



## ELECTION • TALK

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### **BOTSWANA'S 2004 ELECTION CAMPAIGN PROCESS**

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The campaign process in the run up to Botswana's impending general elections is well underway, and this might intensify nearer the election date. The date for the elections, which are most likely to be held around October 2004, has not yet been announced. Despite this, different political parties have started canvassing, as the electoral law is silent as to when the election campaign begins or ends. The main players in this year's election campaign are the Botswana Democratic Party (BDP), Botswana Congress Party (BCP), Botswana National Front (BNF), Botswana Alliance Movement (BAM), Botswana People's Party (BPP) and the New Democratic Front (NDF). Prior to national campaigns, political parties have been engaged in campaigns for the primary election. The primary elections of some parties were fraught with controversy, complaints of cheating and protests especially in relation to the voters roll. Factions are not exclusive to the opposition, the ruling BDP has also been characterised by factions in recent years., which culminated in a bitter contest for party chairmanship between the Vice President, Ian Khama and Party Chairman Ponatshego Kedikilwe. Kedikilwe lost to Khama at the National Congress in July 2003.

The introduction of a new electoral system, Bulela Ditswe (open it to all), by the BDP in 2003, which allows all party members to take part in the primary elections, seems to have taken the contest for political office within the party to greater heights, as it was characterised by mudslinging and factional acrimony. This new Electoral College has seen a defeat of a number of seating BDP MPs and Ministers in the primary elections, which is unusual of BDP politics. Some of those who lost in the BDP primary elections have appealed against the results and the party is still to enunciate on these petitions. Similarly, allegations of cheating were also rife in the opposition. In the opposition BNF, primary elections resulted in the loss by a well-respected Gaborone West legislator, Robert Molefabagwe. Molefabagwe was defeated by Gaborone mayor, Harry Mothei. Molefabagwe and other party members who lost in the primary elections have petitioned the results. The party is yet to pronounce on these petitions. In the BCP, primary election defeats have resulted in some candidates who lost joining the BDP out of frustration.

#### **Public Campaign / Election Strategy**

The different players use various campaign strategies: political rallies, posters, billboards, newspaper advertisements, motorcades, mailing letters to voters

and house-to-house campaigns, as a way of promoting the image of the party and the candidates. Of all these strategies, political rallies are the most used. All the parties contesting this year's general elections are yet to produce party manifestos.

When conducting election campaigns, the ruling BDP, which is more resourced than other parties, enjoys the advantages of being in power as it identifies itself with successful government policies and projects. However, the opposition parties' electoral campaigns are heavily curtailed by lack of resources, poor organisation and internal wrangles.

In an effort to pose a formidable challenge to the BDP, three opposition parties entered into a fragile election pact in the latter part of 2003, in which they agreed not to challenge each other in the forthcoming election. The three parties are the BNF, BAM and BPP. The BCP and NDF, the most recent offspring of the BNF, opted out of the pact. Unfortunately, the pact has been riddled with problems as members have been openly attacking each other. In particular, the BPP is not content with BAM and the way constituencies were allocated amongst pact members. Most of the constituencies in the south were given to the BNF, the majority in the North West to BAM, and BPP was

allocated constituencies mainly in the north east. BPP intends pulling out of the pact if the majority of the delegates at a special congress scheduled for March 20 2004, support a withdrawal from the pact.

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## **MALAWI: COURTS AND THE 2004 ELECTIONS**

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Since the adoption of the current Constitution in 1994, the courts in Malawi have played a very significant role in political processes. One area in which the courts have been remarkably active has been that of elections. In both the elections of 1994 and 1999, courts adjudicated in a wide range of disputes. There is nothing to indicate that the courts will be less active in the 2004 electoral process. On the contrary, the courts are likely to handle more cases mainly because of the increase in the number of parties and alliances actively contesting in the elections. Cases brought before the courts so far, also indicate a qualitative change in the role of the courts brought about by the emerging involvement of the courts in adjudicating intra-party aspects of the elections. These developments not only raise new professional challenges for the judiciary, but also highlight important questions of democratic principle for the electorate in Malawi.

