

National Reconciliation in Namibia – Historical Perspective

Nasionale Versoening in Namibië – Historiese Perspektief

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[Note: Afrikaans text follows after the English text]

As Namibia celebrates its independence on 21 March, we should take a moment to reflect on two significant events that occurred in the time leading up to independence, with a focus on their decisive role and impact on Namibia's independence process during the drafting of a constitution following the elections in November 1989.

The Western settlement plan accepted by South Africa and SWAPO in April 1978 was sanctioned by the United Nations Security Council in resolution 431(1978). The Council later adopted resolution 435 (1978) to authorise the plan's implementation. At that time, the United Nations and the majority of member states had already accepted SWAPO as the sole and authentic representative of Namibia's people since 1976. In addition, the post-election path to independence was disposed of in a few sentences in the settlement plan. The Constituent Assembly was required to meet immediately after the election results were certified in order to draft and adopt a constitution for an independent Namibia. Since it was not specified by what majority the constitution had to be accepted, it was assumed to be a simple majority. Along with the elevated and UN-elected position that SWAPO held to the exclusion and disadvantage of all other Namibian political parties in the context of the UN, it was feared that SWAPO would simply submit its draft constitution and its adoption would be rushed through.

The settlement plan's implementation was delayed for a variety of reasons. After Ronald Reagan's inauguration as president in January 1981, two distinct factors redirected the settlement plan in a more viable direction. Crocker was the chief negotiator for the United States and managed the implementation process in stages. The Cuban withdrawal from Angola, which had his attention at the same time, he kept on a separate track. When he finally formulated the phases, he incorporated two significant modifications. All parties were given a document titled "Principles concerning the Constituent Assembly and the Constitution for an Independent Namibia." It outlined various democratic principles that

all political parties were required to accept prior to an election with the pledge to include them in a future constitution. The presentation of the document highlighted an essential new aspect. It was handed over not only to SWAPO, which at the time still maintained a political presence abroad, but also in Windhoek to each of the internal political parties, which had previously been ignored. This was a significant breakthrough because it demonstrated that these parties were now on par with SWAPO. Thus, SWAPO lost the privileged status it had enjoyed internationally and within the United Nations for decades.

Crocker's phased approach incorporated the constitutional principles inextricably into the new path for resolving the Namibia problem. These principles' significance cannot be overstated. Prior to Crocker, resolution 435 was the only option. There was no contact with or recognition of the internal political parties, only SWAPO. In addition, there was no formula for what should occur after the election; only broad principles that the future constitution would need to incorporate. Post-Crocker, the UN, Ahtisaari and resolution 435 were not pushed aside. They had to ensure that in the run-up to the election all political parties would be treated equally and fairly. The playing field was leveled for all political parties, and SWAPO was now just one of the many political parties participating in the election. SWAPO was required, like everyone else, to commit to the application of these internationally recognised principles, against which no democratically founded party could object, disagree with, or attempt to circumvent. SWAPO was not entirely at ease with these developments and had significant reservations regarding the principles, particularly the requirement of a two-thirds majority for the adoption of an independence constitution.

The chairman of the Constitutional Committee was Hage Geingob, who has served as the third president of Namibia since March 2016. After the participating parties presented their respective constitutional proposals at the first meeting on 7 December 1989, Dirk Mudge, the leader of the Democratic Turnhalle Alliance (DTA), stated the following day that it would be nearly impossible to simultaneously examine and compare six draft constitutions. According to him, there were only two complete drafts in question: SWAPO and the DTA. These two drafts encompassed all the provisions typically found in constitutions. He notes in his memoirs (*All the way to an independent Namibia*, 2015) that

he was surprised by how drastically the SWAPO draft differed from the constitutions they had distributed throughout the years. He realised that if SWAPO's draft was accepted as a discussion document, the DTA and the other smaller parties would not only demonstrate their willingness to look objectively at SWAPO's proposals, but SWAPO would also look at the DTA's and others' suggestions for amendments in the same spirit. Mudge's hand of reconciliation spoke volumes and emphasised the intended message immediately. Using the SWAPO document as the discussion paper opened doors throughout the committee's discussions, and he was able to freely participate in the discussion of each proposed constitutional article. When the chairman requested that he sit next to him during meetings, his initial step towards reconciliation bore fruit. In this spirit, a model constitution for Namibia was adopted. Regarding this, Mudge goes on to say in his memoirs that he still looks back with fond memories and admiration on the wonderful spirit of loyalty to their common fatherland, in which former enemies joined hands and discussed the future in reconciliation.

