests.

The Party Identification (Loyalty) Vote

Briefly put, the *party identification* or *loyalty* explanation is based on two main premises: choosing the "best option", and voting as a sign of support (Catt 1996:21). Catt (*op cit*.:23) argues that -

> [T]he unstated assumption is that voters are deciding which party they like best and that they then indicate the result of their decision by voting for that party.

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[11] For my critique of the ethnic vote thesis, I made extensive use of the ideas contained in Mattes & Gouws (1998).

[12] It is quite possible that ethnic and non-ethnic voters can coexist within the same party. Without motivational data, however, we cannot distinguish between them.

The vote is, thus, an indication of preference. Once cast, a vote is seen as a sign of support for a specific party. Some analysts (see Butler & Stokes 1974; cited in Catt 1996:26) have interpreted *support* as being a "strong commitment to" a specific party, arguing the voters develop a partisan self-image. Voters think of themselves as supporters of a specific party in a lasting sense, meaning that party support is relatively stable and durable. The vote, as an expression of support, is often seen as a "hundred percent endorsement of everything a party says or stands for" (Rose & McAllister 1986; cited in Catt 1996:29). The implication is that loyalty voters regard their party as the best: on all issues, at all times and during all elections. Their support is almost completely unconditional, giving party representatives almost blanket permission to carry out their tasks. Issues are not as important: the party in power is. There is no single, uniform basis for loyalty, however. It can differ from country to country and from party to party.[13] The challenge, therefore, is first and foremost to establish the basis of party identification and loyalty. Secondly, we have to establish the mechanisms through which loyalty is cultivated and sustained. Thirdly, we need to investigate the durability of loyalty by looking at the factors corroding or strengthening it.

Party identification or loyalty votes are indicative of a stable electorate. Swings are unusual, and unless something extraordinary happens, outcomes are predictable as voter volatility is low. The party system, therefore, tends to be a stable one as well.

However, there are also some problems with the loyalty argument. The first problem stems from the assumption that the vote is an unequivocal expression of support. This assumption chooses to ignore other motivations for the vote. It ignores or chooses to ignore the possibility of protest or tactical voting (see later herein). In neither of those cases is the vote a sign of endorsement: instead, it is "just a preference given the current situation" (Catt 1996:29). It also ignores the possibility of negative voting, i.e. where votes are cast not to support, but to punish. The loyalty-vote analysts see "support" – not "preference".[14]

The second problem, linked to the first, is the fact that supporters of the loyalty thesis choose to ignore alternative motivations for voting. In this respect, the latter thesis is also a monolithic explanation. It not only chooses to ignore voters' pref-

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[13] In Britain, for example, the basis of party loyalty is long perceived to be class. In South Africa some have argued race and/or ethnic group to be the basis (see the overview in Mattes & Gouws 1998).

[14] Chambers (1977; cited in Catt 1996:26) distinguishes between *preference* and *support* in the following manner: "Preference is the art of choosing, favouring or liking one above another, while support is to uphold, to back-up, to supply with the means of living". Preference can be short-term and can change quite frequently depending on the situation at hand. Support is long-term and less susceptible to rapid and frequent change. Preference can be based on positive as well as negative motivations and is generally associated with higher voter volatility. Support, on the other hand, is regarded as a positive motivation and is associated with voter stability.

erences, but also assumes that all voters vote or select their "best party" on the same basis. If we cannot accept that all votes are indications of support, then we cannot accept that all voters share the same views on what is "best". The same voter can hold several ideas of what is "best" and these may vary across time and space. The same voter may, therefore, vote for different parties during different elections depending on his or her needs. The "best party" may, thus, be several parties, depending on whether the voter wants to support, protest or punish.

The Protest Vote

Not all motivations to vote are positive; and negative motivations to vote result in a negative vote. Catt (1996:41) states that -

> [I]n its simplest form, a negative vote is one cast for a party because that party is not another, strongly disliked party. A negative voter may well like the party voted for, but what makes it a negative vote is that the **dislike is stronger than the like**. (emphasis added)

One strong negative view can outweigh several mild positive ones; as a result, a negative motivation to vote or choose is just as important as the positive one. Negative motivations to vote can flow from negative campaigning and its impact on voter anxiety and fear.[15] For a better understanding of why a voter selected a specific party, and to take account of the possibility of negative votes, Catt (1996:43) suggests that -

> [U]sing information on how each voter feels about the whole range of parties facilitates the identification of voters whose strongest feeling is negative (or positive) and those who have negative feelings towards most of the parties.

Negative voting can occur in constituencies with only two parties, but the chances are better (as choices are wider) in those with three or more parties. Very often, the voters' choice amounts to the lesser of two (or more) "evils". Negative voting suggests higher levels of voter volatility, although party officials and representatives are keen to see all votes as indications of support. The challenge, therefore, is to identify negative votes (and very often it is up to the analysts to do so) and to separate them from true votes of support.

The Tactical Vote

Tactical voting can only occur in constituencies with more than two different parties and/or candidates. Tactical voting occurs when voters have a strong urge to prevent a certain strongly disliked party from winning. To achieve this outcome

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[15] Negative campaigns emphasise the dire consequences of a victory for the other side rather than the beneficial results of a win for the party behind the campaign (Catt 1996:43). Negative campaigns can target both issues and a party's or candidate's image. For the impact of negative advertising on candidate evaluations, see Pinkleton (1997). For an analysis of the impact of anxiety and enthusiasm on the vote, see Marcus & MacKuen (1993).

they would vote for a party (not their usual choice) purely because it has the best chance of winning against the least-liked party. Catt's (1996:46) definition of *tactical voting* is worth quoting here:

> A tactical vote is cast for a party that is your second (or third or fourth) preference, because you think they have the chance of defeating a strongly disliked party.

Voters cannot be sure of this outcome, but they nevertheless perceive it as a real possibility; hence, it is not the actual outcome that matters, but the motivation for party choice. However, the reasons for tactical voting can, and often do, extend beyond the narrow goal of defeating the strongly disliked party. Galbraith and Rae (1989:126) argue that –

> "[T]actical" or "strategic" voting can be defined as voting other than for one's preferred party or candidate in order to increase the probability of a **satisfactory overall outcome**. (emphasis added)

Although preventing the most-disliked party from winning is certainly an important consideration, one cannot exclude other considerations like achieving a balance of power, creating and maintaining strong opposition to the dominant party, and making sure smaller parties are represented. In this sense, tactical voting is not inspired by negative motivations only. In fact, in electoral systems where one party dominates, minority and small-party representation can become an important consideration for voting tactically. Here, no single other party might have even a reasonable chance of winning, but a tactical vote might bring representation (even if it is only a single seat). Although analysts have frequently made use of aggregate electoral data to determine tactical voting (see e.g. Galbraith & Rae 1989), this approach is problematic. Catt (1996:47) identifies three separate attitudes that converge to bring about a tactical vote:

1. great dislike of one party and the subsequent desire to see them defeated
2. the desire to cast a strategic vote, and
3. a willingness to gather information on the best way to cast an effective vote (i.e. vote for whom it matters most).

Tactical voters, like protest voters, are not "loyalty voters" and their votes should not be interpreted as "support votes". Instead, their votes reflect preferences, usually short-term, and they are therefore "volatile voters". Thus, to detect tactical voting, we need to understand voters' motivations and choices and, hence, we require individual-level data.

The Pocket-book Vote

Pocket-book voting is the first of two issue-based voting models discussed here (for the second, see the section on the sociotropic vote below). Issue-based models share the assumption that voters are rational, that is, that they collect information, consider all their options based on the information gathered, and then, in a

non-emotive manner, decide on the "best option" and the party that is "best equipped" to bring about the "best option".

Kinder and Kiewiet (1981:130) describe *pocket-book voters* as those –

> ... swayed most of all by the immediate and tangible circumstances of their private lives. Citizens preoccupied with their pocketbooks support candidates and parties that have advanced their economic interests and oppose candidates and parties that appear to threaten them.

For pocket-book voters, what matters most are their personal economic experiences. Information about who to vote for is based on personal experience and decisions made; hence, the usual costs incurred when collecting information about the political world are significantly reduced (Kinder & Kiewiet 1981). Usable political information includes retail prices, mortgage loan interest rates, income tax levels and stock prices. Pocket-book voters vote for the party they believe would provide more economic benefits than any other.

The first problem associated with orthodox pocket-book analysis is that it is often incumbency-oriented. In this explanation, a voter tends to defect from the incumbent party or candidate once his or her personal economic position deteriorates. In this vein, pocket-book voting is the result of negative motivations, causing it to be a negative vote, i.e. a vote against the incumbent(s). According to Kinder and Kiewiet (1981:134), the fact that pocket-book voting can be policy-oriented has thus far received only scant attention.

The second problem is that cross-sectional (aggregate) data are often used to discover pocket-book voters. Analysts have linked personal economic conditions with party identification, not the vote. The problem here is that pocket-book voters might not sacrifice their party identification when they vote for an alternative party. Their shift might only be short-term, and strategic, especially when directed against the incumbent. This cannot be seen as a shift in loyalty, and the orthodoxy of aggregate data will not pick it up. Here again, individual-level data are needed. Panel studies, particularly, should be a suitable methodological alternative as they would facilitate the tracking of shifting votes over longer periods of time.

The Sociotropic Vote

Sociotropic voting is the opposite of pocket-book voting in the following sense (Kinder & Kiewiet 1981:132):

> In reaching political preferences, the prototypic sociotropic voter is influenced most of all by the nation's economic conditions. Purely sociotropic citizens vote according to the country's pocketbook [and] not their own. Citizens moved by sociotropic information support candidates that appear to have furthered the nation's economic well-being and oppose candidates and parties that seem to threaten it.

Although the sociotropic model has not yet attracted the same attention as some of the others discussed here, Kinder and Kiewiet (1981) suggest that, in America

at least, it has more explanatory value than the pocket-book model. Like the pocket-book voter, the sociotropic voter is considered to be a rational voter, motivated by information. Sociotropic voters would be informed by data on the incumbent party's record in managing the economy, recent trends in the business environment, and a party's relative degree of competence when it comes to economic matters.

The first problem with sociotropic voting (and this is the case, too, with pocket-book voting) is its assumption of the rationality of the voter. Such approaches make no provision for voting based on emotion. Catt (1996) warns that approaches which discard emotive voting are potentially reductionistic. The second problem with sociotropic (and pocket-book) voting is the economic reductionism contained therein: in more than one way it removes politics from voting.