Malawian courts have hitherto been involved in cases that have mainly involved electoral disputes between members of different political parties. In the 2004 elections, however, judicial intervention has been extended to intra-party disputes mainly arising out of the process for selecting parliamentary candidates undertaken in February by a number of political parties. In this regard, the current ruling party, the United Democratic Front (U.D.F.), has found itself being sued by its own prospective candidates complaining about the fairness of the selection process in nearly 10% of the country's electoral constituencies. In most of the cases, the High Court granted injunctions prohibiting the party from relying on the results of disputed selection exercises to determine its parliamentary candidates in the affected constituencies. At least one major opposition party, the Malawi Congress Party (M.C.P.) has also experienced judicial intervention in their process of candidate selection, with the High Court granting an injunction against the party prohibiting it from recognising the outcome of a voting exercise allegedly marred by fraud. In the last week of February alone, the High Court in Blantyre decided on at least ten cases brought by people who had lost in "primary elections"; cases that had allegedly been characterised by violence, intimidation and administrative irregularities.

Intra-party disputes have not been the only new type of election case. A three-judge panel of High Court dismissed an argument brought by the People's Progressive Movement over an interpretation of the term "judge" in connection with the Head of the Electoral Commission, as required by the Constitution. This was declared fanciful and divorced from the common understanding of the term "judge".

### **De Ja Vu**

In addition to the new areas in which the courts have been involved, some old familiar issues have also re-surfaced. As they have done in every election, the courts have been called upon to review decisions of the police banning public meetings of opposition parties and biased coverage of the campaign by the state-controlled electronic media. With regard to police powers, the High Court in Blantyre issued an injunction nullifying a police order prohibiting the Mgwirizano coalition of opposition parties from holding a public rally in the city of Blantyre on 22 February 2004. Similar orders have been issued in 1993, 1994 and 1999, but the police have continued to assume that they have the power to arbitrarily decide when a public meeting may not be held.

Another familiar type of case that is about to re-surface is that involving bias of the state-controlled electronic media. During the last elections in 1999, two individuals successfully sued the Malawi Broadcasting Corporation (M.B.C.) for its biased coverage of the elections in favour of the incumbent party and President. The High Court unequivocally stated that M.B.C. was under a duty to give equal coverage to the opposition and the ruling party. In the run up to the 2004 elections, it is clear that the M.B.C. has chosen to ignore what the court ordered in 1999. The M.B.C. has not provided the balanced coverage that it is legally bound to provide under both the Parliamentary and Presidential Elections Act and the Communications Act. There are now indications that the Public Affairs Committee (P.A.C.), a human rights and governance non-governmental organisation, and the Malawi Human Rights Commission are preparing to sue the M.B.C for its bias relating to the 2004 elections.

### **Conclusion**

The litigation over primaries has exposed the limits of democracy in the parties involved. The cases have shown limitations in the parties' electoral rules of procedure and absence of effective internal dispute resolution mechanisms. For their part, the cases on the police and the media indicate limitations in the latent authority of the courts; the police and the state-controlled media do not appear to be guided in their behaviour by previous decisions of the courts. All in all, judicial activism in the 2004 elections is likely to be instructive about the limits of democracy in the country.

## NAMIBIA'S DOMINANT PARTY SYSTEM

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### Introduction

Namibia is one of the world's dominant party systems or what Pempel prefers to term 'uncommon' democracies.<sup>1</sup> Its 'uncommonness' stems from the fact that its electoral politics is dominated by a single party that currently commands more than 75% of all electoral support. This year, Namibians will go to the polls once more to elect a new National Assembly, but even more importantly, a new president. It might turn out to be the most important election since independence. With a fairly fragmented opposition in a current state of disarray however, it seems likely that the unfettered hegemony of the ruling party in government and especially in the legislature would be entrenched even further, thereby consolidating the dominant party situation.