The formal debate began with the Constitution's Preamble. In its Preamble, the Swapo concept stated: "will strive to achieve national reconciliation and to promote peace, unity, and a common loyalty to a single state." With the acceptance of the Preamble, the chairman stated that the focus had shifted from the past to the future. The incorporation of these sentiments into the final constitution paved the way for the national reconciliation to which all Namibians were committed. In this spirit and essence, former adversaries overcame their differences, laid the groundwork for national reconciliation, and began to put it into practice. This was not done at the conclusion of the process, but rather as the initial point of consideration. Thus, national reconciliation is not something that would be imposed in the future; rather, it arose spontaneously as a result of the actions of their leaders, who exemplified what could be accomplished when national reconciliation arises and grows unrestrained.

Later, Mudge remarked that he could not envision former enemies uniting in a spirit of patriotism and goodwill. All were committed to writing a democratic and peaceful Namibian constitution. Almost immediately, enemies at the time became friends, and mistrust and suspicion gave way to team spirit. Mudge and his DTA colleagues were

unconditionally accepted as co-authors of a constitution that strongly condemns racism and prioritises national reconciliation and racial harmony. The constitution was the result of a compromise agreement, whose foundation was national conciliation. It envisioned corrective measures, but not retribution, reverse discrimination, or the simple swapping of perpetrator and victim roles.

What is at stake here is reconciliation. The concept or word "amnesty" was never used or accepted. The pursuit of national reconciliation was seen and accepted as a more forceful statement of intent. It is a constitutionally mandated requirement to establish forgiveness for past wrongs and mutual integrity and good faith in constructing a new republic.

Why, after the peaceful process that prevailed before, during, and after the election, was "prosecution" of wrongdoings that people had to confess necessary? The answer was straightforward: it would not contribute anything positive. Amnesty was considered the opposite and a negative concept and procedure. South Africa started its own constitutional discussions and processes within months of Namibia's independence. South Africa could have learnt valuable lessons from the Namibians' approach to their differences. The spirit of reconciliation and tolerance with which the negotiations for a new constitutional order had been conducted and concluded were there for everyone within and outside Namibia to witness and be encouraged by the open display of loyalty.

In 1997, when the Truth and Reconciliation Commission of South Africa requested that hearings be held in Namibia, it was not surprising that the Namibian government rejected the request formally within days. Namibia's policy of national reconciliation was intended to help the country come to terms with its violent and degrading past, in which thousands of people lost their lives, dignity, and self-respect, and were traumatised by imposed violence. After seven years of successful implementation of the policy of national reconciliation, the mere presence of that Commission would only present an opportunity to reopen old wounds.

The implementation of a policy of national reconciliation prevented Namibia's independence in 1990 from being marred by violent acts of retribution. The founding father of Namibia, Sam Nujoma, promoted the policy with determination, and Namibians

embraced it wholeheartedly. Churches played a significant role in the process. With both political and religious leaders preaching reconciliation greater and better results were achieved. Therefore, reconciliation was perceived and experienced as a positive concept, and as a result, forgiveness is better defined and to flow more naturally from future actions and grow. In his opening remarks at the second national land conference on 1 October 2018, President Geingob noted that Namibia has made significant strides over the past 28 years, and that these accomplishments have been measured by a policy of national reconciliation that benefits all Namibians.

In numerous fields, reconciliation was seen as a unifying force. It is not, nor was it ever intended to be, a one-time act that would be endorsed by lip service. It is therefore the responsibility of all Namibians, including the government, to continue pursuing the letter and spirit of the constitution regarding national reconciliation by ensuring its practice through tolerance, moderation, and inclusivity.

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Wanneer Namibië sy onafhanklikheid op 21 Maart vier, moet ons vir 'n oomblik stilstaan en twee belangwekkende verwickelinge in die tyd voor onafhanklikheid in perspektief plaas, met spesifieke klem op hul deurslaggewende rol en impak op Namibië se onafhanklikheidsproses tydens die opstel van 'n grondwet na die verkiesing van November 1989.

