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Politics and Judicial Decision Making in Namibia: Separate or Connected Realms?

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This paper seeks to statistically evaluate judicial independence in Namibia using selected cases. Nearly 250 cases are considered to test the hypothesis of judicial independence in Namibia. The analysis examines whether and how certain political factors have affected the patterns of decision-making that have been witnessed. Have judges, for instance, deferred to government when faced with rendering decisions in important political cases? Have all judges been equal in terms of their tendencies to side with or against the government? And have judges altered or adjusted their decision-making in light of pressures and threats from the elected branches and other political actors? The study finds that, as a whole, the Namibian judiciary has performed quite admirably in terms of independence from the other branches.

Introduction

To what extent can we detect the influence of political factors in decision-making at Namibia's High and Supreme Courts? The question goes to the heart of a key issue for the democratic dispensation in the country. As most observers readily acknowledge, independent and assertive judicial institutions are critical for democratic consolidation. Yet, to what extent are Namibia's judicial institutions independent, such that they are willing to assert their authority *vis a vis* other branches of government? This paper seeks to answer this question. The method employed for investigating this issue entails a statistical analysis of nearly 250 decisions made by judges of the Namibian High and Supreme Courts since independence. The analysis examines whether and how certain political factors have affected the patterns of decision-making that have been witnessed. Have judges, for instance, deferred to government when faced with rendering decisions in important political cases? Have all judges been equal in terms of their tendencies to side with or against the government? And have judges altered or adjusted their decision-making in light of pressures and threats from the elected branches and other political actors?

The study indicates that, as a whole, the Namibian judiciary has performed quite admirably in terms of independence from the other branches. The extent of deference to the executive has been minimal. This is true regardless of the time period during which decisions have been taken, and regardless of the type of case being decided. This said, the analysis indicates that one category of judges; foreign judges appointed after 1994, has displayed a tendency side with government. This tendency has been especially apparent since 2000, when such judges became the target of attack from political circles after their decisions in certain cases. In this respect, their deferential tendencies toward the elected branches of government are not entirely

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surprising. The findings should give pause to those concerned with the independence of the judiciary in the country.

Looking at Namibia's Judiciary via Statistical Analysis

It requires neither extensive reading nor deep reflection to understand the important role of judiciaries in new democracies. Whether focused on the need for the rule of law, the importance of human rights, or development of a good climate for business activities, independent and assertive judiciaries are central considerations. Yet to what extent has the judiciary in Namibia demonstrated independence in its decision-making?

Studies of the courts in a variety of settings have made effective use of statistical techniques to try and answer this type of question. Via such methods, analysts have been able to discern the extent to which political and other types of factors shape the decisions that are rendered by judiciaries. For example, in previous work conducted on High Court behaviour in Malawi and Zambia, this author was able to demonstrate that judges of the Zambian High Court tended side with the government in cases in which the president was involved. This suggested that these judges were concerned about the reactions of the executive branch to their decisions and, accordingly, tailored their decision-making in favour of the executive—a clear problem in terms of judicial independence (VonDoepp 2006). Others, working on the Argentine courts, have used similar techniques to show that Supreme Court judges are more deferential to the executive to the extent that they believe that the executive will remain in power over the foreseeable future (Helmke 2002). As above, this raises questions about the extent of independence operating in the judiciary in the country.

Similar techniques can help us to detect whether and how political factors affect decision-making on the Namibian bench. To be sure, this does not imply that the analysis conducted here represents the definitive statement on whether or not the Namibian judiciary is independent. Still, via such analysis we can obtain an important picture, and preliminary statement on, judicial independence in Namibia. The sections that immediately follow describe the process through which this research was conducted and highlight the key findings. A concluding section that discusses some of the implications of these findings follows this section.

