NAMIBIA:
Consensus Politics with a Dominant party?*

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Workshop Dominant Parties and Democracy
ECPR Joint Sessions, Granada, April 14-19, 2005

* I wish to thank Mr A. Bureo Gonzalez for his assistance in gathering data for this case study.
African Democratization: the institutional context

When the Third Wave of democratization reached Africa, the most visible result was the introduction of competitive elections. What was much less clear is whether competitive elections would also imply the emergence of multi-party systems. In several Eastern African countries, it became evident very soon that multi-party competition did not challenge the dominance of the former single party (e.g. Tanzania up to the present time and Kenya up to 2002); in Zambia, a broad opposition coalition managed to gain power in 1991 but transformed itself into a new dominant party within a short time. In an overview of 12 African countries that could be considered minimal or electoral democracies in the period 1990-98 the present author counted 6 dominant parties, defined as parties with more than 50% of the seats in the legislature (following Sartori 1976:196-9). In an overview of dominant parties in Africa, Bogaards discussed the emerging pattern of one party dominance in 18 African countries, not all of which were rated as free by Freedom House (Bogaards 2004:180-1).

The pattern of one-party dominance presents a great challenge for the study of Africa’s new democracies. The question emerges what the existence of dominant parties implies for the functioning of democratic institutions and the quality of democracy. What does the presence of dominant parties imply, minimally, for the persistence of democracy, and more broadly for the consolidation of democracy? As Giliomee and Simkins formulated the question (1999), does one-party dominance represent a bridge to a fuller liberal democracy in which parties alternate in power or is it rather a bridgehead to the establishment of a hegemonic party in an authoritarian regime? I intend to examine this issue using a case study of Namibia. In doing so, I will pay particular attention to the effects of the dominant party on the functioning of democratic institutions, such as elections under a PR system and a number of institutions which appear to place Namibia in a category of countries close to the consensus model of democracy as distinguished by Arend Lijphart (1999).

For the purpose of this essay, I use a midrange definition of democracy, which lies in between the minimal procedural concept focusing only on competitive elections, and a fully fledged liberal democracy (see Diamond 1999:13). The latter would be quite an ambitious concept to apply in Africa considering the legacy of recent authoritarian rule and the general socio-economic context. A mid-range concept requires, besides the presence of free and fair elections, the presence of fundamental civil rights and political freedoms beyond the minimal freedoms required for free and fair elections, the rule of law and some mechanisms for horizontal accountability. The latter may be defined as the controls state agencies may exercise over other state agencies. (O’Donnell 2001: 122-3). So in order to be considered democratic, firstly competitive elections must continue to be held and they must be free and fair. Secondly, in line with this mid-range concept, the rule of law must be adhered to and thirdly, there must be some division of power to allow checks and balances.

With some notable exceptions (e.g. Reynolds 1999), studies of African democratic transitions did not address the institutional context in which competitive elections were introduced. But if our concept of democracy requires besides the intermittent vertical accountability realized through elections also some forms of more continuous and horizontal accountability to allow for checks on political power, research should
also examine the division and/or sharing of power, such as the relations between the executive and the legislature, decentralization, and the independence of the judiciary. This is even more important in countries with ethnically heterogeneous populations.

Arend Lijphart has long focused on such issues, first using the concept of consociational democracy for plural societies, based on the four principles of power sharing, proportionalism, autonomy and mutual veto (Lijphart 1977), and later using the concept of consensus democracy (Lijphart 1999). The latter study expanded the concept compared to consociationalism in the sense that the model was to be applied to any society, divided or not, and that it used 10 institutional criteria, also to be applied universally. Convinced as Lijphart is that consensus democracy is a superior form of democracy (it is ‘kinder and gentler’), he has also claimed that the ‘Third Wave’ of democratization is a power sharing wave (Lijphart 2001).

For Lijphart democracy may be conceptualized as rule by the majority or, alternatively by rule by as many as possible. The first type of system is the majoritarian democracy characterized, most importantly, by one-party government and the ‘first past the post’ majoritarian electoral system. The second type is consensus democracy, which is characterized by division and sharing of power. His institutional criteria for a consensus democracy revolve around two dimensions: the executive-parties dimension, which concerns power sharing, and the federal-unitary dimension, which concerns division of power. Under the first dimension, he distinguished (1) the presence of coalitions in the executive versus one-party government, (2) the presence of executive-legislative balance or executive domination, (3) a multi-party system versus a two-party system, (4) Elections based on proportional representation versus majoritarian systems, (5) corporatist interest group mediation versus pluralism.

Under the federal-unitary dimension he distinguished (6) Federal or decentralized versus unitary government, (7) a bicameral versus a unicameral legislature, (8) a rigid constitution versus a flexible one, (9) the presence or absence of judicial review, and (10) the presence or absence of central bank independence (Lijphart 1999: 3-4).