Towards an Explanation of Voting Behaviour in Namibia

Two previous studies (Pendleton *et al.* 1993, Weiland 1996) concluded that the ethnic and party identification models of voting hold truest in Namibia. Given their methodological shortcomings we shall put that conclusion to the test, investigate possible alternative explanations and, hopefully, open up new avenues for further enquiry.

Voter Motivation

Voter motivation refers to the decision of any eligible voter to go to the polls to cast (or spoil) a vote. This is perhaps the first of a range of choices that needs to be made by the potential voter. Voter motivations are answers to the question of "Why did you vote?". This is different from the issue of party choice discussed in the section below.

The Pendleton team (1993) found that most people vote because elections are an expression of "freedom and democracy" (59%). The Weiland team (1996) added the response "I have the right to vote" and found it to be the most popular (37%). The "freedom and democracy" option received only 31% of the total responses. From this, two interrelated conclusions are drawn:

1. Namibians vote because they have the right to do so, and
2. they vote because they are democrats.

The main problem here is that these responses paint a picture of the vote as something removed from expectations and even, perhaps, purpose.[16] This understanding of voter motivation is incomplete. For example, if voters decide to abstain from voting, should we conclude that they are no longer interested in freedom and democracy or that they no longer want the right to vote?

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[16] The nature of the responses is a direct result of the options allowed for by the two teams (Pendleton *et al.* 1993, Weiland 1996). Both presented respondents with a fixed list of possible answers, hence limiting their options. Neither team provided for the standard "Other" option that usually permits unguided inputs from respondents.

We made use of one open-ended question to test for voter motivation. A second, structured question was employed to test for the consistency of responses recorded in the first, and to assess the impact of structured questions on opinions. For the first question, we assumed that we did not know why Namibians voted; for the second, we deliberately tested for the various types of explanatory models exemplified earlier.

Table 2 presents the responses to the following open-ended question: "You have just voted. Could you please tell us the reasons why you voted?". Table 3 presents the responses to the following structured question: "Which ONE of the following statements BEST describes you as a voter? I vote because ...".

Reason for voting	Frequency	Valid %
... I want to improve or change matters.	457	49,3
... I want my party to win/to support them/to reward them.	144	15,5
... things improved; I am satisfied with my party's performance.	13	1,4
... it is my democratic right.	144	15,5
... I want to be free.	10	1,0
... I want to prevent others from winning.	7	0,8
... I want to elect a representative/... I want to have my say.	41	4,4
... I trust my party.	18	1,9
... I feel an obligation to vote.	79	8,5
... I am under pressure from others.	11	1,1
I am unsure why I vote.	5	0,5
Total	927	100,0
Missing	60	-
Total	987	-

Note: More than one response possible

Table 2: Voter motivation

Our findings are remarkably different from those of the first two teams, in that we recorded at least two alternative variables in explaining voter motivation. Firstly, most Namibians (49,3%) decided to vote because they desired change and improvement.[17] This is the predominant motivator not only as the first, but also as

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[17] We do not regard "improve" and "change" as two separate goals. We assume that voters would want to change matters for the better and not for the worse.

Reason for voting	Frequency	Valid %
... I want to show my party/movement that I support them.	243	25,1
... I care about my town.	342	35,3
... I don't want the wrong party/movement to win.	82	8,5
... I want to show certain parties that I dislike them.	12	1,3
... the issues are important.	70	7,2
... I want the right party to win.	199	20,5
None of the above	21	2,2
Total	969	100,0
Missing	18	-

Note: Respondents could only select one of the options listed above.

Table 3: Which statement best describes you as a voter?

the second and third choice. This suggests that many voters are unhappy or at least mildly dissatisfied with their conditions, locally and nationally. This, in turn, implies that most Namibians vote for a reason: they have expectations about the outcome of their vote and, hence, there is a purpose to voting.

Secondly, several responses presented above could be linked to a loyalty or party identification vote. These include "... I want my party to win/to support them/to reward them", "... I trust my party", and "... I am satisfied with my party's performance". This finding is significant for at least three reasons:

1. Party loyalty has never before (in Namibia) been identified as a primary motivational force among voters.
2. As a secondary motivational force, party loyalty coexists with and, hence, reinforces other primary motivational forces (e.g. a desire for change and improvement), and
3. Party loyalty, as a primary motivational force, is significant but not the most important.[18]

Only 15,5% voted because they wanted their party to win; 1,4% voted because things had improved and they were satisfied with their party's performance; and only 1,9% voted because they trusted their party. It seems, therefore, as if trust and reward are two less important aspects of party loyalty as a motivational factor.

Thirdly, we found that being a democrat was a significant primary motivational factor, although it was not as important as the first two studies (Pendleton *et al.* 1993, Weiland 1996) suggested. Only 15,5% indicated that voting as a demo-

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[18] See Appendix 1 in Keulder (1998)

cratic right had motivated them to vote. Also, as a secondary motivator, it was not as important as loyalty. Having the right to vote was, therefore, simply not enough to bring the majority of voters to the polls.

Fourthly, we found no evidence here that ethnic loyalty or affiliation was a motivational force for Namibian voters. Only a small proportion, namely 8,5%, were motivated by an obligation to vote. When we compare these findings with those of the structured question, interesting and significant deviations become apparent.

Overall, the trends observed in Table 2 are confirmed. The largest single category of voters (35,3%) consider themselves as "caring voters", which we regard as substantially similar to voting for change or improvement. Loyalty indicators, such as "... I want to show my party/movement that I support them" and "... I want the right party to win", fared significantly better (25,1% and 20,5%, respectively). Together, the loyalty indicators constituted 45,6% of the total responses.

Here we also see some negative motivations: "... I don't want the wrong party/movement to win" and "... I want to show certain parties that I dislike them". These are small (8,5% and 1,3%, respectively), but nevertheless point to the fact that some Namibians are negatively motivated, which, in turn, suggests the possibility of tactical or protest voting. Also significant is the fact that some respondents considered themselves to be "issue voters". Here, too, it is a small proportion (7,2%).

The differences in findings are best explained by the manner in which the questions were presented. Once the analyst issues prescriptions (as in Table 3), he/she guides the respondent and the responses can no longer be regarded as spontaneous. Respondents might be made aware of new possibilities or may attempt to anticipate and provide the "correct" or "most acceptable" answer. Hence, structured questions distort the opinions given. Open-ended questions, on the other hand, allow the respondents full control over their answers, and make it impossible for them to anticipate any "correct" or "most acceptable" answers. Hence, we feel the spontaneous opinions are more valid. We shall, therefore, consider the answers to the first question (Table 2) to be the real indicators of voter motivation.

There is a clear pattern when the motivations for voting are disaggregated by race, as recorded in Table 4.

Given the spatial dimensions of inequality created and sustained by apartheid and colonial rule, it is not surprising that by far the majority of black (76,9%) and coloured (78%) voters were motivated to vote by the need for change and improvement. These are voters that reside in township areas that still lack the levels and quality of development and services available in the historically white residential areas. This is also true for the historically coloured residential areas. White voters were also motivated by the need for change (40,9%) but much less so than the other two groups. More significant numbers of white and coloured voters were motivated by having the democratic right to do so (23,3% and 27,8%, respec-

Reason	Racial group					
	Black		White		Coloured	
	Frequency	%	Frequency	%	Frequency	%
Improve or change matters	513	76,9	48	40,9	106	78,0
Want party to win/support/reward them	137	20,6	18	15,3	23	16,9
Things improved/satisfied with party	18	2,8	2	1,8	1	0,6
Democratic right	101	15,1	27	23,3	38	27,8
To be free	10	1,5	1	0,8	0	0,0
Prevent others from winning	12	1,7	1	0,8	2	1,3
Elect representative/have my say	51	7,6	9	7,8	5	3,7
Trust my party	14	2,1	3	2,6	1	1,1
Obligation to vote	49	7,4	26	21,9	9	6,6
Pressure from others	10	1,5	1	0,8	0	0,0
Unsure why	4	0,6	0	0	0	0,0

Note: More than one response possible

Table 4: Voter motivation by racial group

tively) than was the case for black voters (15,1%). More white (21,9%) than coloured and black (6,8% and 7,4%, respectively) voters were motivated by the perceived obligation to vote. Almost equal proportions of voters from all groups were motivated to vote by party loyalty, although this factor is slightly higher among black voters (20,6% for black voters, 15,3% for white voters, and 16,9% for coloured voters).

   For all education categories, the need for change was the single most important motivation, but this notion received much less support (47,5%) among those with no education than from any other category of voter. The same group showed the highest rating (30,6%) in terms of party loyalty as a motivating factor. This does not mean, however, that loyalty is connected with the level of education in any meaningful way: the second highest level of support (29,4%) for the loyalty notion came from those with some tertiary education.

We conclude that most Namibians, particularly black and coloured voters, were motivated to vote principally by the desire for change and improvement. This we consider to be the most important primary motivator. We consider party loyalty to be the second most important primary motivator (more or less equal for all groups), followed by a range of others (such as having the right to vote, or feeling an obligation to do so). This means that the parties cannot rely on loyalty or voters' democratic dispensation alone to secure a satisfactory turnout. Instead, parties are clearly being tested and evaluated in respect of their capacity to bring about change and improvement. Failure to do so will cause a further decline in voter turnout.

Party Choice

How voters decide on the parties of their choice is the second important aspect of voting behaviour. Once the voter has decided to attend the polls, the issue as to who to vote for becomes important. The previous two surveys (Pendleton *et al.* 1993, Weiland 1996) concluded that party choice in Namibia was largely the result of party identification (loyalty) and ethnic affiliation. Previously, we drew attention to what we considered to be serious methodological shortcomings to their approach, that could render their findings superficial. In doing so, we do not wish to claim that ethnic affiliation and party identification are not important: we merely suggest that they need to be tested in a different manner and against alternative explanations. In the light of our preference for spontaneous responses, as explained above, we again chose an open-ended question to determine how voters decide on which party to choose. Table 5 presents the responses to the following question: "You have just voted for a party or movement. Why have you decided to vote for this specific party or movement?"

Voters chose their parties for the same reason that motivated them to vote: to bring about change and improvement. This implies party capacity – the ability to deliver. Almost 40% (39,6%) hold this view. The second-largest proportion of voters (29%) chose a party on the basis of trust and support, i.e. loyalty or identification. Another aspect of loyalty, that of voting to ensure your party of a victory, received support from 7,6% of the respondents. Just how important a party's capacity was to voters is illustrated by the fact that the third-largest single category of respondents, 10,3%, chose a party based on their perceptions of past performance. The fifth-largest single category, 6%, chose "It is a good/an improved party". Significantly, and in sharp contrast to the findings of the first two surveys (Pendleton *et al.* 1993, Weiland 1996), the ethnic vote thesis receives almost no support (1%).[19]

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[19] One has to keep in mind, however, that voters could, and did, cite more than one reason. Hence, the desire for change, party identification and the other reasons can and did overlap. However, if we look at the ranking of the options (see Appendix 1 in Keulder 1998), we see that in each of the three cases, the change/improvement factor is the dominant one, and the loyalty factor the second-most dominant.