Die Westerse skikplan wat Suid-Afrika en SWAPO in April 1978 aanvaar het, is deur die Veiligheidsraad van die VN met resoluë 431 (1978) onderskryf. Later het daardie Raad resoluë 435 (1978) aanvaar om die implementering van die plan te magtig. Op daardie

stadium was SWAPO reeds vir lank — en nog vir baie jare daarna steeds — deur die VN en meeste lidlande aanvaar as die enigste en ware verteenwoordiger van Namibië se mense. Daarby het die skikplan die proses na die verkiesing tot onafhanklikheid in enkele sinne afgemaak. Onmiddellik nadat die verkiesingsuitslae gesertifiseer is, moes die Grondwetskrywende Vergadering byeenkom om 'n grondwet vir 'n onafhanklike Namibië op te stel en te aanvaar. Omdat geen meerderheid waarmee die grondwet aanvaar moes word vermeld is nie, is aanvaar dat dit 'n blote meerderheid sou wees. Saam met die verhewe en VN-uitverkose posisie wat SWAPO ten koste van alle ander Namibiese politieke partye in die konteks van die VN geniet het, is gevrees dat SWAPO bloot sy konsepgrondwet sou indien en die aanvaarding daarvan sou stoomroller.

Die implementering van die skikplan is om verskeie redes vertraag. Na Reagan se presidentsaanvaarding in Januarie 1981 het twee heel ander dimensies die skikplan op 'n nuwe en meer lewensvatbare trajek geplaas. Crocker was die VSA se hoofonderhandelaar en het die implementeringsproses in fases hanteer. Die onttrekking van die Kubane uit Angola wat terselfdertyd sy aandag geniet het, het hy op 'n afsonderlike baan gehou. Toe hy die fases uiteindelik geformuleer het, is twee belangrike veranderinge ingesluit. Eerstens is 'n dokument getiteld "Beginsels aangaande die Grondwetgewende Vergadering en die Grondwet vir 'n Onafhanklike Namibië" aan alle betrokke partye oorhandig. Daarin is verskeie demokratiese beginsels uiteengesit wat alle politieke partye voor 'n verkiesing moes aanvaar en onderneem om toe te sien dat daardie beginsels in 'n toekomstige grondwet ingesluit word. Die oorhandiging van die dokument het 'n kardinale nuwe aspek onderstreep. Dit is nie net aan SWAPO, wat toe nog steeds sy politieke teenwoordigheid in die buiteland gehandhaaf het, oorhandig nie, maar in Windhoek ook aan elk van die bestaande interne politieke partye wat tot op daardie stadium doodeenvoudig geïgnoreer was. Dit was 'n groot deurbraak omdat dit gewys het dat hierdie partye op 'n gelyke basis met SWAPO gestel was. SWAPO het daarmee sy voorkeurstatus wat hy vir dekades internasionaal en veral in die konteks van die VN geniet het verloor.

Die grondwetlike beginsels het onlosmaaklik deel geword van die nuwe trajek waarop die oplossing van die Namibië-kwessie deur Crocker met sy gefaseerde benadering geplaas

is. Die belangrikheid van hierdie beginsels kan nie genoeg beklemtoon word nie. Pre-Crocker was dit resolusie 435 of niks. Daar was geen kontak met of erkenning van die interne politieke partye nie, slegs SWAPO. Ook was daar geen formule vir dit wat ná die verkiesing moet gebeur nie; net algemeenhede wat die toekomstige grondwet sou moes insluit. Post-Crocker is die VN, Ahtisaari en resolusie 435 nie opsy gestoot nie. Hulle moes sorg dra dat in die aanloop tot die verkiesing alle politieke partye gelyk en regverdig behandel sou word. Die speelveld vir al die politieke partye is gelyk gemaak en SWAPO het nou slegs een van die vele politieke partye geword wat aan die verkiesing sou deelneem. Soos al die ander, moes SWAPO hom verbind tot die toepassing van die internasionaal erkende beginsels waarteen geen demokraties-gefundeerde party beswaar kon aanteken, daarmee verskil of probeer omseil nie. SWAPO was nie juis in sy skik met hierdie verwickelinge nie en het groot bedenkinge oor die beginsels gehad, veral oor die vereiste van 'n tweederde-meerderheid vir die aanvaarding van 'n onafhanklikheidsgrondwet.

