



ELECTION • TALK

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BOTSWANA'S MAIN OPPOSITION PARTIES BOYCOTT THE ALL-PARTY CONFERENCE

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Botswana's liberal democracy provides for a loose and unique structure in its democratic process, the All-Party Conference, which brings all political parties together to promote inter-party dialogue. The All-Party Conference was given an important role by the October 1997 Constitutional (Amendment) Act. It established and provided for the appointment of an Independent Electoral Commission (IEC), allowed Botswana who reside outside to vote and reduced the voting age to 18 years from 21. The Constitutional amendment was preceded by a national referendum. The 1997 Constitutional amendment Act allowed the All-Party Conference to play a part in the appointment of the IEC, that of recommending the names of persons to be appointed as members of the IEC. The IEC is made up of seven members: a Chairman, who is a High Court judge; and a legal practitioner, both of whom are appointed by the Judicial Service Commission (JSC) and five other members, who are required to be fit, impartial and proper, are appointed by the JSC from a list of names recommended by the All-Party meeting in terms of Section 65A(1) of the Constitution of Botswana.

Section 65A(2) however, gives the JSC the power to appoint election commissioners where the All-Party Conference fails to reach an agreement on all or any number of persons up to dissolution of Parliament. Election Commissioners hold office for two successive lives of Parliament.

The last All-Party Conference was held in 2000. In July 2004, the All-Party Conference was convened to propose names of persons to be appointed as Election Commissioners from over 1 300 applicants. However, this meeting was riddled with controversy as the main opposition parties: Botswana National Front (BNF), Botswana Congress Party (BCP), Botswana People's Party (BPP), Botswana Alliance Movement (BAM) and the New Democratic Front (NDF), boycotted the All-Party Conference. Opposition parties boycotted the Conference for a number of reasons. First, they contended that they were not given sufficient time to scrutinise the applicants. Second, they were complaining about government's decision and attitude in rejecting all the suggestions they put to the 2000 All-Party Conference. These included public funding of political parties, introduction of proportional representation, declaring voting day a public holiday, counting of ballots at polling stations, direct elections of the President and strengthening the independence of the IEC.

Despite their decision to boycott the Conference, it proceeded following the advice of the Attorney General, with only the ruling Botswana Democratic Party (BDP) and two opposition parties, Botswana Labour Party (BLP) and the Marx, Engels, Lenin, Stalin Movement (MELS) of Botswana taking part. These three parties proposed names of Election Commissioners. Although the two opposition parties are registered and recognised, they have been heavily criticised by other opposition parties that opted out of the All-Party Conference partly because the two do not have a large following. As a result of the boycott by the major opposition parties, there is growing cynicism that those who will be appointed to serve as Election Commissioners might lack legitimacy and credibility than their predecessors who were chosen by all the political parties. It is worth pointing out that the Constitution is silent on the issue of party support/membership, number of parties that participate, agenda setting and a quorum for the all-party meeting. What is important to note is that whether all political parties participate in the All-Party Conference or not, the final decision rests with the Judicial Service Commission. The seating Commission stands dissolved once Parliament is dissolved. Parliament was dissolved on 3 September 2004. The names of the Election Commissioners are yet to be announced. Reacting to this, the BDP Secretary General and Minister of Presidential Affairs and Public Administration, Daniel Kwelagobe pointed

out that the Attorney General has clarified the matter in the sense that the Constitution does not state the quorum for the All-Party Conference. Nevertheless, he stated that it would be desirable, though not mandatory, for all parties to participate in this important meeting. Following this controversy, recently the Executive Secretary of the BDP, Botsalo Ntuane revealed at a Workshop for Political Parties that the BDP is debating whether the All-Party Conference is a necessary structure.

PARTY-GOVERNMENT RELATIONS IN POST-ELECTION MALAWI

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Introduction

Malawi held its most recent presidential and parliamentary elections in May 2004. According to the official results of the elections, the presidential elections were won by Bingu wa Mutharika, the candidate for the United Democratic Front (UDF). In the parliamentary polls, the UDF suffered a significant decrease from the number of parliamentary seats that they won in 1999, coming second to the Malawi Congress Party (MCP) which scooped the highest number.