Reason for choosing party	Frequency	Valid %
I know, trust and support the party.	330	29
I want my party to win.	86	7,6
The party will improve or change matters.	451	39,6
I am happy with their performance.	117	10,3
They brought independence.	29	2,5
They have good, strong leaders.	37	3,2
It is a good/an improved party.	46	5,3
My real party is not present.	2	0,2
The party represents my ethnic or language group.	12	1,0
I vote for opposition.	7	0,6
Total	1 139	100,0

Note: Respondents could provide up to three reasons; for a breakdown of the rankings (first, second and third choices), see Appendix 2 in Keulder (1998).

Table 5: Party choice

The relation between loyalty or party identification and party choice is more complex than the data suggest. Catt (1996:5) argues that, once acquired, party identification or loyalty acts as a perceptual filter on information and ideas that determines how voters evaluate issues or politicians. In most cases party identification is inherited and becomes part of the individual voter's self-image. Such an emotive attachment is usually deeply ingrained and, hence, enduring. In societies where there is strong party loyalty, support and voting patterns are stable and voter volatility is low. Voters rarely switch parties (in extreme cases this could be perceived as "treason") because they usually perceive their party or parties to be the "best", irrespective of the issues at hand.

There is sufficient evidence to suggest that most Namibians display strong loyalty toward their respective parties. In general, the distribution of party support through the vote has remained the same for all elections, irrespective of the decline in voter turnout. Party identification in Namibia is by and large the result of the country's history of race and ethnicity-based colonialism. This, and the subsequent development of a liberation struggle, caused a clear socio-political divide in the society.[20] It also caused party identification to become deeper and more durable than in most (Western) societies. Namibian voters also regard the party of their

[20] This "us" and "them" dichotomy is still very evident today. This is borne out in the importance of race and language detected in our analysis.

choice to be the best irrespective of the issue at hand (Weiland 1996:170). It is not surprising, therefore, that most voters consider their usual parties best equipped to bring or most capable of bringing about change and improvement. In short, the desire for change does not equal or translate into a switch of parties and would, thus, not cause higher voter volatility. It is also possible that strong party identification or loyalty abrogates "real" party choice. Instead, voters only send different messages to the same party during different elections. Where these messages are not received or where they are not translated into tangible outcomes, loyal voters rather abstain from the vote. In this context the vote cannot be considered as a specific preference at a given time and space. It is indeed a sign of support, albeit conditional. The Local Authority Elections in 1998 showed that Namibian voters can bring their parties and candidates to book: not by switching parties, but by abstaining from the vote. Tables 6 and 7 provide indications of how strong Namibian voters' loyalties are.

By far the majority of voters (69,8%) regarded the intensity of their party support to be very strong. Only 12,8% of voters displayed moderate or weak party support. These are the possible "floating" voters. Indications are that the floating voters are more likely to be white or coloured and from the Afrikaans, English or German language groups. Another indication of loyalty is the extent to which voters are prepared to switch parties (for whatever reason). Table 7 explores the degree to which voters have considered voting for a party other than their usual choice.

Degree of party support	Frequency	Valid %
Very strong	677	69,8
Strong	170	17,5
Moderate	106	11,0
Weak	10	1,1
Very weak	6	0,7
Total	970	100,0
Missing	17	-

Table 6: Strength of party support

Response	Frequency	Valid %
Yes	89	9,1
No	884	90,9
Total	972	100,0
Missing	15	-

Table 7: Have you ever considered voting for another party?

The strength of party loyalty is overwhelming. Only 9,1% of voters had ever considered voting for another party. Thus, it seems as if party support in Namibia is relatively fixed and stable. The lack of voter volatility is confirmed by the overwhelmingly strong identification with one party, and the lack of a substantial is-

sue-based voting corps. Hence, although a small number of voters indicate they were negatively motivated to vote, protest and tactical voting do not feature in Namibia's voting behaviour pattern. The lack of issue-based voting also suggests that pocketbook and sociotropic voting do not really occur.[21]

Loyal voters who vote for change are, almost by definition, positive in their expectations for their parties and candidates to bring about that change. Once they lose that positive expectation they do not switch parties: they abstain from voting. This proposition is confirmed by Tables 8 and 9.

Voters were generally very satisfied with the candidates that appeared on their party's list (76,4%) for the 1998 Local Authority Elections. The

Feeling	Frequency	Valid %
Very satisfied	457	46,7
Fairly satisfied	291	29,7
Neutral	172	17,5
Fairly dissatisfied	40	4,1
Dissatisfied	20	2,0
Total	979	100,0
Missing	8	-
Total	987	-

Table 8: Feelings towards candidates

Level of confidence	Frequency	Valid %
Very confident	385	39,5
Confident	337	34,5
Neutral	170	17,4
Not confident	58	5,9
Not confident at all	26	2,6
Total	976	100,0
Missing	11	-
Total	987	-

Table 9: Confidence in candidates

strong positive feeling towards them was the dominant feature (46,7%). Dissatisfaction was low (6,1%), despite the fact that many voters probably had to "take what they were given". As the party-list system tends to shield candidates from the voters, and given the fact that campaigns were dominated by senior party leaders rather than local candidates, one can assume that satisfaction is the result of loyalty rather than any meaningful assessment of an individual candidate's quality.

Voters were confident that their parties' candidates would bring about change. This can be seen in Table 9. The vast majority of voters (74%) were confident in their candidates' ability to effect change. Given the predominance of the party over the individual candidate under the party-list system, it is likely that confi-

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[21] This suggestion should be subjected to more rigorous analysis.

dence in the party would be transferred to the candidate(s). Candidates are considered "best" and "able" not necessarily because of their individual qualities, but much rather because they represent the "best" and "most able" party.

Occupation, sex and age do not influence views to this question. Language does, although not significantly in all cases. Damara-speakers are more confident in their choice of candidate than all others (60,4%), and Afrikaans-speakers least of all (26,6%). The overall pattern is positive, though: where groups are very confident they are so en masse, as is the case where they are only fairly confident.

Level of confidence	Racial group					
	Black		White		Coloured	
	Count	Valid %	Count	Valid %	Count	Valid %
Very confident	320	46,2	22	18,0	40	27,0
Confident	209	30,2	50	40,2	74	49,5
Neutral	116	16,8	31	24,7	21	13,9
Not confident	35	5,1	12	9,6	11	7,2
Not confident at all	12	1,7	9	7,5	4	2,4

Table 10: Confidence by racial group

Black voters display much more confidence in their choice of candidate (76,4%) and much more strongly so (46,2%) than white (18%) or coloured voters (27%). This trend is similar to many of the trends discussed above, suggesting perhaps that, overall, whites and coloureds have less faith and confidence in the political system and partisan politics.

Voters and Party Sympathy

The timing and nature of the exit poll survey makes it virtually impossible to accurately link voters with the recipients of their vote. For understandable reasons, we were not allowed to enquire directly about people's vote, and furthermore, we found voters generally over-sensitive to any questions about their party preferences. We had to approach the matter in an indirect manner, therefore. We inquired about how much the various parties were "liked".[22] Party sympathy is no sure indicator of active support, but given the circumstances and the strong loyalty factor, we still regard it as a useful measure.[23]

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[22] "Best" (as in "best party") is often measured in a narrow sense as "most liked" (Catt 1996:24).

[23] We had another purpose for formulating the question in this manner. Following Catt's (1996) suggestion that individual motivations (positive and negative) could be measured by determining how much particular parties are liked or disliked, we thought this formulation appropriate. However, given the scope of this task, no such data are available as yet.

Degree of sympathy towards party	DCN	DTA	SWANU	SWAPO	UDF	WRP
	Valid %	Valid %	Valid %	Valid %	Valid %	Valid %
Strongly like	2,5	16,7	1,2	43,3	8,8	3,6
Like	10,5	14,2	8,5	13,2	11,9	11,1
Neutral	34,7	26,8	37,3	19,3	36,3	34,2
Dislike	21,4	15,0	21,5	8,2	18,1	17,8
Strongly dislike	30,8	27,2	31,5	15,9	25,0	33,3
Total	100,0	100,0	100,0	100,0	100,0	100,0

Table 11: Party sympathy

SWAPO was by far the party that most voters liked (56,5%). What is significant is the predominance of strong feelings (43,3%) over moderate ones (13,2%). The DTA was the party that the second-highest number of voters liked (30,9%). Third came the UDF (20,7%). The party that most voters disliked was SWANU (53%), then the DCN (52,2%) and then the WRP (51,1%). All parties, except SWAPO, were more strongly disliked than strongly liked by voters.

The four last-mentioned parties (excluding the DTA) are also those for which moderate positive feelings dominated strong positive ones. The converse is true as well: strong negative feelings toward those four were far greater than moderate negative ones. It is also important to note that, with regard to the two most-liked parties, fewer voters held "neutral" views. Overall, we found the results to be an accurate reflection of the partisan support pattern that has crystallised since Independence.

Given the absence of meaningful proportions of negatively motivated voters, the lack of issue-voting, and the strong sense of loyalty among most voters, we would like to suggest that most Namibian voters vote for parties that they (strongly) like. Since most parties listed here are (strongly) disliked by the majority of voters, we would also suggest that substantial swings in their favour are unlikely.

Party Sympathy and Racial Group

The racial distribution of party sympathy is recorded in Table 12.