In his study on 36 long term democracies, the 5 criteria within each dimension appear to be highly correlated, so that countries fit rather neatly into a majoritarian or consensus mold (Lijphart 1999:243).

My interest has been to examine whether Lijphart’s institutional approach to consensus democracy may be fruitfully applied to Africa and if any African new democracies do exhibit the institutional characteristics of consensus democracy. One such study was done by Reynolds (1999), who concluded that in the southern African region, South Africa and Namibia could be considered consensus systems. The present author examined whether 12 African new electoral democracies could be differentiated into consensus or majoritarian democracy, based on Lijphart’s institutional criteria (van Cranenburgh 2003). Four countries appeared to have several features of consensus democracy: Benin, Madagascar, Namibia, and South Africa. In my own study, I argued that these findings should be carefully interpreted in light of strong presidentialism, the informal ways in which power was concentrated in these countries and the fact that the President’s party in most cases dominated the legislature (2003: 205-6).
In a case study of South Africa, the argument was elaborated that the presence of a dominant party affected critically the functioning of the other institutional criteria, and that therefore the party system criterion should be assigned much greater weight than the other criteria used by Lijphart (see van Cranenburgh and Kopecký 2004). The case of South Africa also produced another anomaly: the correlation of criteria within the Executive-parties dimension is low. South Africa scored as strongly consensus on the electoral system, and moderately consensus on cabinet coalitions and interest mediation, and at the same time strongly majoritarian on the party system and moderately majoritarian on executive dominance. My interest is to explore whether the application of Lijphart’s institutional criteria to Namibia presents similar problems and to suggest ways to solve them.

Namibia’s political institutions: a case of moderate consensus democracy

The concepts of majoritarian and consensus systems represent two ideal types or extremes of a continuum, and therefore, in practice, the extent to which institutions represent one or the other type of democracy is a matter of degree. For that reason I adopt, in line with Lijphart’s own approach, scores of moderate or strong consensus features on the one hand, and moderate or strong majoritarian features on the other hand. It should be clear that sometimes judgments are qualitative, and although always based on primary sources such as the constitution and secondary sources such as the articles by country experts, in making them a small margin of subjective interpretation is present.

The Executive/parties dimension

The first criterion for consensus democracy concerns the presence of coalitions in the executive. In the case of Namibia, the chief executive is the President, but he shares executive power with a Prime Minister and Cabinet. Ministers are appointed by the President from among members of the National Assembly (NA), but are also accountable to the NA. The constitution obliges the President to consult Cabinet in decision making, so Ministers are more than his personal advisors: ‘(t)he President and the Cabinet must not only agree but must take the decisions together’ (Mbahuurua 2002: 49). However, Mbahuurua (2002: 48) also argues that the President is the effective focal point of public and political power. This digression into constitutional detail serves to highlight the plural character of the executive, with a bias toward Presidentialism. While a coalition is of course not possible in the office of the President, we must consider the Cabinet also when looking at the presence of coalitions in Namibia.

\[1\] Namibia represents a mixture of Presidentialism and Parliamentarism (see also Reynolds 1999: 70). However, unlike the French system, the Namibian system cannot meet all the criteria normally required for Presidentialism, i.e. the personal character of the office, the independent electoral mandate and the fixed term of office (see Linz 1997). While the first two criteria are met, his term is not necessarily fixed. The constitution provides for the possibility that when the Cabinet is unable to govern (due to a vote of no confidence in the National Assembly), the President may dissolve the Assembly, but he thereby loses office himself as well. In this way, the National Assembly may force a re-election for the Presidency.
The Namibian Cabinet does not contain such a coalition of political parties. With the overwhelming victories of Swapo in four consecutive elections since independence, Swapo formed the government. Only in the period 1989-1994 one non-Swapo Minister and two non-Swapo Deputy-Ministers were added to the cabinet. This leads Reynolds to consider this criterion ‘neutral’ for Namibia (Reynolds 1999: 81). I argue that with a Cabinet that over time has come to include over 30 members, this cannot be considered a form of coalition among parties necessary for consensus democracy, but rather a form of cooptation of individuals. Moreover, since 1994, Namibia has known tight single-party Cabinets (Bauer 2001: 38). Namibia should therefore be considered strongly majoritarian on this criterion.