Despite the UDF's setback in the parliamentary polls, its members were understandably euphoric about their candidate having won the presidential poll. It was assumed that the party would be in charge of the executive branch of government, and that the newly-elected President would continue the tradition of his predecessor of routinely conflating government and party interests, functions and resources.

Separating Government from Party

As it turned out, however, Bingu wa Mutharika departed from the practice of the previous UDF government, and has, since his inauguration, endeavoured to maintain a separation between state and party. In appointing his Cabinet, for example, he left out a number of the party's most senior leaders who had been key Ministers in the previous government. He then replaced the Director of Public Prosecutions who had been appointed by his predecessor, a move that attracted particular public interest because the new government had indicated its intention to prosecute some prominent UDF leaders for corruption. The fear of this prospect in UDF leaders was only made worse when, a couple of months later, the President appointed as Attorney General an outspoken human rights lawyer who had once been the Treasurer General of the opposition People's Progressive Movement (PPM) party.

The estrangement between President Mutharika and the UDF was probably sealed by government's commencement of criminal investigations into the activities of a number of UDF leaders. For the party

hierarchy, these investigations were tantamount to a declaration of political war on the party by the President who, in their view, should have intervened to prevent the arrests which could only embarrass the party.

Impact on the UDF

The most immediate impact of the alienation between the President and the party has been the creation of two power bases within the party: one that supports the President's initiatives and another considers the President a traitor to the UDF and proclaim their loyalty to the National Chairman of the party, Bakili Muluzi, the previous President. The conflict between the two power bases is likely to have a significant impact on the party's prospects in the 2009 elections because the UDF is likely to be divided on whether to nominate Mutharika as the party's presidential candidate.

The separation of state and party is also likely to undermine the party's electoral chances in 2009 because the separation will make it hard for the party to acquire and use state resources for its election campaigns as it did in the 2004 elections when UDF appropriated government financial and human resources for use in its campaign activities. In a related development, the National Chairman of the party, former President Muluzi, is unlikely to be as generous in financing his party's campaign as he might otherwise have been because, judging by local press reports, he has quite a few creditors who have commenced various legal actions to recover their money.

Another result of UDF's experience with Mutharika is that the party will in future be more cautious about how it selects its presidential candidate. One reason why Mutharika finds it relatively easy to separate state from party is that his own connection to the party in the context of the 2004 elections was rather tenuous. Although he had been a member of the party in its formative stages in the early 1990s, he had subsequently quit it and had founded the United Party (UP) for which he was a candidate in the 1999 presidential elections. He only became a candidate for the UDF in the 2004 elections after he had been handpicked by the then President of the state and party Bakili Muluzi, and virtually imposed on the party. This had led to a split within the party that saw the resignation from the party of some key UDF leaders who had expected the UDF presidential candidate to be one of the party's long-serving senior leaders and not an outsider who had even campaigned against the party in 1999.

The Consequences

The consequences of increased separation between party and government are not limited to the UDF, but also extend to the nation as a whole where they are either positive or negative. On the positive side, the separation has enhanced the democratic credentials of

the Mutharika administration by creating conducive conditions for better accountability for public resources and upholding of the principle of equality before the law (regardless of party affiliation). Such democratic kudos are likely to lead to the resumption of donor support for the budget which was suspended during the Muluzi administration because of failures in economic governance. A related public benefit of the separation between party and government is that the government will save resources that would otherwise have been used exclusively by, and for, the party. Such savings may then be applied to more deserving public causes.