The pattern is significant. The majority of black voters (70,1%) liked SWAPO best and strongly so (55,8%). SWAPO was least liked by the majority of white (56,9%) and coloured voters (46%) and strongly so (45,8% and 33,4%, respectively). The DTA was best liked by a substantial number of white voters (38,4%) and coloured voters (40,9%) and least liked by a large proportion of black voters (47,9%). As for the intensity of the feelings toward the DTA, the pattern here is

Party	Degree of sympathy towards party	Racial group					
		Black		White		Coloured	
		Count	%	Count	%	Count	%
DCN	Strongly like	14	2,2	2	2,1	5	4,1
	Like	73	11,4	7	7,8	11	8,4
	Neutral	204	31,9	47	49,5	52	39,4
	Dislike	136	21,2	14	14,4	35	26,7
	Strongly dislike	213	33,3	25	26,3	29	21,5
DTA	Strongly like	99	15,0	15	14,9	37	26,3
	Like	85	12,9	23	23,5	20	14,6
	Neutral	160	24,3	40	40,8	40	29,0
	Dislike	107	16,3	11	10,9	17	12,1
	Strongly dislike	208	31,6	10	10,0	25	18,0
	Strongly like	10	1,5	1	0,7	0	
	Like	59	9,1	4	4,4	12	8,5
	Neutral	230	35,7	47	48,8	51	37,6
	Dislike	134	20,8	17	17,6	37	27,4
	Strongly dislike	212	32,9	27	28,4	36	26,4
SWAPO	Strongly like	375	55,8	4	4,0	12	8,8
	Like	96	14,3	2	2,5	22	15,8
	Neutral	100	14,9	36	36,6	41	29,4
	Dislike	47	7,0	11	11,1	17	12,6
	Strongly dislike	54	8,1	45	45,8	46	33,4
UDF	Strongly like	72	11,0	2	2,5	4	3,1
	Like	81	12,6	8	8,5	13	9,3
	Neutral	206	31,8	52	53,9	64	46,2
	Dislike	125	19,3	10	10,4	25	18,4
	Strongly dislike	165	25,4	24	24,7	32	23,0
WRP	Strongly like	15	2,3	4	3,9	12	9,3
	Like	66	10,6	7	7,8	21	15,9
	Neutral	205	32,7	40	42,3	47	36,6
	Dislike	120	19,1	14	14,7	18	13,8
	Strongly dislike	222	35,3	30	31,4	31	24,3

Table 12: Party sympathy by racial group

different from that for SWAPO. A significant proportion of white voters had moderate sympathy (23,5%) only, with a much larger proportion indicating neutral feelings (40,8%). More coloured voters than white voters were strongly sympathetic to the DTA (26,3% vs. 14,9%). The largest proportion of black voters were strongly unsympathetic toward the latter party (31,6%). Their contribution toward neutral feelings (24,3%) is also lower than that for the other two groups. The other

four parties were disliked in almost the same proportions and with almost the same intensity. It was only among some black voters that the UDF had any real measure of sympathy (23,6%). The WRP seemed to have most sympathy with some coloured voters (25,2%). Overall, all parties other than SWAPO and the DTA attracted substantial neutral feelings from all racial groups. Given our thesis above, we can only suggest that these are feelings of disinterest.

Party Sympathy and Ethnicity

In this study, we used language as the indicator for ethnic affiliation.[24] Table 13 below provides the ethnic distribution of party sympathy for the three main parties – the DTA, SWAPO and the UDF.[25]

Party	Degree of sympathy towards party	Language group					
		Khoe-khoe-gowab (Damara)	Khoe-khoe-gowab (Nama)	Oshi-wambo	Afri-kaans	Silozi	Otji-herero
		%	%	%	%	%	%
DTA	Strongly like	12,4	26,4	3,3	21,8	26,5	52,0
	Like	25,6	23,0	7,0	17,3	11,8	13,6
	Neutral	33,8	20,9	24,2	33,0	14,7	17,5
	Dislike	13,0	6,2	20,7	12,4	25,8	5,2
	Strongly dislike	15,2	23,5	44,7	15,5	21,1	11,7
SWAPO	Strongly like	20,3	26,3	81,2	6,9	58,2	18,4
	Like	13,4	22,1	9,7	12,7	4,7	30,0
	Neutral	32,2	22,0	7,6	31,9	10,6	17,6
	Dislike	16,3	8,8	0,4	10,8	11,8	17,8
	Strongly dislike	17,9	20,8	1,1	37,7	14,7	16,2
UDF	Strongly like	48,7	12,4	1,9	3,8	0,0	6,4
	Like	12,2	28,4	9,0	9,2	17,7	20,4
	Neutral	25,0	33,0	30,5	46,9	22,4	39,4
	Dislike	6,7	7,2	23,3	16,7	32,9	18,6
	Strongly dislike	7,5	19,1	35,3	23,4	27,0	15,2

Table 13: Party sympathy by language

It was the case that most ethnic groups tended to like certain parties. Oshiwambo-speakers were strong SWAPO sympathisers (81,2%) and so were the majority of

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[24] Language is, of course, not always an accurate indicator of ethnicity. However, in the past, respondents have reacted negatively to direct questions on their ethnic affiliation.

[25] The results for the other parties have been omitted here because they showed uniformity in voters' level of dislike towards the parties concerned. We have also left out the language groups for which we recorded numerically insufficient responses.

Silozi-speakers (58,2%).[26] Nama Khoekhoegowab-speakers were the only group without any single strong preference. Their liking for SWAPO and the DTA was almost equal in proportion and intensity (48,4% and 49,4%, respectively). Otjiherero-speakers were the only group with a strong preference for the DTA (52%). A substantial proportion of Afrikaans-speakers[27] (39,1%) had a prefer-
ence for the DTA. The UDF was best liked by Damara Khoekhoegowab-speakers (60,9%), and strongly so by most members of this group (48,7%).

If we consider the ethnic and racial distribution of party sympathy, the following trends emerge. Firstly, all parties except the DTA drew their sympathy almost exclusively from one racial group. This means that only the DTA can, on the strength of its support base, make any substantiated claims toward being a non-racial party.[28] Secondly, none of the Namibian parties are ethnic parties. It is true that SWAPO receives almost all Oshiwambo votes, but it also draws enough support from other ethnic groups to be called *multi-ethnic*.

Ethnicity as a political force in Namibia has yet to be subjected to rigorous re-search. We know relatively little of its impact on voter behaviour. Some analysts (see e.g. Potgieter 1991) border on primordialism when explaining the ethnic dis-tribution of party support, whilst others (see Lindeke *et al*. 1992) are quick to reject any trace of ethnic support for SWAPO in favour of the more acceptable "national consciousness" argument. However, both these arguments focus on eth-nicity as an independent variable when explaining voter behaviour.

Our data suggest that as far as voter motivation is concerned, ethnicity plays no meaningful part in bringing voters to the polls. Furthermore, as far as party selec-tion is concerned, our data also refute many of the core assumptions of the ethnic vote model. Yet, we found that the various ethnic groups all had strong party preferences. If ethnicity is not the independent variable by means of which party selection can be explained, it should then be treated as an intervening variable. Its impact is, therefore, much the same as that of party loyalty. Voters no longer con-sider party identification or ethnicity as reasons for voting; but both these vari-ables work together to solidify party preference. We have stated before that party identification in Namibia is part of voters' self-image. The same is true for ethnic affiliation. When these two intervening variables, party identification and ethnic

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[26] This suggests a swing towards SWAPO in this former DTA stronghold. Here our findings are a true reflection of the overall outcome of the elections in Katima Mulilo. However, at this stage at least, it is not possible to say whether rural voters will continue the trend, or if the swing can be ascribed to better campaigning by SWAPO and a larger stay-away by DTA supporters in and around Katima Mulilo.

[27] This category is not a racial one, but most likely consists of whites, coloureds and the Rehoboth people.

[28] We have used the "two-thirds" criterion to determine whether or not parties can be considered non-racial or multi-ethnic (see Mattes & Gouws 1998). For a party to be considered a racial or ethnic one, two-thirds or more of its support must come from a single racial or ethnic group.

affiliation, are combined and linked to a single party, the voter's choice of party is a predetermined one, and he or she no longer considers other options. The only dynamic entity in this equation is the motivation to vote. This, our data suggest, embodies the voter's message to his or her party. Ethnicity and party loyalty prevent the voter from sending his or her message to a few or all parties in the hope of finding a sympathetic ear. Instead, the variables ensure that the message is sent to one party only. If that party fails to respond, the voter has little choice but to abstain from voting. Therefore, given the strong sympathies attached to certain parties by certain language groups, it is unlikely that opposition parties would make inroads here.[29]

The Independent Associations

The Local Authority Elections of 1998 were different from the previous ones, also because of the increase in the number of independent associations that contested the elections (and some did so very successfully). We included a question to measure sympathy levels for independent associations, but only in those towns where such associations were a factor in the choice of candidates. Hence, the sample here is limited to voters in five towns.[30]

Degree of sympathy	Frequency	Valid %
Strongly like	153	20,0
Like	163	21,3
Neutral	261	34,1
Dislike	92	12,0
Strongly dislike	97	12,7
Total	767	100,0
Missing	220	-

Table 14: Sympathy towards independent associations

Table 14 suggests that these associations, given their recent emergence onto the political scene, received substantial sympathy from voters (41,3%). Only 24,7% of voters disliked the associations. Their supporters were all voters that "floated" from one political party or another. Mostly, the independent associations provided a home to voters committed to the act of voting but disillusioned with the existing parties and/or party politics in general. Table 15 gives an indication of where such associations' support lies.

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[29] The Silozi case is also interesting and no doubt can be used to contest our thesis. However, as we suggested above, we cannot come to a final conclusion on what happened to DTA supporters. Hence, we are hesitant to suggest that Silozi-speakers changed their parties. It is possible that the swing could be the result of a stay-away by DTA supporters.

[30] Our sample towns were Gobabis, Keetmanshoop, Okahandja, Rehoboth, Swakopmund and Windhoek.

Degree of sympathy	Racial group					
	Black		**White**		**Coloured**	
	Count	**%**	**Count**	**%**	**Count**	**%**
Strongly like	76	15,1	41	34,3	35	25,3
Like		18,7	37	31,1		22,0
Neutral	173	34,2	35	29,2	53	39,1
Dislike	77	15,3	4	3,3	11	8,0
Strongly dislike	84	16,7	2	2,1	8	5,6

Table 15: Sympathy towards independent associations by racial group

Independent associations received most sympathy from white (65,4%) and coloured voters (47,3%). From black voters their sympathy levels were not insignificant either (33,8%). These results show that sympathy towards independent associations is higher than that shown for smaller parties that contested the elections. As these associations campaigned with a local – perhaps apolitical and non-partisan – focus, it could very well be that they would provide an alternative for the racial minorities. Soiri (1998:17) states that –

> [T]he local associations demanded more local autonomy and criticised the party-list system for centralising decision-making. The associations levelled criticism against the incumbent town councillors for not looking after local interests and needs and for ineffective administration.

She also states (Soiri 1998:18) that despite the apolitical approach of these associations, many are linked to ethnic and racial particularities. Most targeted Afrikaans-speaking groups and, hence, white and coloured voters. Furthermore, in some cases, the individuals behind these associations came from the ranks of the political parties.