### Election Results

The first all-inclusive elections held in 1989 were in some respects, atypical and not representative of subsequent elections. Ten parties contested these first ever elections and seven obtained sufficient votes to be rewarded one or more seats. The winning party, SWAPO, obtained 57.3% of the overall vote, and the largest single opposition party, the Democratic Turnhalle Alliance (DTA), 28.6%. The largest party of the remaining eight, the United Democratic Front (UDF), obtained only 5.6%. Of the ten parties that contested the first elections, only these three are currently still active in their original form. In 1994 and 1999, eight parties contested the National Assembly and Presidential elections and five parties obtained seats on both occasions. SWAPO increased its share of the votes to 67% in 1999 and its share of seats to 76%. The DTA saw its vote share decrease to just 9.5% in 1999. The Congress of Democrats (CoD) established after a breakaway from SWAPO, obtained 9.9% of the overall votes in its first elections.

### Voter Turnout

Voter turnout, as expected, declined substantially since 1989. With the arrival of independence, approximately 97% of Namibians voted, only some 58% did so ten years later. Voter turnout has one major consequence for Namibia's party system. In the absence of a legal threshold, the quota serves as the effective threshold beyond which parties are guaranteed seats and the lower the threshold, the easier it is for small parties to gain seats. This is the intended effect of the PR system. Yet, the possible gains for a more fragmented party system have been reversed by its unintended outcomes. Given the fact that voter

turnout has declined mostly among opposition supporters<sup>2</sup>; SWAPO has been able to increase its seat share without any significant gains in absolute support. In 1989 with a very high turnout, 384 567 votes were worth 41 seats for the Party. In 1994, 361 800 votes were worth substantially more – 53 seats.

### Opposition Parties

Although the number of registered opposition parties has remained fairly stable over the past ten years, few of the original contenders are left in their original form. Despite initial expectations that the CoD as Namibia's first real post-independence party would start making inroads into SWAPO strongholds, opposition parties have not managed to increase their support. Opposition supporters have become floating voters - causing support for the larger opposition parties to become very unstable. The speed with which the opposition has fragmented increased rapidly. Over the past few months, the DTA experienced two breakaways: first, a group of white members left to revive the old (white) Republican Party, thereafter a group of Herero-speakers left to revive the old Herero party, NUDO. In addition, at least two other groups have indicated that they too, will seek registration for the next round of elections. In addition, both of these appear to have strong ethnic foundations.

Opposition parties in Namibia, with the possible exception of the CoD and the DTA have strong ethnic roots.<sup>3</sup> The fact that old opposition parties fracture along ethnic lines, points to a re-ethnification of opposition politics. There are at least two reasons why this is happening. Firstly, the PR system provides more than ample opportunities for small parties to gain representation. This means that disgruntled elite that falls out with party leadership could get back into the legislature with relative ease by simply forming a new party. Secondly, most opposition leaders seem to believe that Namibian voters are ethnic voters and are only interested in elections as a means to register their ethnic affiliation. Hence, these new parties do not have any clear programme, or policy directions; they bank primarily on ethnic loyalty. A number of by-elections thus far have shown that this is a serious misunderstanding of the Namibian voter. Smaller ethnic parties stand no chance of winning elections against catchall national parties such as SWAPO. One would expect more small parties in the next legislature, but not more representation for opposition parties overall. This would further solidify the ruling party's dominance over the legislature.

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<sup>2</sup> From 1989 to 1994 the opposition parties collectively lost 160 000 supporters. SWAPO on the other hand lost only 23 000 during the same period.

<sup>3</sup> The DTA was formed as a multi-ethnic alliance during the late 1970's. Since then many of its ethnic member-organisations have seized to exist as independent organisations.