The next criterion concerns the presence of a balance of power between the executive and the legislature. In a presidential system we would have to look for the presence of checks and balances, such as a presidential veto, and an impeachment procedure. Both are present in Namibia. The presidential veto of legislation passed by the NA can be overruled only by a two-thirds majority in the NA, and can be considered a strong veto power. On the other hand, the NA may impeach the President due to violation of the constitution; this requires a two-thirds majority in the NA, which is not uncommon for such a heavy procedure. Curious is the provision in the Constitution that allows the NA to ‘review, correct or reverse’ the actions even of the President by a vote adopted by two-thirds of the NA. Normally, in presidential systems such a provision does not exist. It appears to give the NA substantial powers; however, the qualified majority could make its use difficult.

With respect to the Cabinet, the NA possesses, besides legislative powers, the power to oversee the implementation of laws. The NA may remove an individual Minister or the entire Cabinet from office by a vote of no-confidence supported by a simple majority. If, in that case the President does not succeed in forming a new Cabinet, he is obliged to dissolve the NA, which also implies that he loses office. Taken together, these constitutional powers appear to create a balance of power (see also the assessment made by Mbahuurua 2002). It is perhaps based on these formal powers of the NA vis-à-vis the Cabinet and Presidency, that Reynolds considered Namibia neutral on the criterion of executive-legislative balance.

However, Mbahuurua (2002) rightly raised questions about the effectiveness of these constitutional checks and balances. My argument is that the relationship between the legislature and the executive is fundamentally affected by the fusion between the two branches in terms of personnel: the Constitution provides that Members of Cabinet are appointed from among Members of Parliament. Such a fusion usually strengthens the executive as in the Westminster model.

One indictor for executive domination may be found in the actual use by the NA of the power to vote a Minister or the entire Cabinet out of office (Lijphart looks at Cabinet durability in his study). In Namibia, however, the Cabinet largely remained the same throughout the period 1989-2004, with periodic Cabinet re-shuffles effectuated by the President, not by the NA. It is due to this fusion of power, that the balance tilts towards the executive, resulting in moderate majoritarianism.

A consensus system typically has a multiparty system, as opposed to the majoritarian two-party system. At independence, Namibia knew besides Swapo a sizeable opposition in the form of DTA with 29% of the seats in the NA, as well as 5 very
small parties (see table 1, p.7). However, the party system evolved soon after independence into a dominant party system. Swapo increased its majority in the NA from 57% of the seats in 1989 to 74% in 1994, 76% in 1999, to fall slightly to 75% in 2004. Lijphart uses the effective number of parties for the party system criterion. Using the index developed by Laakso and Taagapera, the effective number of parties still measured 2.4 at independence, to fall to 1.69 in 1994 and 1.67 in 1999, to end in 2004 at 1.75. (see also Bogaards 2004 for figures up to 1999). The party system is even more majoritarian than the ideal type majoritarian system with two parties. The party system therefore receives a score of strongly majoritarian.

Paradoxically, at least in view of the classic thesis of Duverger on the relation between electoral systems and party systems, the electoral system for the National Assembly is not majoritarian but pure proportional representation with party lists. The country serves as one multi-member district. For the parliamentary elections of 1994 Rose calculated an index of proportionality of 98.7% (Rose 2000: 775). On this criterion, Namibia is strongly consensus.

Finally, it should be ascertained whether Namibia’s interest groups system is characterized by competitive and uncoordinated pluralism or coordinated and compromise oriented corporatism, an indicator for a consensus system. The government appears to favor consultation with societal actors. For example, in the First National Development Plan the government stated that the concept of a ‘social contract’ between labour, business and the government must be promoted (Sycholt and Klerck 2000: 218). Namibia’s Labour Act includes several corporatist elements: it provides for tripartite employer-labour-government structures, such as the Labour Advisory Council, a Labour Court and a Labour Inspectorate.

However, the tripartite system does not function very well as a form of (societal) corporatism because the societal partners are weak. A National Employers Federation was founded in 1993, but it still lacks organizational capacity, strategic vision and its mandate is unclear. Representatives of unions lack expertise and the central union is weak. The National Union of Namibian Workers (NUNW), moreover, is closely allied with Swapo, and as such pressured to define its interests in terms of ‘the nation’ rather than of class (Sycholt and Klerck 2000: 215-18). Sycholt and Klerck conclude in their overview that there is a weak impulse toward corporatism, which is coupled with a dominant trend in economic policy toward neo-liberalism. They argue that the latter trend may lead to increased state intervention in labour relations in the future, and a tendency to state-corporatism. The unions accepted the limitation of their rights in the Export Processing Zones (EPZs). Sycholt and Klerck’s survey indicates that the social partners are clearly committed to tri-partite decision making, but the government’s commitment to it appears half-hearted. At this point in time, the institutional features point to weak corporatist arrangements limited to labour relations, and therefore Namibia may be considered moderately consensus. Table 2 (p.10) shows the scores the criteria discussed above.
Table 1: Party votes and seats in the National Assembly (percentages)