Data

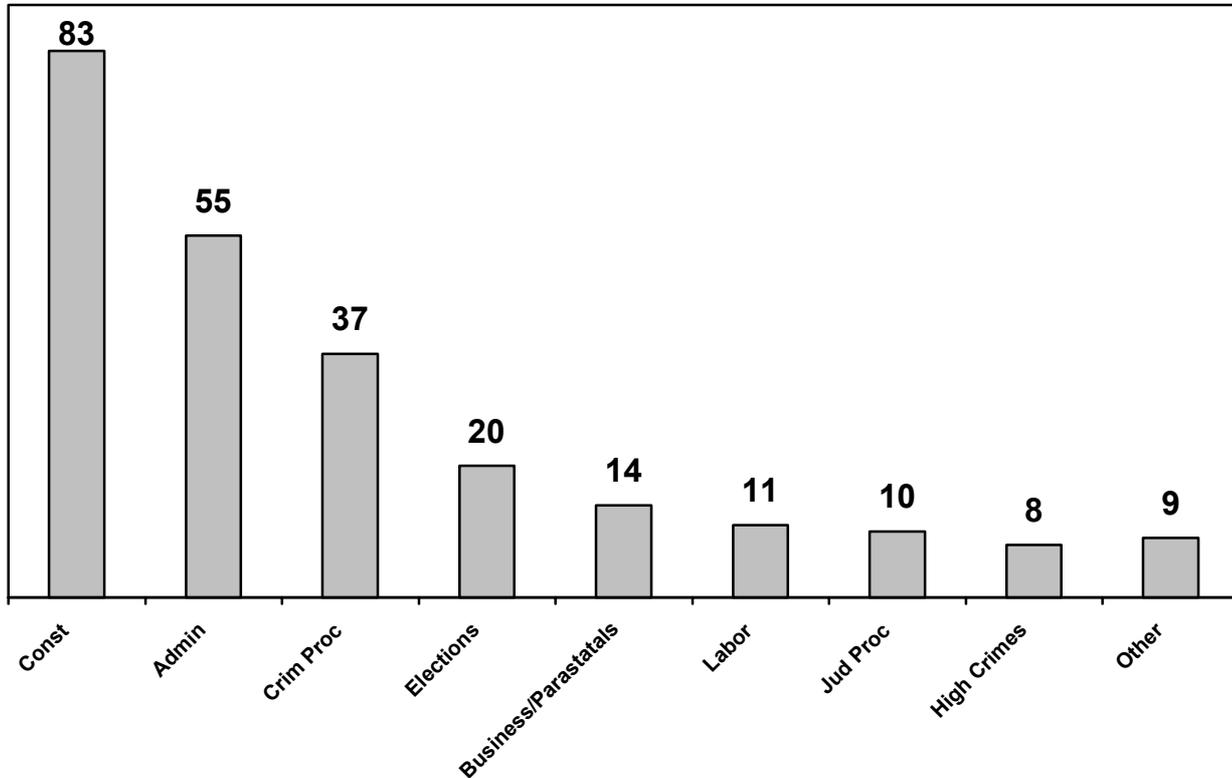
The data for this study consists of 247 individual decisions taken by judges of the Namibian High and Supreme Courts between 1990 and 2005. The bases for these decisions were 147 cases that came before the courts during this period. Excluded from the dataset were sentence and verdict decisions in simple criminal cases, although cases involving criminal procedure are included. The sources for the data were twofold. First, along with research assistants, the author reviewed the Namibian Law Reports for the years 1990 to 2005 and included in the dataset case decisions with the following characteristics. First, we included all decisions in cases where the government and its officials, the ruling party, or affiliated entities presented arguments. By “affiliated entities” we refer to SWAPO-affiliated organs, such as the National Union of Namibian Workers, or SWAPO-run companies. Second, we included decisions from those cases in which the government or ruling party had an apparent interest. In cases of this type, neither the government nor ruling party presented arguments, but it was clear from the nature of the case that the outcome was of great interest to the government. One example is cases involving disputes in opposition parties in which the government, although not a party to the case, stood to benefit. Finally, decisions were only included to the extent that they could be designated as either pro-government or anti-government.