The impact of the independent associations is, therefore, twofold. Firstly, they managed to create an alternative home for certain ethnic and language minorities and, in doing so, caused a segment of the population to become "floating voters". Secondly, and given their original target populations, these associations managed to attract votes away from the DTA rather from any other party. They are, thus, in direct competition with the DTA for the votes of racial minorities and, in particular, the Afrikaans-speaking voters.

Our thesis is well supported by Table 16 below, which indicates that Afrikaans-speakers were most sympathetic toward the associations (55,3%). Their sympathy was also stronger (30,6%) than that of any other group.

Other language groups also record significant levels of sympathy toward the associations. Second highest were the Nama Khoekhoegowab-speakers (40,5%)

Degree of sympathy	Language group				
	Khoekhoe-gowab (Damara)	Khoekhoe-gowab (Nama)	Oshiwambo	Afrikaans	Otjiherero
	%	%	%	%	%
Strongly like	12,6	11,4	17,0	30,6	15,9
Like	18,6	29,1	16,7	24,7	19,3
Neutral	40,5	37,1	33,3	34,1	31
Dislike	11,9	10,1	16,3	6,2	10,6
Strongly dislike	16,4	12,3	16,7	4,3	23,2

Table 16: Sympathy towards independent associations by language

(although their sympathy was more moderate in intensity) and then the Otjiherero-speakers (35,2%). The latter result is only slightly higher than that for the Oshiwambo-speakers (33,7%).

It would be difficult to present any conclusive evidence as to why such significant levels of sympathy were present for independent associations. If we look at our understanding of voter motivation and party choice, we can only suggest that the voters who supported these associations did so in the hope of a non-partisan body bringing about change.

Perhaps it is not so surprising, then, that the two occupational categories most sympathetic to the associations were in the formal private sector (41,5%, and mainly white and coloured) or in the economically inactive/unemployed group (47,6%, and mainly black).

Voters and their Sources of Information

The role of information in voting behaviour in Namibia is not well understood and much more research needs to be done for us to understand this issue in its complexity. That it is an important issue is about all we can agree upon. We know little, if anything, about the content of information supplied to voters and its impact on them. We do not know what constitutes relevant information or where such information comes from. We do not know to what extent information informs the voter, how this information is processed or who supplies it. On a more general level, we lack an understanding of the impact of campaigning and advertising, positive or negative. We also do not yet understand the information filters employed by the voter, nor the role of environmental factors such as neighbourhood, community and family. Furthermore, we know very little about the role of emotions such as anxiety and enthusiasm on voting behaviour. We can only assume

that information is important for generating such emotions, but we are uninformed as to how this is done and to what effect. We suggested previously, however, that party identification and ethnicity might combine to establish a perceptual filter through which information is percolated. It is, therefore, quite possible that only information which supports these two variables would be internalised and acted upon. If this is true, it would mean that Namibian voters do not require the same type or level of information required by voters in societies where issue-voting takes place.

Issue-based voters require much more information and information of a different nature than ethnic voters. The former might require information about economic trends, party policies, and party programmes to make their choice, whilst ethnic voters might only require information about whether or not their party is contesting, when the elections will take place, and where to vote. Party identification or loyalty voters might require the same basic information as ethnic voters but they might also be interested in whether or not their party is sufficiently threatened by opposing parties. The information relevant to ethnic and loyal voters is needed, not to facilitate party choice as such (as is the case with issue-voters), but to determine whether or not there is a need to vote at all.

Given the high levels of party loyalty, Namibian voters might only need information of the latter kind. The fact that most voters vote for change does not require special input to inform their choice of parties. From this it follows that the majority of Namibian voters might require more information about the election process (how to register, when and where to register, when and where to vote, etc.) than about the parties, their policies or their programmes. Given our analysis thus far, we expect the different racial groups and perhaps some of the language groups to have slightly different information needs.

Information Sources

For the Local Authority Elections in 1998, most Namibians (44,8%) obtained their electoral information from television.[31] The second-most popular source of information was the radio (24,7%) and then newspapers (11,6%).

Only 6,5% of voters derived information from campaigning, and slightly more (7%) from friends and family. Voter education programmes made small contributions (2,5%) and parties themselves even less (1,8%). Given our expectations about the nature of the information preferred by Namibians, voter education should be improved: it should be a priority not only for the Directorate of Elections, but also for the parties themselves. The lack of campaigning during the 1998 Local

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[31] This finding is different from that of the previous two surveys (Pendleton *et al.* 1993, Weiland 1996) mainly because it arose from a study on a Local Authority Election only, and most towns and urban centres have access to television broadcasting. This does not mean that most voters own television sets; it only means that they have access to one.

Source of information	Frequency	Valid %
Television	438	44,8
Newspaper	114	11,6
Radio	242	24,7
Campaign events and materials	63	6,5
Family and friends	69	7,0
Voter education by the Directorate of Elections	10	1,0
Voter education by NGOs	15	1,5
Party officials and organisers	17	1,8
Other	10	1,0
Total	978	100,0
Missing	9	-

Table 17: Main sources of information

Authority Elections was evident, and here the parties were guilty of not performing.[32]

By far the majority of voters (78,3%) in the 1998 Local Authority Elections indicated that they received or obtained enough information about the elections, as well as on the parties and the candidates involved. However, this only means that voters, irrespective of their different needs, received enough information. How much "enough" would be we are unable to determine; nor do we know the nature or content of such information.

We can only guess, but not conclude, that these voters must have received sufficient information – both to select a party (where voters "choose"), and where and when to turn out for the vote (where voters do not "choose").

We are also unaware of whether or not the information received was positive or negative in content and/

Yes or No	Frequency	Valid %
Yes	769	78,3
No	213	21,7
Total	982	100,0
Missing	5	-
Total	987	-

Table 18: Sufficiency of information

[32] It is even more inexcusable when one considers the fact that all parties received public funding for their campaigns. The lack of active campaigning suggests that these funds were perhaps spent on matters other than those for which they were intended.

or direction, and whether or not such information provoked emotions such as fear, enthusiasm or anxiety.

Given our analysis thus far that racial group and, to a lesser extent, language are linked to differences in voting behaviour, we shall again turn to these two variables for ideas as to who wants what type of information. We shall focus on voters who felt they were not sufficiently informed. Although the majority of white voters felt they were sufficiently informed, the largest proportion of insufficiently informed voters (28,3%) came from this group as well. Coloured voters were second (23,5%) and black voters third (20,5%).

Information lacking on (topic)	Racial group					
	Black		White		Coloured	
	Cases	%	Cases	%	Cases	%
Parties/movements	42	29,7	12	34,8	10	29,0
Policies	32	22,6	15	45,2	10	27,1
Election process	48	33,6	9	25,5	10	27,9
Candidate nomination	43	30,0	16	45,7	10	28,4
Registration	21	14,7	7	19,2	4	10,1
Candidate information	37	26,4	16	47,1	9	25,2
Importance of election	27	19,3	7	20,3	9	25,0
Other	8	5,8	4	11,5	1	4,1

Note: Respondents could respond to more than one option.

Table 19: Insufficiently informed by racial group

The single largest category of black voters felt a need for more information about the election process itself (33,6%). Information about the nomination of candidates was another need (30%), as was information about the parties and movements (29,7%) and candidates (26,7%). White voters, on the other hand, required more information about candidates (47,1%), nomination of candidates (45,7%) and policies (45,2%). Coloured voters' needs were much more evenly spread across all the options. White voters, more so than voters from the other groups, seem to require the kind of information usually associated with issue-voting and the candidates themselves (including how they are nominated). Among black voters these were also real needs, although much less so than for whites. Interestingly enough, it was not the Afrikaans-speakers who were insufficiently informed, but the English- and German-speakers.

There seems to be a slight contradiction in the responses on the need for information about candidates. Table 20 records that almost 70% of voters knew their candidates well. We can only suggest that the problem here is the lack of information on how candidates were nominated and perhaps also their intentions, strategies and qualities.[33]

Degree to which party candidates are known	Frequency	Valid %
Very well	413	42,1
Well enough	265	27,0
Neutral	123	12,5
Not well enough	135	13,8
Not at all	45	4,6
Total	980	100,0
Missing	7	-
Total	987	-

Table 20: How well do you know your party's candidates?

Conclusions and Future Directions

In our introduction to this study we made it clear that we have broken away from the previous two studies (Pendleton *et al.* 1993, Weiland 1996), both in focus and in approach. The use of open-ended questions to measure key aspects of voter behaviour enabled us to present new variables in explaining voter motivation, and to reconsider the older ones.

The desire for change and improvement featured strongly in the minds of most Namibian voters, especially for those that reside in the historically underdeveloped residential areas. We have provided evidence that suggests the ethnic vote model and the issue-based models (sociotropic and pocket-book votes) played no significant role in voter motivation and party choice in this country. The role of party identification and ethnicity in party selection was reconsidered, and both were found to be intervening rather than independent variables. As such, they shaped the voters' perceptions as to what constituted the "best" party. Once perceptions were established, voters no longer considered them as the "real" motivation for party choice; instead, they sent a variety of clear messages. These were the spontaneous reactions we recorded through our open-ended question on party choice.

Ethnicity and party loyalty combined to make the distribution of party sympathy a relatively fixed pattern for most parties. Voter volatility was low and occurred mainly among racial minorities that are predominantly Afrikaans-speaking. Swings

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[33] In the smaller towns and villages it is quite common for one individual to occupy several different positions. He or she can be a teacher, a preacher, a community activist and party representative all at once. Hence, such individuals are well known but not necessarily as "candidates". Voters might, therefore, require more information about the process through which the particular individual became a candidate.

in these groups occurred away from the DTA and toward the independent associations.

As far as biographical variables and their links with various aspects of voting behaviour were concerned, we have suggested that these are mere "clues" and not explanations in themselves. Why the links exist needs to be investigated. For that we shall need the inputs of different disciplines with their specialised methodologies. The same applies to our understanding of the role of information in voter motivation and party choice.

As far as future voter turnout is concerned, we conclude that much depends on the parties' capacities to perform. Loyal voters will not switch parties. If their strong demands for change and improvements are not met, they will abstain from voting. This, we believe, explains the sharp drop in turnout for the 1998 Local Authority Elections. Table 21 indicates that some 13%

Yes or No	Frequency	Valid %
Yes	844	86,7
No	20	2,0
Don't know	109	11,2
Total		
Missing	14	-

Table 21: Will you vote in the next election?

of voters were either uncertain whether they would vote in the coming Regional Council Elections, or adamant that they would not vote again.