<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td>% vote/% seats</td>
<td>% vote/% seats</td>
<td>% vote/% seats</td>
<td>% vote/% seats</td>
</tr>
<tr>
<td>Swapo</td>
<td>57 / 57</td>
<td>73 / 74</td>
<td>76 / 76</td>
<td>75 / 75</td>
</tr>
<tr>
<td>DTA</td>
<td>29 / 29</td>
<td>21 / 21</td>
<td>9 / 10</td>
<td>5 / 6</td>
</tr>
<tr>
<td>CoD</td>
<td>-</td>
<td>-</td>
<td>10 / 10</td>
<td>7 / 7</td>
</tr>
<tr>
<td>UDF</td>
<td>6 / 6</td>
<td>3 / 3</td>
<td>3 / 3</td>
<td>4 / 4</td>
</tr>
<tr>
<td>Nudo</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4 / 4</td>
</tr>
<tr>
<td>CAN</td>
<td>4 / 4</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>NPF/DCN</td>
<td>2 / 1</td>
<td>1 / 1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>FCN</td>
<td>2 / 1</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>NNF</td>
<td>1 / 1</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>MAG</td>
<td>-</td>
<td>1 / 1</td>
<td>1 / 1</td>
<td>1 / 1</td>
</tr>
<tr>
<td>Republican P.</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2 / 1</td>
</tr>
<tr>
<td>Other</td>
<td>1 / 0</td>
<td>1 / 0</td>
<td>1 / 0</td>
<td>1 / 0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>102 / 99</td>
<td>100 / 100</td>
<td>100 / 100</td>
<td>99 / 98</td>
</tr>
</tbody>
</table>


Voter turnout is 98 per cent 1989, 76 per cent in 1994, 62 per cent in 1999 and 85 per cent in 2004.

Sources: Reynolds 1999: p. 197, 200; Electoral Commission of Namibia; and Inter-Parliamentary Union.
The federal/unitary dimension
On the federal/unitary dimension, it is necessary first to assess the degree of decentralization in Namibia. The constitution clearly defines Namibia as a unitary state and any guaranteed division of power between different levels of government as in federalism is clearly absent. The constitution does mention the principle of decentralization, to be effected by government policies and Acts of Parliament. In 1992, the Regional Councils Act and the Local Authorities Act set up institutions for administrative decentralization. Although the language of the government referred to decentralization and devolution, Forrest discussed the limited autonomy and financial dependence on the central government of these institutions (Forrest 1998). Tötemeyer (2000:125) notes that the Regional Councils remain responsible to the Ministry of Regional and Local Government Housing (the MRLGH) for all their actions. In 1998 the Decentralization Enabling Act was to advance the decentralization process from the year 2000 on, but its implementation was delayed by the government. Despite the development of some capacity for political maneuvering by the regional councils, so far decentralization does not amount to devolution. Functions and ‘operational matters’ are delegated while the central government retains all responsibility (Tötemeyer 2000: 137). Namibia should be considered moderately majoritarian with respect to decentralization.

The second criterion to assess division of power in a consensus system is the presence of a bicameral legislature, with powers equally divided (symmetrical bicameralism) or unequal powers (asymmetrical bicameralism). Namibia’s legislature is divided into two chambers, the National Assembly (NA) and the National Council (NC), with the NA directly elected and the NC indirectly by and out of the Regional Councils. This makes the two chambers incongruent in terms of composition. Each region elects two members to the National Council, thereby over-representing the smaller regions. The NC is weaker than the NA and does not possess full legislative powers. It may ‘consider’ bills and send them back to the NA if not approved by the majority, but if the NA then adopts it with a two-thirds majority the bill is passed. In the event that the NC objects to the principle of the bill, the NA must reconsider the principle and only if it is re-approved by a two-thirds majority the bill passes. Therefore, the Namibian legislature knows asymmetrical and incongruent bicameralism and should be considered only moderately consensus.