Despite the positive consequences of the separation of party and state for the general public, there is the residual danger that this new approach to government will engender a backlash against the executive branch from UDF traditionalists who are aggrieved by it because it reduces their opportunities to siphon government resources. Such people are likely to strike alliances of convenience with those UDF functionaries who currently or imminently face criminal charges for corruption. The latter group of people perceive their current and impending prosecutions as political witch-hunting by the President's men. The backlash has already reared its ugly head in a number of ways. For example, during the budget sitting of Parliament in September some UDF Members of Parliament threatened to vote down the budget presented by the executive for reasons that most people considered to be facetious. Another warning of a possible backlash has come from statements made by some of the party's senior leaders warning of "genocide" if the party continues to be provoked, and "chaos" if the current government arrests former President Muluzi for alleged corruption and abuse of office when he was President.

Conclusion

The various threats that have been made by the disgruntled faction of the UDF are probably mere rhetorical warning shots fired at the President. However, they clearly indicate that some within the UDF wish to turn the division within their party into a national crisis. The larger issue, though, is that with Mutharika's new style of leadership, the prospects for improved governance and enhanced rule of law are high. What matters is whether Mutharika can sustain his efforts at keeping party and government separate, while resisting the pressure from one of the country's biggest and most aggressive political parties.

A LESSON NOT TO BE FORGOTTEN

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There are about 400 000 Mozambicans living abroad which the country's electoral bodies were willing to register for electoral purposes. For that enterprise 400 000 American dollars had been singled out to cover

the respective expenses. The Electoral Law establishes that the National Electoral Commission (CNE) is the body responsible for deciding whether Mozambicans living abroad should exercise or not their right to vote once having determined the technical, material and legal conditions for that effect. This, of course, is after consultation with the country's Technical Secretariat for Electoral Administration (STAE). This apparently happened, and the CNE decided that the electoral census for the nationals living abroad should take place between the 6 and 25th of September in Africa (covering South Africa, Swaziland, Zimbabwe, Zambia, Malawi, Tanzania and Kenya) and Europe (Portugal and Germany).

This decision was immediately challenged by the opposition parties, notably Renamo, on the grounds that there were no conditions for conducting the census with the necessary guarantees of political parties' control of the process to ensure transparency. Renamo was particularly unhappy with the fact that Mozambican embassies and consulates abroad would act as the sites for electoral registration, because of the historical direct linkages between state, government and party (Frelimo) in the country. The rest of the minor political parties were dismayed at their lack of financial resources to be able to exert a meaningful control over the process. But, the CNE/STAE decision stood.

The Electoral Observatory, on its part, pretended to be didactic. First of all, they indicated that though the right of Mozambicans living abroad should not be jeopardised, priority should be given to the domestic census (held between the 28 June and 15 July) for reasons of pure rationality. To begin with, as indicated in a letter addressed to the Chairperson of the National Electoral Commission, the domestic census had been marked by severe irregularities the result of which was that a significant number of citizens had been denied the right to register for electoral purposes. Thus it was suggested that the alternatives would be either to extend the period of the domestic census or to repeat it in those areas where irregularities were indicated and universally acknowledged. Second, the Electoral Observatory suggested that if the census abroad was to go ahead despite the fierce opposition of a number of political parties, then it should be held simultaneously with a second run of the domestic census. Thirdly, and most importantly, they indicated that in matters relating to electoral processes more often that legality was not always the issue, but legitimacy. So, though the decision of having the census belongs to the country's electoral bodies, as well as the determination on whether the conditions were there or not for such a purpose, they had to go one step forward and convince all concerned that their decision was correct. They then suggested that the idea of auditing the entire electoral process, proposed by a number of opposition political parties, should be adopted in principle to

ensure the credibility of the process and the electoral bodies themselves.

It turned out that only about 1% of the 400 000 Mozambicans living abroad were registered. Most of these are actually temporary residents, such as students. Simply, most Mozambicans do not want to identify themselves openly as such, or could not expend their meagre resources on a political event, or perhaps did not have enough information on the process. For all purposes, this amounts to a definition of a failed enterprise and a very costly undertaking for such insignificant results! The lesson here is simple: if a decision is taken on a consensus basis then it is much easier to sustain the possibility of failure. For an authoritarian decision, however, the failure will almost invariably deepen the authoritarian logic of the decision-maker with the possibility of closing further the doors for dialogue and consultation. This leads to a vicious circle. The staff of the Electoral Observatory thinks therefore, that this is a lesson not to be forgotten.