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<sup>1</sup> Pempel T, 1990, *Uncommon Democracies: The One-Party Dominant Regimes*, Cornell University Press: Ithaca

At this stage it seems unlikely that opposition parties will join forces for the coming elections, either formally or informally. Instead the new parties will further split an already fragmented opposition vote. This would further contribute to SWAPO's election and legislative dominance. Voting patterns are not expected to change either. SWAPO will continue to receive the bulk of their support from the northern regions of the country, but might gain support in other parts due to the opposition parties' overall failure to perform. One might expect an increase in turnout among SWAPO supporters, as the next elections will also see a new presidential candidate and the party will want to make a good showing. On the other hand, this might also provide a small window of opportunity for opposition provided that they can overcome some of the petty personal differences that seem to drive some of the current breakaways.

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## **MOZAMBIQUE: USE OF STATE RESOURCES AND POST ELECTION BATTLES IN BEIRA**

### **Martinho Chachua, EISA**

Observers, analysts and laymen within and outside Mozambique unanimously consider the recent local elections free, fair and legitimate. Indeed, observer missions concluded that overall the elections were well conducted and the results reflect the will of the voters. Some analysts go as far as to argue that if the country remains in this path the prospects for more transparency in the upcoming general election are brighter. This clearly reflects improvements made on the quality of the electoral administration as well as in the level of maturity of political parties.

Well into the fourth month after the elections, the mood seems to confirm these assertions. Examples range from the unprecedented formal acceptance of not only the election results but also the ruling of the newly established constitutional council over all the appeals brought to it by political parties (see *Election Talk* No. 8), to the smooth inauguration of the mayors and local councils. In Maputo for example, in his acceptance speech, the new Mayor, while reassuring the residents of his commitment to implement the policy measures contained in his election manifesto, encouraged citizens to be forthcoming with any complaints. This is an important and encouraging call for participatory governance. In a similar manner, in Beira one of the municipalities won by the opposition, Renamo, its provincial secretary stressed the need for an inclusive management of the affairs of Beira.

Whilst the conduct of the local elections as described above have underscored considerable advances in the democratisation process, it has also brought to the open some of the deeply embedded challenges faced

by transitional democracies. In the case of Mozambique, the most obvious example is the difficulty in separating state and party structures and consequently their assets. This became more of a concern when the former incumbent party Frelimo was voted out of power during the municipalelections.

Beira is a case in point. Since the Renamo Mayor and the Beira municipal assembly were sworn in, it has been reported that 23 buildings in which Beira municipal government currently operate belong to the FRELIMO party. Those reports indicate that the buildings were registered as Frelimo's properties in the run up to the municipal elections last year. Currently Frelimo demands that if the municipal authorities want to use the buildings a rental fee will be charged. It should be recalled that during the one party system the local party and state structures coincided in the so-called "Grupo Dinamizador" which was a party cell at the local level that was also vested with state authority.

The matter promises to precipitate an unprecedented political and legal battle as the current Beira municipal government has voiced its concerns and indicated that if Frelimo does not give the state property back to the municipal government they will have to work from tents. This is an argument which seems to find a legal basis in the current Local Government's Act (Art. 25 of Lei No 2/97 of 18 February) which provides that "*The transfer of competences from state organs to municipal organs is followed by the corresponding transfer of the financial and if necessary human and patrimonial resources*". On the other hand, Frelimo argues that any attempt to take these buildings away will be interpreted as a violation of the right to property as provided for in the constitution. In addition, commentators have raised concerns that if this becomes a trend, there is likelihood that ministerial buildings will be registered as party property if an incumbent party feels that it might lose an election.

Irrespective of what the outcome of this specific incident might be, this is a wake up call that the blurred relationship between the state and party nurturing during the tenure of a one party system, can allow political parties to use state resources in a questionable way. In assessing the extent to which incumbent political parties abuse public resources, experts however, tend to focus on the abuse that occurs during the electioneering period only. Indeed, observers have reported many instances where state transport facilities were used for campaign purposes. This post-election event shows that there are other subtle forms of abuse of state resources with the potential of destabilising the post-election political environment.