Lijphart’s next criterion concerns a rigid constitution. Consensus systems, seek to entrench the constitution by a heavy procedure so that constitutional amendment may be blocked by minorities. Indeed, instead of the supremacy of Parliament, Namibia knows supremacy of the Constitution and Judicial Review (Mbaahuurua 2000: 41). Namibia’s constitution provides for amendments only by a two-thirds majority of the members of both Houses of Parliament. If a constitutional amendment has received a two-thirds majority in the NA but fails to do so in the NC, the President may proclaim the proposed amendment the subject of a national referendum. This referendum must receive approval by two-thirds of the voters in order to be passed. However, Chapter 3, which contains the fundamental rights of citizens, may not be amended or repealed at all. Legally speaking, the constitution is rigid and the country should be considered strongly consensual in this respect. So far one significant constitutional amendment was effected, an issue to be discussed below.
The next criterion concerns the presence of judicial review. Namibia does not have a special constitutional court but a Supreme Court which is empowered to review the constitutionality of laws or infringements on constitutional rights and freedoms. The constitution provides some guarantees for the independence of the judiciary: the President appoints judges for life (that is, until the retirement age of 65, which the President may extend to 70) upon the recommendation of the Judicial Service Commission, a body containing besides the Chief Justice representatives of the legal profession. However, at the level of the lower courts Bukurura (2002: 153) notes with concern that the appointment of magistrates is provided for not in the constitution but in an Act of Parliament. The Magistrates Courts Act empowers the Minister (of Justice) to appoint magistrates, and he in turn may delegate this to his Permanent Secretary or other officials in the Ministry. This makes interference by the executive branch in the lower courts possible.

Lijphart (1999:224-5) considers systems where not all courts may apply judicial review, as is the case in Namibia, medium strength judicial review. Moreover it is necessary to look at judicial activism to assess whether judicial review is strong. In Namibia, judicial activism is hampered by a gradual erosion of the status and capacity of the Supreme Court. Remuneration is below standard, leading experienced and successful judges to prefer private practice. In fact the position of Chief Justice has been vacant since 1990, and the South African Chief Justice acts also as such for the Namibian Supreme Court. Lack of staff and funding has led to a backlog of cases. In sum, the formal framework allows for judicial review, but judicial activism is low due to the factors described above. Namibia should be considerate moderate consensus in this regard.

Lastly, Lijphart considers the independence of the Central Bank important for consensus systems. There is no substantial material on this issue for Namibia. In 1990 the Minister of Finance, Otto Herrigel, announced the intention to establish an independent Central Bank. Maxfield (1997: 68) briefly considered the cases of South Africa and Namibia and argued that the two countries are exceptional in Africa in securing a degree of central bank independence. In the Namibian case the role of the IMF was essential in establishing an autonomous Central Bank. As part of an assistance package, the Bank was run by a Dutch official, who later enjoyed several victories in his efforts to increase the autonomy of the Bank. Only in 1996, the first Namibian official was appointed Governor of the central bank. With the important caveat that more data is needed, a score of moderately consensus appears justified. Table 2 (p. 10) shows the scores for all ten criteria.
### TABLE 2
Namibia’s institutional features

<table>
<thead>
<tr>
<th>Element</th>
<th>Strongly Majoritarian</th>
<th>Moderately Majoritarian</th>
<th>Moderately Consensus</th>
<th>Strongly Consensus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coalitions vs one party government</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ex-Leg balance vs executive dominance.</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multi-party vs two-party system System</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PR vs majoritarian Electoral System</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Corporatist vs pluralist interest groups</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Decentralization vs unitary government</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bicameralism vs Unicameralism</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Rigid vs flexible Constitution</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Presence vs absence of Judicial Review</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presence vs absence of Central Bank independence</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>
Table 2 (p.10) shows that in Namibia scores for the presence of consensus institutions vary from the extreme of strongly majoritarian to strongly consensus. What appears to make the country a ‘strong’ consensus system are the electoral system and the rigid constitution; at the other end of the continuum, the party system and the one party cabinet appear as majoritarian elements. The presence of a dominant party points to what may be considered hyper-majoritarianism. As in the case of South Africa, in Namibia the scores for the five criteria within each dimension do not cluster on the same side of the consensus-majoritarian divide as they did in Lijphart’s 36 countries. No clear pattern emerges that allows us to fit the country neatly into one or the other model of democracy; if we were to pass an overall judgment, we would have to resort to a statistical modal value. Table 2 shows that the model value for Namibia is moderate consensus democracy, with 4 scores of moderate consensus. Alternatively we could simply count all the scores for consensus, which comes to 6 of the 10 criteria pointing to a consensus system.

One party dominance and consensus democracy

The question must be asked how we should interpret these scores and whether the application of the 10 criteria to the case of Namibia ‘works’. Should we conclude that Namibia indeed may be considered a moderate consensus system? Or does the wide spread of scores from strongly majoritarian to strongly consensus present insurmountable problems? In other words, does the modal value of ‘moderate consensus’ create a distorted picture of Namibian politics?

Lijphart’s discussion on the correlations between his criteria within the executive/parties dimension indicated that the coalitions and effective number of parties variables showed the strongest correlations with the other variables within the dimension. That observation fits his theory: power sharing in government and the party system are conceptually the essence of consensus democracy (1999:245). In the case of Namibia, it is exactly those essential features that score majoritarian: the country has one-party government and a more than majoritarian party system. For the federal unitary dimension, decentralization showed the strongest correlation with the other variables in Lijphart’s study; he proceeded to argue that this is the essence of the federal/unitary dimension (1999:245). Again, it is exactly on this criterion that Namibia scores majoritarian.