Die Grondwetkomitee se voorsitter was Hage Geingob wat sedert Maart 2016 die derde president van Namibië is. Nadat die deelnemende partye by die eerste byeenkoms op 7 Desember 1989 hul onderskeie grondwetlike voorstelle ingedien het, het Dirk Mudge, leier van die Demokratiese Turnhalle Alliansie (DTA), die volgende dag daarop gewys dat dit 'n onbegonne taak sou wees om gelyktydig na 'n halfdosyn konsepgrondwette te kyk en hulle met mekaar te vergelyk. Vir hom was daar net twee volledige konsepte ter sprake, naamlik die van SWAPO en die van die DTA. Hierdie twee konsepte het al die aspekte bevat waarvoor gewoonlik in grondwette voorsiening gemaak word. Hy noem in sy memoires (*Enduit vir 'n onafhanklike Namibië*, 2015) dat met die bestudering van die SWAPO-konsep hy verbaas was oor hoe radikaal dit verskil het van die grondwette wat hulle oor die jare versprei het. Hy het besef dat indien SWAPO se konsep as besprekingsdokument aanvaar word, die DTA en die ander kleiner partye nie slegs hul bereidwilligheid sou bewys om objektief na SWAPO se voorstelle te kyk nie, maar dat dit ook tot gevolg sou hê dat SWAPO in dieselfde gees objektief en onbevangen die DTA en andere se voorstelle vir wysigings sou oorweeg. Mudge se hand van versoening het boekdele gesprek en dadelik die gewenste boodskap beklemtoon. Om die SWAPO-dokument as besprekingsdokument te gebruik, het regdeur die samesprekings in die

komitee deure oopgemaak en kon hy met vrymoedigheid aan die bespreking van elke artikel vir insluiting in die grondwet deelneem. Sy eerste tree tot versoening het inderdaad vrugte afgewerp toe die voorsitter hom versoek het om langs hom plaas te neem tydens sittings. In daardie gees het hulle 'n modelgrondwet vir Namibië aanvaar. Hieroor meld Mudge voorts in sy memoires dat hy steeds met aangename herinnerings en waardering terugdink aan die wonderlike gees van lojaliteit aan hul gemeenskaplike vaderland waarin voormalige vyande hande gevat en saam oor die toekoms in versoening beraadslaag het.

Die formele bespreking het met die Aanhef tot die grondwet begin. Die Swapo-konsep het in sy Aanhef die volgende frase ingesluit: “will strive to achieve national reconciliation and to foster peace, unity and a common loyalty to a single state”. Met die aanvaarding van die Aanhef het die voorsitter opgemerk dat daar nie meer na die verlede gekyk word nie, maar eerder na die toekoms. Die insluiting van daardie sentimente in die uiteindelijke grondwet het die weg gebaan vir die uitleef van nasionale versoening waartoe almal in Namibië hul verbind het. Dit was in hierdie gees en gesindheid waarin voormalige vyande hul verskille oorbrug het en die grondslag van nasionale versoening gelê en op tasbare wyse dit begin uitleef het. Dit is nie gedoen aan die einde van die proses nie, maar as eerste item van beraadslaging. So is nasionale versoening nie iets wat later afgedwing sou word nie, maar het dit spontaan uit die optredes van hul leiers ontstaan wat die voorbeeld van wat bereik kon word wanneer nasionale versoening onbevange ontstaan en groei duidelik gestel het.

By 'n later geleentheid het Mudge opgemerk dat hy hom nie kon voorstel dat voormalige vyande in 'n gees van welwillendheid en patriotisme kon hande vat nie. Almal was vasbeslote om 'n grondwet vir 'n demokratiese en vreedsame Namibië te skryf. Destydse vyande het feitlik onmiddellik vriende geword, en agterdog en wantroue het plek gemaak vir spangees. Mudge en sy kollegas in die DTA is onvoorwaardelik aanvaar as medeskrywers van die grondwet – een wat rassisme ten sterkste veroordeel, en versoening en rasseharmonie as 'n hoogste doel stel. Die grondwet was die produk van 'n kompromie-ooreenkoms en die letter en gees van daardie ooreenkoms was versoening. Dit het regstellende maatreëls in die vooruitsig gestel, maar nie wraak nie;

nie omgekeerde diskriminasie nie; nie die blote verandering van rolle van oortreder en slagoffer nie.