While the Law Reports provided the majority of the decisions for the dataset, on review it also became apparent that they represented an incomplete source of data. As Atkins (1992) reminds us, to the extent that we rely only on officially published records of court decisions, we miss out on a large amount of data critical for analysis. Thus, we also reviewed 15 years of the leading newspaper in the country, *The Namibian*, to obtain information on court decisions that were not included in the law reports. All told these represent approximately ten to fifteen percent of the decisions included in the data set. The data include judicial decisions concerning a wide range of issues. In order to shed some light on this, the chart below displays the distribution of decisions based on the case type with which they were associated. As can be seen the decisions involved a



wide range of cases spanning constitutional issues, elections disputes, criminal procedure, the actions of administrative agencies, etc.

Figure 1: Judicial Decisions by Type of Case



Variables

Of greater importance than the type of case associated with the decision, however, is how judges decided these cases. The table below displays the distribution of the decisions in terms of whether they were decided in favour of or against the government. As is evident, the majority of cases have been decided against the government, offering some limited evidence of judicial independence in the country.

Table 1: Decisions by Individual Judges

	<u>Pro-Govt.</u>	<u>Anti-Govt.</u>	<u>Total</u>
Supreme Court	34 (57%)	26 (43%)	60
High Court	78 (42%)	109 (58%)	187
Total	112 (45%)	135 (55%)	247

The table provides the empirical foundation for the key question underpinning this paper. Specifically, what are the factors that determine whether or not a case was decided in favour of or against the government? And more directly, can we discern the influence of political factors on judicial decision-making?



To be sure, in raising this question, we are necessarily challenging the image that judicial decision-making is a practice which is insulated from the political environment. This is of course the ideal vision of the judiciary that many legal and judicial professionals would hope to approximate reality. The key issue that this analysis seeks to examine is whether this image obtains in reality, or, alternatively, whether we can detect political influences.

Drawing on knowledge of the Namibian situation, as well as the larger literature on judicial decision-making in other settings, the analysis focuses on three broad types of factors that might affect decision-making in the Namibian High and Supreme Courts. The first of these is the context in which the decision was taken. This focuses specifically on when and where the decision was taken. Research from other contexts has very clearly indicated that judges can be more prone to decide against the government during certain periods and under certain circumstances (Ginsburg 2003; Iaryczower, Spiller and Tommasi 2002). Seeking to see if such insights applied to the Namibian courts, each decision in the dataset was coded according to the following considerations.

First, was the decision taken at the High Court or the Supreme Court? The theoretical expectation is that because the Supreme Court is the final court of appeal, anti-government decisions taken there are more likely to incur the wrath of government. Thus, to the extent that judges are fearful of government, we would expect decisions taken at the Supreme Court to be more likely to be decided in favour of government. In the analysis that follows, this variable is labelled “Supreme Court.”

Second, was the decision taken before or after 2000? The reason the year 2000 is designated as significant is that 2000 was a year when the judiciary had to decide a number of contentious cases (such as the Sikunda case and Osire Stars case), and came under attack as a result of the anti-government decisions that they rendered in those cases.² Government Minister Jerry Ekandjo, several members of the ruling party, and segments of the mass public all articulated critical and sometimes threatening statements against the courts. To the extent that judges feared these political actors, we would expect more pro-government behaviour in the period after 2000. In the analysis that follows, this variable is labelled “Post-2000.”

The second type of factor considered was the nature of the case itself. Again, previous research has indicated that some types of cases are more (or less) likely to be decided in the government’s favour (Herron and Randazzo 2003; Iaryczower, Spiller and Tommasi 2002). For instance, some of my earlier research on the Zambian courts clearly indicated that the Zambian High Court has been less likely to decide against the government in cases in which the president is involved (VonDoepp 2006). To the extent that judges are fearful of political circles, we might similarly expect that the Namibian courts would defer to the government in certain types of cases. Accordingly, each decision was coded depending on whether it was taken in one of three types of cases.