The result is that within an overall framework of 10 formally equal criteria to place institutions into the consensus or majoritarian category, Namibia scores on the consensus side for six out of ten criteria, making it appear as a case of moderate consensus democracy. However, Namibia scores consistently on the majoritarian side for criteria that conceptually are considered most crucial for consensus democracy: coalitions, party system and decentralization. This implies that the 10 institutional criteria do not form a good framework for the analysis of the consensus orientation in the political system without an adjustment to allow us to attach greater weight to the key criteria of coalitions, the party system and decentralization. Indeed, it is not hard to see that the other criteria in the framework are too formal and institutional and that their weight in no way measures up to the weight that should be attached to the key criteria, as was argued for the case of South Africa (van Cranenburgh and Kopecký 2005).
Moreover, the hyper-majoritarian party system is a factor that affects the functioning of the other institutional variables. Firstly, it strengthens executive dominance. Secondly, the meaning of the apparent consensus-oriented features in Namibia must be re-assessed in light of one-party dominance: the PR electoral system can in no way mitigate the dominance of the Swapo; the central labour union is unable to act autonomously for the interests of workers, the ‘rigid’ constitution can be changed due to the overwhelming majority obtained by Swapo in both houses of Parliament; judicial activism is low and asymmetrical bicameralism is further weakened by the dominance of Swapo in both houses.

The power of the National Assembly
Firstly, I consider the functioning of the National Assembly and the question of executive dominance, which was considered moderate majoritarian so far. The function of the National Assembly to oversee the government is not just constrained by the fusion between the branches in terms of personnel, but virtually impossible in view of the sheer number of Members of Parliament that have been appointed to the Cabinet. While the Government knows 21 Ministries, over time, more and more members of the NA have been included in the Cabinet as Deputy Ministers or even Ministers without Portfolio. Bauer reports that there are twice as many Ministers and Deputy Ministers than ordinary Swapo members in the National Assembly (Bauer 2001: 38); citing Keulder, she writes that ‘as far as the ruling party is concerned, the National Assembly is little more than the Executive in disguise’ (idem). It is clear that this severely compromises the ability of the NA to act as an institution to oversee the government. The implications for any attempts to remove a Minister or review actions of the President are doomed to fail if they are not backed by the Cabinet itself.

Particularly since 1998, when the third term for President Nujoma was effected, Cabinet backing for any such action was unlikely. The President increased his practice of keeping political rivals at bay with periodic Cabinet reshuffles; he chose the bulk of the candidates for Swapo’s list for the NA elections and retained most of the pre-independence Swapo leadership in key Cabinet posts (see Bauer 2001:37). Moreover, if any Swapo back-bencher might attempt to challenge the government, the party leadership has not only de facto but de jure powers to rid itself of dissident parliamentarians. The Constitution contains a recall clause, which states that ‘Members of the Assembly shall vacate their seats if the political party which nominated them to sit in the National Assembly informs the Speaker that such members are no longer members of such political party.’ (article 48 on the Constitution). This power of the party leadership acts as a strong deterrent to vote against the party. The dominance of Swapo in the National Assembly renders executive dominance strongly rather than the moderately majoritarian.

Constitutional amendment
The Constitution provided that Presidents can only be re-elected twice (article 134). In 1998, after the adoption of a resolution to that effect by the Swapo party congress in 1997, an amendment to the constitution has been tabled by the Swapo government which would make it possible for President Nujoma to stand for re-election. The amendment was highly controversial. The government argued that President Nujoma’s was not popularly elected in 1989 but by the Constituent (National) Assembly, and that the people should be given a chance to vote for him a second time.
The amendment was drafted in such language to make it possible for Namibia’s first President to be re-elected a third time. For future presidents, the constitution still provides that Presidents may only serve two terms. Although the amendment was controversial, even within the ranks of Swapo, it easily gained a two-thirds majority in the National Assembly. The case shows that constitutional rigidity in the form of the requirement of a two-thirds majority is ineffective with the dominance of Swapo in both houses by well over two-thirds of the seats.

**Tripartite corporatist interest mediation**

Despite the provisions for tripartite consultative mechanisms such as the Labour Advisory Council, the government does not consistently use these organs, even when it concerns matters directly relevant for labour relations. Meetings are infrequent and there is confusion about its tasks and responsibilities. The NUNW is constrained by its alliance with Swapo to express the interests of workers. The Swapo government pressures the NUNW to think in terms of its own conception of the national interest and frequently takes unilateral action or it engages in secretive negotiation without the union represented (see for the case of the nationalization of mines Sycholt and Klerck 2000). Sycholt and Klerck argue that the kind of corporatism which emerges in Namibia more closely resembles State-corporatism, as found in many other African countries, but not as yet equally repressive. State corporatism implies (a) the undesirability of conflict between capital and labour, (b) the trend to incorporate the trade union movement into the state. (Sycholt and Klerck 2000: 220).