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Namibian Foreign Policy: Transformation and Emerging Global Orders (1989-1999)
André du Pisani

The world of the things that come into being as the result of action, materialises through thinking.
(Ibn Khaldun 1958:II,413)

... foreign policy is really, in a nutshell, the reflection of domestic policy.
(Theo-Ben Gurirab, Minister of Foreign Affairs, Information and Broadcasting, 1990)

The end of the Cold War, as well as the promise and challenge of globalisation, with deep shifts in the world economy, reconfigurations in political space, and the rise of new and older forms of cultural identity, portend both opportunities and constraints for States. This is especially true in the case of new and altered States – such as Namibia – that were a constituent part of global transformation and the emergence of new global orders.

An important part of the hegemonic structure of world orders is the dominant role of international financial institutions (IFIs), notably the World Bank and the International Monetary Fund (IMF), in the global financial structure. With it came a dominant form of power relations in production – the globalisation of manufacture. Regional impulses, too, were getting stronger: partly in response to globalisation, partly for economic, political and security reasons.

In the wake of the end of the Cold War, human security was becoming both more complex and broader, with increasing emphasis on "low politics" as opposed to "high politics".[1] There was also a growing realisation of the socio-economic import and transnational nature of global security. For southern Africa, too, regional security became increasingly interdependent, as was evidenced in, among other things, the ongoing conflict in neighbouring Angola and the Great Lakes region.

Namibia claimed her independence on 21 March 1990, at a time when the old certainties of the Cold War and the attendant superpower rivalries driven by bipolarity, ended. The very fabric of international society underwent profound change, as did the relationships which characterised this system. The end of the Cold War

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[1] For classical realists, "high politics" is the domain of the State. It covers matters as vital as war and peace. In contrast, "low politics" includes economic, environmental and social issues.

also brought a decline in the importance of ideological considerations, both in domestic and foreign policy.

In the recent past, superpower rivalry has, paradoxically, in the words of Schrire (1991:124), "contributed to and restrained regional conflicts". In Namibia, the former Soviet Union contributed to sustaining the conflict through its military support for the South West African People's Organisation (SWAPO), thus giving SWAPO the capability to engage in, and sustain, armed struggle. However, the former Soviet Union also supported international diplomatic efforts to bring an end to one of the southern African region's most destructive and intractable conflicts. The end of the Cold War saw the implosion of this conflict.

The death of the icons of the Cold War not only brought an end to ideological politics over security, but removed the new State's potential ability to play on erstwhile ideological rivalries as well. With this came a more creative foreign policy posture, one that is strongly informed by domestic, developmental, regional and global economic considerations.

Foreign Policy

Traditionally, *foreign policy* has been understood as the activities and processes whereby State actors act, react and interact. Understood in this way, foreign policy has been seen as profoundly State-centric and as a boundary activity. The term *boundary* implies that those making foreign policy straddle at least two environments: an internal or domestic one, and an external or global one. Understood in this way, the policy-makers and the policy system stand at these junction points, therefore, and seek to mediate between the various environments.

The internal, or domestic, environment forms the primary context against which policy is made and implemented. Thus, factors such as the resource base of the State, its geographic position, the structure and level of development of its economy, its demographic and human resources profile, its leadership potential, and its ideology and national values (such as those contained in its constitution) form the domestic or internal context. The international, or external, environment is where policy is actually implemented. Of necessity, the implementation of policy involves other factors, and their reactions will feed back into the policy-making process and system, thus forming part of the context and environment upon which future policy will be made. This attempt to create a reality upon which policy can be made is generally referred to as the *definition of the situation*. It is a necessary prerequisite to understanding the environment and, therefore, to making policy decisions.

In line with most other States, Namibia, too, approaches the international environment from a national and regional perspective. Geopolitics sets the parameters for this particular form of regionalism, with the State having to react to its neighbours in important aspects of policy such as trade, monetary and fiscal matters.

Similarly, cooperation, trade and economic integration take place at the regional level. Regional fractures, such as Angola, decisively shape Namibia's foreign policy as well.

The actual conduct of foreign policy is primarily based within the institutional framework of the State, although (as will be shown later) not to the exclusion of other agencies such as multinational corporations (MNCs) and non-governmental organisations (NGOs). What are defined as vital matters of "national interest" are normally handled by the Executive (or the Head of State) along with a small number of loyal supporters and trusted advisers. Such matters are normally referred to in the literature as *high politics* and would include issues such as peace and security as well as questions vital to the welfare of the State, its interests, and its people. Conversely, *low politics* refers to matters of a routine nature, as well as to a new agenda of issues which have become much more important since the end of the Cold War, such as crime, the environment, health and migration, to mention but a few. Clearly, these categories are not hard and fast and a particular issue area may change in its relative significance.

Classical or traditional realists[2] might want to suppose that foreign policy is formulated on the basis of rational calculations of advantage and disadvantage, with the policy-makers acting as a unified system. As this chapter will show, there is good reason to doubt that this view is particularly useful. In recent years the bureaucratic politics approach has sought to emphasise that the decision-makers and organisations that make foreign policy are not unified. As a result the policy that emerges may represent a compromise between various points of view or the triumph of one organisational perspective (or its interests) over another. In the case of new States such as Namibia, Presidents and the Executive often dominate aspects of their countries' foreign policy.

The implementation of foreign policy decisions requires States to harness instruments such as military, technological, economic and leadership capabilities. In the final analysis, however well endowed a State may be with the capacity to act to advance its interests, the skill and determination of its diplomats and the conduct of its diplomacy may be crucial to the outcome. It is useful to distinguish diplomacy from foreign policy. Whereas *diplomacy* refers to the manner of conducting one's foreign relations, *foreign policy* refers to the matter. The latter remains the most useful term to use to encapsulate a State's relations with the outside world.

Against this wider theoretical and global canvas, it needs to be said that the study of the foreign relations and policy of small and new States, such as Namibia, is a relatively new and under-researched aspect of the study of world politics. Tradi-

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[2] "Classical" or "traditional" realists departed from the premise that the international system of States was anarchic and conflict-bound. Through the mechanism of the "balance-of-power" and military alliances, order and peace could be brought.

tionally, the focus of much of the academic literature has generally been upon the foreign relations of Great Powers.

Since the pioneering scholarship of Fox (1959) and Vital (1967), much has been achieved. Selwyn (1975), for example, edited a useful compilation entitled *Development policy in small countries*, while Barston (n.d.) suggested criteria for distinguishing small States from middle and big (powerful) States. In Barston's (*op. cit.*) analysis, most small States face a common problem: defining an appropriate relationship between national capability and policy. Many small States have only a limited machinery for conducting external relations. The foreign ministry is often relatively small, "evidence of the significance of economic considerations" and – one could add – national development. Moreover, small States normally pursue a more limited range of policies (compared to "middle range" States and "Great Powers") which are usually distinguished by their high commercial content and regional preoccupation. Conversely, some of the comparatively advanced small States such as Finland and Norway pursue active intraregional as well as extraregional economic and trade relations.

Another matter of special interest is that of the security of small States. Meyns (1990:147) shows how small States often enhance their security by entering into bilateral and multilateral agreements with regional neighbours. In most cases, geographic location and economic and trade dependence significantly shape the pattern and scope of their foreign relations.

These observations are also pertinent to Namibia, whose foreign policy and relations are based on a sober and generally realistic assessment of the country's capabilities and development needs. Coming from a potentially radicalising tradition of armed struggle against South African neocolonialism, it is understandable, however, that the new Government has by and large sustained relations with former allies in the struggle: Algeria, Angola, Cuba, Egypt, India, Libya, the Nordic countries, the People's Republic of China, the Russian Federation, Tanzania, and Zambia, among others.

Given Namibia's considerable dependence on foreign assistance and direct foreign investment (DFI), its foreign policy is intimately linked to its overall development efforts as annunciated in, among other official documents, the First National Development Plan (NDP1), Trade Policy and more recently, the more ambitious Vision 2030. Moreover, spatial and regional inequality in the social economy plays an increasingly important role, as is evidenced in the recent emphasis on spatial development initiatives such as the Export Processing Zones (EPZs) in Walvis Bay, Oshikango, Rundu and Katima Mulilo.

Understandably, bilateral relations with South Africa – especially in finance, trade, communication, investment, fisheries, mining, and tourism – are of special importance. In the domain of cross-border security, too, Namibia and South Africa cooperate on the combating of drugs, "illegal" migrants and crime syndica-

tion. Since Independence, core trade and investment links between the two countries have been maintained and strengthened in some respects. At the same time, however, Namibia actively seeks to promote efforts aimed at greater economic self-reliance, among others through EPZs and a liberal investment regime under the Foreign Investments Act, 1990 (No. 27 of 1990).

An important strand in policy is that of the protection and sustainable utilisation of the country's natural resources, such as its marine and mining resources. It is not surprising, therefore, that one of the first pieces of legislation to be passed soon after Independence was the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (No. 3 of 1990).

Namibia's foreign policy is also anchored in a commitment to regional and continental peace. In this respect, President Sam Nujoma, in his opening address to the First Session of Parliament on 15 May 1990, stated *inter alia* that –

> ... Namibia, in foreign policy, would play a constructive role to reduce tensions in the conflict zones of the world and to promote international co-operation and dialogue. Namibia, through its membership of the UN, the Non-Aligned Movement, the Organization of African Unity and the Commonwealth would contribute its quota, however insignificant, to the promotion of world peace and security.

Article 96 of *The Constitution of the Republic of Namibia*, in the Chapter entitled "Principles of State Policy", outlines the following in respect to the new State's foreign relations:

> The State shall endeavour to ensure that in its international relations it:
>
> (a)   adopts and maintains a policy of non-alignment;
> (b)   promotes international co-operation, peace and security;
> (c)   creates and maintains just and mutually beneficial relations among nations;
> (d)   fosters respect for international law and treaty obligations;
> (e)   encourages the settlement of international disputes by peaceful means.

Sources

Namibia's foreign policy is anchored on a diversity of principal sources. These include (Gurirab 1999b:7):

- the Constitution (especially Article 96)
- all relevant laws, treaties and international agreements
- Cabinet decisions
- the NDP1
- election manifestos of the governing party
- public policy statements of the Head of State and other key members of Cabinet, and
- Hansards and votes cast or formal positions taken in international and regional fora.