Wat hier ter sprake is, is versoening. Die begrip of woord “amnestie” is nooit gebruik of aanvaar nie, en die strewe na nasionale versoening was en bly meer as 'n verklaring van voorneme. Dit is 'n imperatief wat grondwetlik gefundeer is om vergifnis van vorige ongeregtighede te vestig en mekaar se integriteit en goeie trou met die bou van 'n nuwe republiek kollektief te bevestig.

Die oorheersende gevoel wat geheers het, was die vraag waarop daar 'n duidelike antwoord was: Waarom moes daar nou na afloop van die vreedsame proses wat voor, tydens en na die verkiesing geheers het, “vervolging” van wandade ingestel word waaroor mense moes bieg? Dit sou geen positiewe bydra lewer nie. Amnestie is as 'n teenoorgestelde gesien en as 'n negatiewe begrip en proses beskou. Met Suid-Afrika wat binne maande na Namibië hul eie grondwetlike gesprekke en prosesse moes begin, kon waardevolle lesse uit die Namibiërs se hantering van hul verskille geleer word. Die gees van versoening en verdraagsaamheid waarin die onderhandelinge vir 'n nuwe grondwetlike bestel gevoer en afgehandel was, was vir almal binne en buite Namibië om daarvan kennis te neem.

Toe Suid-Afrika se Waarheid- en Versoeningskommissie in 1997 versoek het dat verhore in Namibië gehou word, was dit nie vreemd dat die Namibiese regering dit binne enkele dae formeel verwerp het nie. Die rasionaal vir die besluit was dat Namibië se beleid van nasionale versoening bedoel is vir die land om vrede te maak met sy gewelddadige en neerhalende verlede waarin duisende hul lewens, waardigheid en selfrespek verloor het en getraumatiseer is deur opgelegde geweld. Na sewe jaar se positiewe toepassing van die beleid van nasionale versoening was daar geen moontlikheid om met die blote teenwoordigheid van daardie Kommissie enige geleentheid te skep om ou wonde oop te krap nie.

Die implementering van die beleid van nasionale versoening het by onafhanklikheid in 1990 Namibië van moontlike bloedige wraakoptredes gered. Stigterspresident Sam Nujoma het die beleid met vasberadenheid bevorder en Namibiërs het dit heelhartig

omhels. Kerke het 'n belangrike rol in die proses gespeel en beide politieke en kerkleiers leiers het versoening gepredik, wat meer en beter vrugte afgewerp het. Versoening is dus as 'n positiewe begrip gesien en ervaar, en dit het op sy beurt weer vergifnis beter gedefinieer en sou spontaan verder uit toekomsoptredes voortvloei en groei. In sy openingsrede by die tweede nasionale grondkonferensie op 1 Oktober 2018, het President Geingob daarop gewys dat Namibië oor die afgelope 28 jaar geweldige vordering gemaak het en dat prestasies gemeet is aan die beleid van nasionale versoening wat tot voordeel van almal in Namibië werk.

Versoening het 'n saambindende faktor geword en is op velerlei terreine gesien en ondervind. Dit is en was nooit bedoel om 'n eenmalige handeling te wees wat met lippetaal onderskryf moes word nie. Dit is derhalwe die plig van elkeen in Namibië – en baie beslis die van die regering – om die grondwetlike letter en gees van nasionale versoening steeds prakties uit te leef deur verdraagsaamheid, gematigheid en inklusiwiteit.

Van die 27 jaar wat Riaan Eksteen lid van Suid-Afrika se Buitelandse Diens was, was hy vir 20 jaar daarvan ten nouste gemoeid met die Namibiese vraagstuk, insluitend twee jaar as Suid-Afrika se eerste ambassadeur, nadat die land in Maart 1990 onafhanklik geword het. Sy memoires, *Beyond Diplomacy*, is in Oktober 2022 gepubliseer. Hy is tans senior navorsingsgenoot in die kantoor van die dekaan van Geesteswetenskappe aan die Universiteit van Johannesburg. Hy is lid van die S.A. Akademie vir Wetenskap en Kuns.