**Bicameralism:**

The bicameral system theoretically could form a check to counter Swapo dominance in Government and the National Assembly. However, the Regional Councils, from which delegates to the National Council are chosen, show an even greater dominance of Swapo. Elections for the Regional Councils take place under a single member constituency system, with a plurality sufficient to win the seat (FPTP). In the 1992 Regional Council elections Swapo obtained 74% of the seats and in 1998 80% of seats; due to the electoral system a degree of disproportionality is apparent between percentage of votes and percentage of seats, which in both elections greatly favored Swapo (see Chirawu 2003: 157). As the Regional Councils sends delegates to the National Council, the political composition of the National Council reflects Swapo dominance. In 1993 19 of the 26 National Council members were Swapo members, making its majority greater than in the NA at the time (Forrest 1998:241).

Politically speaking, the National Council could not form a counterweight to Swapo dominance in the National Assembly. Indeed, on several occasions the Speaker of the National Assembly pressured the National Council to return a bill without suggestions for amendments (Forrest 1998: 287). The quality of interchanges between the two houses was low and did not concern substantive policy issues (idem). As a consequence, however, Forrest argues that the relevance of the political party division within the National Council decreased as representatives felt ‘shut out of the central reins of power’. They were engaged in a ‘common effort to gain status and recognition as parliamentarians’(Forrest: 1998 : 259). The National Council, for example claimed a greater role in legislation, arguing that the Constitution created the possibility for the Council to propose bills. The Government and the National Assembly objected to this possibility and blocked its use (Forrest 1998: 288). Tensions between the two houses developed in 1993, when members of the Council
complained that they did not have access to reports and documents tabled in the Assembly. These examples illustrate how the Swapo government, through its dominance in the NA, weakened the role of the National Council.

Judicial Review

Although judicial review is provided for in the Constitution, several issues raised concern as to the effectiveness in its application. The government’s involvement in the war in the DRC during 1998 was widely criticized for being unconstitutional. The government had not sought approval in the National Assembly, as constitutionally required. The issue was never subject to judicial review. Neither was the government’s violation of civil rights in the Caprivi region in response to the uprising in 1999 ever challenged in court (see Bauer 2001). In 1998 the government deported military-aged Angolan illegal immigrants and refugees from the border area without allowing the possibility for judicial review. At the local level, traditional authorities reportedly detained and imprisoned persons accused of minor offenses without providing recourse to judicial review. I have noted the weakness of judicial independence at the local level, as lower court magistrates are appointed by the Ministry, his permanent secretary or any other official to which he may delegate the authority. In this event, the government did instruct the traditional authorities about the legal limits of their actions. The example illustrates the limitations of the Namibian courts to check government power, which is aggravated by their lack of resources and inadequate remuneration for judges.

The illustrations presented above serve to indicate that the institutions reviewed, and particularly the apparent consensus institutions, do not function as consensus institutions and that this is linked to one-party dominance. The conclusion must be drawn that indeed the party system and the associated variable of government coalitions are the most important factors shaping the Namibian political system, and that they also affect the functioning of the apparent consensual institutions. If we were to assess Namibian politics on the basis of Lijphart’s ten criteria, we end up with an inaccurate image of politics in Namibia.

The missing link: the behavioral dimension

In an apparent consensus oriented political system with a dominant party the functioning of political institutions according to the principles underlying the consensus system depends critically on the behavior of the leadership of the dominant party. The highly institutional approach of Lijphart’s study of 1999 is unable to capture this important factor. In his earlier work on consociational systems (e.g. Lijphart 1977), Lijphart was more able to capture these essential behavioral factors: he identified four principles that should be present in a consociational system: coalitions, proportionality, autonomy for constituent groups, and mutual veto. While he was always convinced the PR electoral system was the most important institutional device, he also looked at behavior of the elites, as evident in executive appointments, willingness to compromise and tolerance. Moreover, in examining the anomaly of the case of India, which despite apparent majoritarian institutions was able to sustain democracy over a long period of time, he identified features within the then dominant Indian Congress party that pointed to a political culture of power sharing and proportionality (Lijphart 1997).
For the case of Namibia two sets of questions must be investigated in order to assess what one-party dominance implied for the presence of consensus institutions, and even the maintenance of any form of democracy. Firstly, how does the dominant party leadership (the government) deal with the remaining opposition parties? This comes down to the question whether the spirit of tolerance and compromise is still alive in Namibia. Is there still a meaningful role for opposition parties and does political competition survive?