Regional relations of a bilateral and multilateral nature have taken precedence since Independence. On 1 April 1990, Namibia became the tenth member of the Southern African Development Co-ordination Conference (SADCC; renamed the Southern African Development Community, SADC, in August 1992). Namibia went on to join the Common Market of Southern and Eastern Africa (COMESA), the Southern African Customs Union (SACU) and the Common Monetary Area (CMA). Namibia has also entered into various bilateral agreements with its neighbours. These include a bilateral monetary agreement with South Africa (April 1990); an agreement between Namibia and Botswana on cooperation in culture and education (July 1990); a protocol of understanding between Namibia and Botswana on defence and security (July 1990); an agreement on a Namibia/Zambia joint permanent commission of cooperation (August 1990); an agreement between Namibia and Zambia regarding the supply of electric power (August 1990); a general agreement of cooperation as well as a joint commission of cooperation between Namibia and Angola (September 1990); a joint water committee with Botswana (November 1990); a memorandum of agreement for the supply of water between Namibia and South Africa (November 1990); and an agreement for the establishment of a joint commission of cooperation between Namibia and Tanzania (April 1991).

In addition to these bilateral agreements, Namibia has ratified various SADC Protocols on Trade, Education and Training, Energy and the Combating of Drugs, among others.

South Africa

Arguably, Namibia's bilateral relations with South Africa – the former coloniser – are of special importance to the new State. As Namibia's Minister of Foreign Affairs, Theo-Ben Gurirab's first major statement on foreign policy to the National Assembly spoke passionately about South Africa and the prospect of peace in that country. While the overtures of the former De Klerk Government were recognised, Namibia (in concert with much of the rest of the world) demanded the commencement of inclusive negotiations between the De Klerk Government and the black majority as represented by the African National Congress (ANC) and the Pan-African Congress (PAC). Initially the former apartheid Government in South Africa established an Interest Office in Windhoek while, at the same time, the new Government in Windhoek allowed a Representative of the ANC to operate in the country. Namibia did not reciprocate with a similar arrangement in South Africa. The Namibian High Commission in Pretoria was only opened two years after Independence.

This arrangement did not find universal favour with the opposition parties in the National Assembly. Moses Katjiuongua of the Namibia Patriotic Front (NPF), for example, saw Namibia's foreign policy as "ambiguous" and carrying risks for the

country's territorial integrity and its relations with its neighbours and other nations (*Debates of the National Assembly*, 1990, Vol. 2:28). The Namibian Government's decision to be guided by the ANC on its policy towards South Africa, in particular in its support for sanctions against the former minority white Government, too, were cited by Katjiuongua as evidence of inherent contradictions and ambiguity in policy.

Katjiuongua quoted the famous dictum of the 19th century British statesman, Lord Palmerston: "Nations have neither permanent friends, nor permanent enemies, but rather permanent interests". He suggested that this should guide "the conduct of our foreign policy at all times" (*Debates of the National Assembly*, 1990, Vol. 2:30).

As a constitutional democracy, the point of departure for Namibia's foreign policy, as indeed for all other policies, ought to be the "Principles of State Policy" contained in Article 96 of the Constitution. Katjiuongua saw these principles as the foundation upon which a consensus could emerge on questions of foreign policy. However, the said principles fall short of a foreign policy. Foreign policy had to be forged in the context of a fast-changing world and the loss of older certainties.

Initially, bilateral relations with South Africa were dominated by four principal issues: the need for comprehensive negotiations in that country that would end apartheid, the question of Walvis Bay and the offshore islands, the southern boundary along the Orange River with South Africa, and the matter of the new State's inherited debt incurred by the previous Interim Government. Extensive trade and economic relations as well as security and political considerations provided core interests that drove policy.

The issue of Namibia's diplomatic representation, too, generated much debate in the National Assembly. From the outset, questions were raised as to whether Namibia would be able to afford 18 missions abroad. A related question was the prioritising of locations and countries where Namibia should have a diplomatic presence, e.g. whether it was more important to have an embassy in Cuba or in Germany. The Prime Minister was also questioned on the criteria governing the appointment of personnel, particularly as regards whether this would be in terms of the Public Service Act, 1995, or in terms of Article 32(3)(i)(ee) of the Constitution. A related matter was that of the ethnic and party-political affiliation of the first ambassadors and high commissioners.

On the latter, ethnic and party-political affiliation, the former Deputy Minister of Foreign Affairs, Netumbo Ndaitwah, denied emphatically that either ethnic affiliation or party-political allegiance played any part in the appointment of the country's diplomats. She went on to state that "... the President of the Republic did not, does not, and will never appoint officials on the basis of ethnic considerations, but only on the basis of merit, competence, dedication and, above all else, loyalty to the Republic of Namibia" (*Debates of the National Assembly*, Vol. 12, 30 May

1991:22-23). Her assurance notwithstanding, these matters were again raised in the local media, when it was asserted that out of the 18 key diplomatic postings, only two were held by non-Oshiwambo-speaking Namibians (*The Namibian*, 5 December 1998).

In a wide-ranging policy statement to the National Assembly in 1990, the Minister of Foreign Affairs outlined the domain values and beliefs that informed foreign policy. He saw Article 96 as foundational to the policy, but emphasised equally that none of the domain values and beliefs outlined in that Article constituted foreign policy. On the conceptualisation, formulation, "analysis, co-ordination and implementation" of policy, he recognised three primary actors: the President, the Foreign Minister, and Parliament – with the latter serving a "watchdog and overseer function" (*Debates of the National Assembly*, 19 July 1990, Vol. 3:202). Under the Constitution, therefore, it is the Head of State who is empowered to negotiate and sign international agreements and to delegate such power to the Foreign Minister or to any other appropriate Minister.

The foreign policy of a country "... is or ought to be a mirror-image of its domestic policy. ... (O)ne cannot profess abroad, either on legal, political, or moral grounds, something which does not have its sources here back home" (*Debates of the National Assembly*, 19 July 1990, Vol. 3:202). State-building, necessary for the consolidation of independence and "the operationalisation of our policy of national reconciliation and unity" (ibid.), had to take precedence.

Significantly, and appropriately, the Foreign Minister underlined the earlier, and rich, foreign policy conceptualisation and experience of SWAPO as a liberation movement. In this respect, Minister Gurirab continued (*Debates of the National Assembly*, 19 July 1990, Vol. 3:203) –

> [A]s a national liberation movement SWAPO maintained some 27 foreign missions on all the continents except Antarctica. I was busy thinking about Antarctica and then the 435-process commenced and I dropped the idea. Our President, our Prime Minister and most of the members of the Cabinet of the day are well-known and respected personalities internationally. They have been interacting and doing business with missions, countries, governments, organisations and individuals, thinking and planning together with them this day, with Namibia's nationhood, in mind.

The Foreign Minister cited the convergence on Windhoek of some 2 500 world leaders and notables at Independence as proof of international support for the new State. He went on to state (ibid.) that he had personally "signed more than one hundred agreements on the establishment of diplomatic relations with various countries of the world". The President had received letters of credence or commissions of some 21 ambassadors and high commissioners, all within the first four months of independence.

Minister Theo Ben-Gurirab saw the presence of so many foreign missions as a "big plus for our society and economy", since they brought international friend-

ship and confirmation that Namibia belonged to the Committee of Nations (*Debates of the National Assembly*, 19 July 1990, Vol. 3:204). Trade and investment, however, were accorded special priority, as was evidenced by the successful June 1990 Donors' Conference held in New York. The G-7 countries[3], at their meeting in Houston, Texas in the United States, too, voted Namibia as a "model country", especially in Africa.

The Ministry of Foreign Affairs mounted its first diplomatic training programmes with the technical cooperation of the Commonwealth Secretariat. The initial intake comprised 43 Namibians and two Swazi nationals. The Ministry then made recommendations to the President on the appointment of the country's first diplomats.

Namibian foreign policy is strongly multilateral, as evidenced by the country's membership of various international and regional organisations. Among these are the United Nations and its Specialised Agencies, the Organization of African Unity (OAU), the Commonwealth, SADC, COMESA and the Lomé Convention as a member of the ACP countries (Africa, the Caribbean and the Pacific). Through Lomé IV, Namibia enjoys associated membership of the European Union (EU).

The Minister of Foreign Affairs, while emphasising Namibia's participation in world affairs, nonetheless underlined that the country is "a small, poor African state, whose fate and fortune are intertwined in so many ways with the one destiny of Africa". He added that this was why Namibia would always strive to have warm, friendly and productive relations with its immediate neighbours (*Debates of the National Assembly*, 18 July 1990, Vol. 3:205).

On Namibia's representation abroad, Minister Gurirab indicated that Cabinet had approved the establishment of 18 embassies and high commissions. This, however, was a long-term projection. Shortly after Independence, in the 1990/91 fiscal year, the budgetary allocation for the Ministry was a modest R45 million.[4]

Angola

The ongoing fracture of Angola has weighed, and continues to weigh, heavily on the minds of many Namibians. This is hardly surprising since the two countries share a common history, a common border, a rich exile experience and extensive cultural and linguistic ties. In the words of the Namibian Foreign Minister, "We are deeply concerned about the suffering and bleeding that continues there" (*Debates of the National Assembly*, 19 July 1990, Vol 3:207).

Significantly, Minister Gurirab saw the signing of the December 1988 tripartite New York Accord, which opened the way for the withdrawal of Cuban forces from Angola, as having had the potential to bolster the prospects for peace in this

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[3] Canada, France, Germany, Italy, Japan, the UK and the USA

[4] R1 = N$1. The Namibia Dollar (N$) was introduced in 1994.

neighbouring country. He saw foreign interference in the form of military and financial assistance to the *União Nacional de Indêpença Total de Angola* (UNITA) as "prolonging the suffering" of the Angolan people, and expressed Namibia's willingness to encourage and actively support negotiations between UNITA and the Angolan Government. Since this early foreign policy statement on the question of Angola, Namibia has consistently strived to carve for herself a relatively independent position on the matter. More recently, Namibia has actively worked in support of the United Nations Angola Verification Mission I and II (UNAVEM I & II) mandate and the former UN envoy to Angola, Ambassador Blondin-Baye, and his tireless efforts to bring peace to that war-torn country. Namibia is also an active participant in UN peace-keeping efforts in Angola.

Since Independence, Namibia has entered into various bilateral agreements with Angola. These cover issue-areas such as energy, border security and water. Angola is an important and natural hinterland for Namibian business; and through the recently-established EPZ in Oshikango, which lies near the common border between the two countries, they have significantly increased their bilateral economic and trade relations.