WILL SWAPO WIN THE FORTHCOMING ELECTION IN NAMIBIA?

Khabele Matlosa

Research Director-Eisa

Namibia's general election is scheduled for 15-16 November 2004. This will be the fourth general election in the SADC region since the beginning of the year and the fifth will be held in Mozambique during the first week of December. The first three elections in the region were held in South Africa (April), Malawi (May) and Botswana (October). All these elections have been interesting as political contestation for state power, more so in terms of the political balance of power which in a large measure defines the nature of the contest and ultimately winners and losers in the election race. The Namibia election will be no exception to this trend. It is, thus, in this context that we pose the question whether or not the ruling South West Africa People's Organisation (SWAPO) is poised to win the forthcoming election once again as it has done since the political transition to democratic rule in 1990. Following the 1990 independence from apartheid rule, Namibia has held two general elections and in both elections, SWAPO emerged a hegemonic political force and if this trend continues the ruling party will further stamp its political hegemony within the country's dominant party system and the prospects for the opposition to pose a serious threat to this dominance will remain a fairly distant mirage for years to come.

If the results of the 1994 and 1999 elections are anything to go by, then it is abundantly evident that SWAPO's massive dominance of Namibia's political landscape is most likely to ensure its overwhelming victory in the forthcoming general election in November 2004. In 1994, SWAPO won about 74% of

the total votes and 53 parliamentary seats. The opposition Democratic Turnhalle Alliance (DTA) trailed far behind the winner by snatching about 21% of the total vote which entitled it to 15 parliamentary seats. Three other contestants secured 2 or less parliamentary seats. In 1999, SWAPO increased its electoral dominance, by capturing 76% of the total votes and 55 parliamentary seats and the DTA and its new splinter group – The Congress of Democrats (CoD) – won about 10% of the votes each and 7 parliamentary seats each. What is important to note from these previous elections is not only the high and growing margin of SWAPO's victory and increased dominance in Parliament, but also the massive gap between SWAPO's performance and that of the opposition parties. As is the case in South Africa with regard to the gap between the ruling African National Congress (ANC) and the opposition parties, the prospects for the disjointed and fragmented opposition to dislodge SWAPO from power are quite bleak indeed.

What other factors stand SWAPO in good stead to strike yet another victory in the forthcoming election? Incumbency is one of the various resources that ruling parties have at their disposal during elections. The mere fact that a party is in control of the state machinery and enters an electoral contest for that control with other contestants outside the state machine gives ruling parties a political edge. This is compounded by the often fluid relationships between the state/government and the ruling party in most countries and Namibia is no exception in this regard. To this extent then, ruling parties tend to exploit public resources to gain political mileage over their competitors during elections. It should be noted that resources are crucial for effective campaign and serious contest in elections. One of these relates to state funding of political parties which is a component part of the national budget 2004/05. The financial assistance to political parties has declined slightly from N\$16.1 million in 2003/04 to N\$15.9 million during the current fiscal year. This is shared among parties represented in Parliament as follows:

Party	Votes	State Support from Budget
SWAPO	408 174	N\$11.2 million
CoD	53 289	N\$1.4 million
DTA	50 824	N\$1.39 million
United Democratic Front (UDF)	15 635	N\$429, 962
Monitor Action Group (MAG)	3 618	N\$99, 459
Total	531 540	N\$14.5 million

Source: Sherbourne, A Case Study on Election Management in Namibia, IDEA, Stockholm, 2004, p.:5.

By all indications, SWAPO is better resourced than its competitors and this places the ruling party a couple of miles ahead of the opposition parties in the November election race. Thus, by all indications, SWAPO is

poised to win the forthcoming election even despite the fact that the current President, Sam Nujoma will not contest the election for a fourth term but will be replaced by the Minister of Lands and Agriculture Hefikepunye Pohamba. The contest is likely to be a very interesting one all the same.