Secondly, in a dominant-party system, the issue of intra-party democracy becomes crucial. How does the dominant party leadership deal with (potential) opposition within the party?

With respect to the first question it should be noted that Namibia made a very promising start by adopting a liberal and democratic constitution, respected throughout the world. The spirit of respect for fundamental rights was present and the elections were widely judged as free and fair. Moreover, as noted above, a small number of opposition members of Parliament were added to the first Cabinet, pointing to a willingness to share power.

In the course of the 1990s, however, the political climate changed. The government’s response to calls by civil society groups to look at civil rights abuses by Swapo during the liberation struggle was ferocious (Dobell 1998). The years 1997-8 appear to be a turning point (see Melber 2003, Bauer 2001, Dobell 1998). The issue of the third Presidential term symptomized the increasing concentration of power in the executive. The issue led Ben Ulenga to break with Swapo and form an opposition party, later named the Congress of Democrats (CoD). Several other Swapo members followed suit. President Nujoma accused Ulenga and others of ‘rebellious activities’ against the ruling party. Home Affairs Minister Ekandjo called the CoD a group of ‘traitors and spies’ (Bauer 2001:44). The climate surrounding the elections of 1999 was rather grim. Many instances of intimidation of opposition parties by Swapo supporters were reported. Moreover, Swapo campaigned across the country summoning state resources. President Nujoma traveled in the official Falcon jet to regional centers with army helicopters then transporting him from one rally to another (Melber 2003; Lodge 2000).

With respect to the media, the government has launched an economic boycott of ‘The Namibia’ in 2001 on the grounds that it was too critical of government policies. The government no longer advertises in the paper, and Swapo followed the same policy. The attempt to effectively curtail the freedom of the press was widely criticized by civil rights groups and NGOs. These examples point to increasing intolerance of criticism on the part of the Swapo leadership, which compromises the continuation of political competition in Namibia. Bauer sees a trend toward single party rule in Namibia including phenomena such as ‘atrophying of the party apparatus, a steady blurring of the distinction between the party and the government and an increasingly intolerant and undemocratic political culture’(Bauer 2001: 45). It is primarily due to the presence of an increasingly active civil society and media – forces outside of the political regime- that Bauer retains some optimism for the future of Namibian democracy.

On the issue of internal party democracy, Swapo is burdened by the legacy of the liberation struggle, which implied hierarchical control, deference to authority and
secretiveness. As argued by Giliomee and Simkins, dominant parties often represent an idealized ‘oppressed nation’ and become identified with the regime. They are frequently unable to transform or break up into organizations that represent a variety of interests and conflicts (Giliomee and Simkins 1999: 12). In that respect, Namibia resembles the early independence period of many African countries during the 1960s. According to Bauer, the ruling party indeed has ‘brought back from exile a range of authoritarian tendencies, including a considerable intolerance of criticism and opposing viewpoints.’(Bauer 2001: 46). When the student organization NANSO voted in 1991 to disaffiliate with Swapo, the Swapo leadership called them ‘foreign agents’. Swapo managed to retain the NUNW as its ally, but remaining criticism within the NUNW is met with threats (Bauer 2001:49).

Of course, Swapo is not a monolith and in its congresses some degree of pressure appears to be exerted on the party leadership from below. Lodge reports about the congressional opposition to the practice that the President nominates the top 30 of the 72 candidates on the Swapo list for the elections to the National Assembly (Lodge 2000). However, as reported above, back-benchers in the National Assembly are constrained to voice criticism against the government by the threat of removal from the party and subsequent loss of their seat in Parliament. It is ironic that it is precisely this formal provision in Namibia, which is associated with the PR electoral system with party lists so much favored by Lijphart, that strongly enhances the power of the one-party government.

My argument on the effects of one-party dominance is not meant to imply that the analysis of political institutions in these African cases is obsolete and neither that sharing and division of power is irrelevant, but rather that these issues cannot be investigated adequately using the ten variables proposed in Lijphart’s Patterns of Democracy. The latter approach, I argued, in one way expanded his earlier approach to power sharing by its ambition to cover any society, divided or not and by elaborating ten institutional criteria to be applied universally. Unfortunately, in doing so, it represents also a narrowing down of the approach to a formalistic analysis of political institutions, rather blind to political behavior and culture. The political factor is underestimated: more specifically, party politics and the power strategies of incumbent governments. If we wish to investigate power sharing and power division, we should attach much more weight to party politics and the behavior of government and party elites in terms of tolerance, compromise and checks and balances, paradoxically issues which were more prominent in Lijphart’s earlier work.
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