Africa

Namibian foreign policy, while predominantly concerned with key economic and trade relations such as those under Lomé IV and with regional matters, has nonetheless also concerned itself with wider international questions in Africa. Two interesting examples include the conflict in the Western Sahara and the right of the Palestinian people to self-determination. On the Palestinian question, for example, the Namibian Government supports the struggle of the people for self-determination and statehood under the leadership of the Palestine Liberation Organization (PLO).

In its own way, Namibia has tried to lessen the divides created by the principal fractures on the African continent: Angola, Western Sahara, Chad, Sudan and more recently in the Democratic Republic of the Congo (DRC). The DRC is arguably one of the most controversial and expensive foreign policy adventures Namibia has undertaken since Independence. Available evidence suggests that the decision to deploy some 300 members of the Namibian Defence Force (NDF) in support of President Laurent Kabila's embattled Government was taken by the Namibian Head of State without prior discussion at Cabinet level. Parliament, too, was sidelined, while the nation was subsequently informed of the decision by way of a televised address by the President.

The decision to intervene in the internal conflict in the DRC not only underlined the central position of the Head of State in matters of foreign policy, but also elevated the NDF to a position of prominence in foreign policy. In so doing, it

underscored the assertion made earlier in this chapter, namely that foreign policy is rarely made by unitary actors. There are, indeed, competing bureaucratic and personal interests involved in the making and conduct of foreign policy.

Economic Diplomacy

As argued previously, economic considerations weigh heavily in determining the thrust of Namibia's foreign policy. The Lomé IV Convention, ratified by Parliament on 19 December 1990, provides a key economic regime under which the country's trade relations with the EU are conducted. In June 1992, Namibia also ratified the Abuja Treaty, which established the African Economic Community, and joined the World Trade Organization (WTO).

Namibia's accession to the Fourth APC/EU Convention, popularly known as Lomé IV, was especially interesting. The Ministers of Foreign Affairs and of Trade and Industry negotiated the terms of the country's accession to Lomé IV. Namibia formally acceded to the Convention when the Rt Hon. Prime Minister appended his signature to the Convention on Namibia's behalf at a ceremony held in the Council of Ministers' building in Brussels, Belgium. This was made possible by the inclusion of a special provision contained in Article 364 of the Convention, which specifically allowed Namibia to accede to the Convention after it had already been signed by the parties to the agreement.

In an attempt to enhance trade and investment, the Government has deputed commercial counsellors to its foreign missions in Bonn, London and Brussels. There are also trade representatives in Asia and the emerging markets in select Arab countries. At home, the Ministry of Foreign Affairs collaborates with that of Trade and Industry in the mounting of trade fairs. Over the past nine years of independence, notable achievements in the economic and trade field include –

- the export of beef to the EU
- Nakara's agreement with Grunstein to market karakul products in the EU
- the entry of Namibian beef into the Polish market
- the export of table grapes (mostly to Austria), and
- the export of marine and fisheries products to the EU, Zimbabwe and, more recently, to the DRC.

The country's one-stop Investment Centre, which was instrumental in the drawing up of the Special Incentive Package for Industrial Development (for example as in the case of Arandis), is indicative of the importance of trade and investment for the new State. Under the "Special incentives for manufacturers and exporters" in the said Package, various tax regulations apply in the case of foreign investors and manufacturers. In an attempt to establish Namibia as a gateway location in the southern African region, preferential market access to the EU and the USA is

provided. Another important string in this bow is a coherent fisheries policy and the growing economic importance of this sector since Independence.[5]

The overall importance of trade, investment and general economic relations has elevated the Ministry of Trade and Industry, and the Minister, to a position of prominence in the foreign policy field. This, in turn, has introduced an element of bureaucratic rivalry and resource competition between the two Ministries at stake here, and has at times undermined coordination between them at operational level.

Namibia and Germany signed a Protection of Investment Agreement in 1993 (a similar agreement was signed with the United States in 1995). Germany is Namibia's biggest foreign donor. In 1997, Germany announced development assistance to Namibia of DM 60 million (approximately N$151,8 million)[6] for the next two years. The assistance was to be divided equally between financial and technical cooperation projects, respectively. At the time, Germany's overall development assistance to Namibia amounted to DM 634 million (N$1,585 billion) since Independence in 1990.[7] In comparison, Swedish bilateral assistance to Namibia over the same period amounted to N$600 million.[8]

Multilateralism

The country's foreign policy operates largely within the corset of multilateralism as determined by the global economy. For example, Namibia participated in the Second Tokyo International Conference on African Development (TICAD II) in June 1998. On that occasion, Foreign Minister Gurirab emphasised the need for the international community "... to review the economic, social and political conditions in Africa and to redouble its actions together with the African peoples themselves for sustainable development on the Continent" (*New Era,* 22-25 June 1998). Under the multilateral framework of the Bretton Woods institutions such as the World Bank and the IMF, Namibia sought "growth for poverty alleviation and strengthening of Africa's participation in the global economy" (ibid.).

Namibia is a member of the standing committee of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The country represents southern Africa on the committee. One of the most recent accolades accorded to Namibia was the election of Foreign Minister Gurirab as President of the UN General Assembly for the year 2000. At the time of writing, the country serves on the UN Security Council as one of its non-permanent members and took over its presidency for the month of August.

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[5] Since Independence, the fisheries sector has emerged as one of the most significant for the national economy.

[6] At an exchange rate of DM1 = N$2.53, as at August 2000

[7] This figure reflects German bilateral assistance up to the end of October 1998.

[8] This figure was reported in the local print media (*The Namibian*, 5 December 1998).

Fractures

Since Independence, Namibia has had to deal with several fractures in southern Africa. These included –

- the disputed reintegration of Walvis Bay and the offshore islands into Namibia, which was peacefully resolved in February 1994
- the Kasikili/Sedudu (and more recently, the Situngu) Island dispute with Botswana
- the ongoing conflict in Angola
- military intervention in the DRC, and
- and secessionist impulses in the Caprivi, that led to more than 2 000 Namibians leaving for neighbouring Botswana and an armed attack on selected installations in Katima Mulilo.

The Walvis Bay and offshore islands issue provided a most interesting case of how Namibia was able to enhance its bargaining power over its stronger southern neighbour, by linking its diplomacy to transformation in South Africa itself. Rather than engaging the former white-minority South African Government in unequal bilateral negotiations, Namibia chose to work through both the PAC and the ANC at a time when the embattled minority Government was negotiating a transition with opposition political formations at the CODESA talks.

Based on provisions of the Constitution, as well as on UN Security Council Resolution 432 (1978), Namibia negotiated joint administration over Walvis Bay and the offshore islands with the former South African Government, as an interim arrangement. Formal reintegration was completed on 1 February 1994. However, the reintegration process was not without its share of problems, which included claims by PortNet[9] over infrastructure, outstanding debt for the provision of electricity and rolling stock.

The issue of rival claims to sovereignty over the Kasikili/Sedudu Island by both Botswana and Namibia ended in unsuccessful mediation by Zimbabwean President Robert Mugabe in 1995. Both Governments in the dispute then agreed to refer the matter to the International Court of Justice (ICJ) in The Hague, the Netherlands, for international arbitration. Before discussing this issue any further, its politico-legal context needs to be briefly sketched.

Kasikili/Sedudu is a 3,5 km island on the north-eastern border between Botswana and Namibia. In the rainy season the island is covered by water from the Chobe River. The dispute has its roots in the Anglo–German agreement of 1890 that defined the centre of the Chobe River's main channel as the boundary between what were then German South West Africa and British Bechuanaland. Con-

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[9] A commercialised entity that took over the harbour network and port functions of the former South African Railways and Harbours

troversy ensued over legal ownership of the island, as well as on the question as to which was the Chobe's main channel: that to the north or the south of the island. (Namibia claimed it was the south channel, and Botswana the north.)

In 1995, following President Mugabe's unsuccessful mediation, the Namibian and Botswana Governments agreed to refer the matter to the ICJ, as mentioned previously. This decision followed unsuccessful attempts to implement recommendations contained in a report by a Namibia–Botswana Joint Technical Commission, established in 1992.

The Joint Technical Commission consisted of three members from each country. Both sides remained adamant that the island belonged to their respective territories. During its work, the Commission made use of earlier border demarcations contained in the 1890 Anglo–German and the 1892 Anglo–German–Portuguese Treaties, as well as several maps.

Namibia argued that the island belonged to it on the grounds of historical evidence, as well as its reading of the 1890 Anglo–German Treaty. Invoking the legal principle of "description", Namibia's legal team argued that Kasikili/Sedudu was legally part of Namibia on the basis of ownership of territory through long use: Namibia's Subia people had been using the resources of the island for more than a century without any protest from the United Kingdom or Botswana. Botswana based its claim to ownership on the position of the northern channel, as well as on a 1985 bilateral agreement between itself and South Africa. Both parties made extensive use of maps and other evidence in support of their legal arguments.

Oral hearings before the ICJ started in February 1999 and were concluded on March 5 that year. The chairperson of Botswana's legal team was Deputy Attorney-General (Prosecutions), Abednigo Tafa. Chief Legal Counsel was Professor Ian Brownlie. Brownlie was assisted by Lady Hazel Fox, QC, formerly associated with the University of Oxford. They were in turn assisted by Dr Stefan Talmon, a former student of Brownlie. The Namibian 14-member legal team was headed by Dr Albert Kawana, Permanent Secretary of the Ministry of Justice. Professor Abram Chayes from Harvard University acted as Leading Counsel. In the end, when the ICJ resolved that the island indeed belonged to Botswana, Namibia bowed to the decision graciously.

Namibia is now in dispute with Botswana over the boundaries of the Situngu Island in the Caprivi Region, but the two parties are still attempting to find an amicable solution to the issue on their own.

The country's decision to involve itself militarily in the DRC during 1998 illustrated the pivotal position of the President in matters of foreign and regional policy. According to all available accounts, the matter was not deliberated upon in Cabinet; nor was agreement sought from Parliament. In time, the unilateral nature of the decision may well be seen to have set an unfortunate precedent, since it detracted from the importance of Parliament in matters of foreign policy.

Conclusions

This discursive chapter showed how Namibia's foreign policy is strongly bilateral, regional and economic in thrust and focus. It emphasised the post-Cold War context that shaped much of the country's foreign relations and highlighted some of the key bilateral relations, such as that obtaining with South Africa. It argued that under the rubric of "economic diplomacy", much emphasis of late has been accorded to spatial development initiatives such as the EPZs at Walvis Bay and Oshikango, among others. Finally, it takes into account that regional fractures such as Angola, the legal dispute over Situngu and the conflict in the DRC are likely to shape the foreign policy environment of the new State for the foreseeable future.

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