First, was the decision taken in a political case? Presumably, to the extent that judges’ independence is compromised, we would expect that they would defer to government in such cases. Accordingly, each decision was coded on the basis of whether it was taken in a political case. Political cases were designated as those in which the government should have had special interest—those cases that were on the radar of government at the time when it was being heard. Unfortunately, the only way to make this determination was to allow the author to make subjective determinations of the extent to which this was the situation for each specific case. Hence the author’s own perception of each case is the basis of this variable in the analysis that follows. In the future, the author hopes to have similar evaluations of the cases made by local experts so as to enhance the validity of this variable. In the analysis that follows, this variable is labelled as “political.”

Second, was the decision taken in a case involving elections? Each decision was coded on the basis of whether or not the case in question involved either the outcome or the conducting of elections. Given their importance for determining the distribution of political power in government, it was expected that such cases would be of special concern to the government. In the analysis that follows, this variable is labelled “elections.”

² See Bukurura (2002).



Finally, was the decision taken in a case that involved a human rights issue? In contrast to our expectations for decisions in the above cases, the expectation in designating decisions on this basis was not that they would be likely to be decided in favour of government. On the contrary, given the strong historical record of human rights litigation in Namibia, and the presence of strong organizations that undertake advocacy on such issues, we expected that there would be a tendency to decide against the government in these kinds of cases. This variable is labelled as “human rights” in the analysis which follows.

The third and final type of factor considered was the nature of the judge who took the decision. Many studies, particularly those from the United States, have shown that who decides the case, as in what kind of judge, has implications for the kind of decisions that are rendered from the courts (Tate 1981, Segal and Spaeth 1993). Do such “judge-specific” factors also operate on the Namibian bench, such that some types of judges are more (or less) likely to render decisions against the government? In order to examine this, each decision was coded on the following considerations.

First, was the judge in question white? As any close observer of the Namibian political scene would acknowledge, government officials and ruling party members have on several occasions complained about the “lily-white” bench. Presumably, the reason for this is frustration with the decisions that emerge from the white judges. Yet this naturally begs the question of whether or not white judges have shown a greater tendency to side against the government. By coding each decision based on this consideration, we can statistically examine whether this has been the case. This variable is identified as “race” in the analysis that follows.

Second, was the judge in question appointed after the first term of Sam Nujoma? The reason for designated decisions on this basis is that during the first term of Sam Nujoma the judiciary demonstrated, via several highly visible decisions, that it was willing to take an independent line *vis a vis* government. Thus, one would expect that judges appointed after this period would be much more closely vetted by those in the executive branch. Studies of the judiciary operate on the expectations that, all other things being equal, government seek to place loyalists on the bench (Songer and Haire 1992, Ramseyer and Rasmusen 2001). If this is the case in Namibia, we would expect judges appointed after 1994 to side with the government more so than judges appointed prior to that date. In the analysis that follows, this variable is labelled “post-1994 appointee.”

Third, was the judge in question a foreigner? Foreign judges have also been the targets of government attack. As above, this begs the question of whether they have demonstrated different tendencies in decision-making as compared to other judges on the bench. In the analysis below this variable is labelled “foreigner.”

Fourth, important as the general category of foreigner may be, it is also important to recognize differences among judges who fall into this category. One central distinction can be made between those appointed before December 1994, during Sam Nujoma’s first term, and those appointed after that date. Those appointed before December 1994 were appointed largely, if not exclusively, on the basis of expediency (i.e. the very high needs of the bench in Namibia) and many of them came from South Africa. Those appointed after that date were appointed on the basis of the high needs for personnel on the bench, but also towards the end of creating a more representative bench. Beyond this, many of those appointed came from less favourable environment than Namibia, providing an extra incentive to remain in the country. Thus, we might expect these judges to be prone to side with government. In the analysis below, these judges are labelled “post-1994 foreigner.”

As we will see below, the analysis also brings us to consider judges appointed after 1993 as a distinct group. The reasons are described below. In the analysis these judges are labelled “post-1993 foreigner.”

Finally, was the judge in question an acting judge? Studies of the judiciary in other parts of the world have suggested that judges who lack security of tenure should be the ones most lacking in independence (Dodson and Jackson 2001, Ramseyer and Rasmusen 2001). Accepting that such a situation was true of Namibian acting judges, each decision was coded on the basis of whether the judge in question was acting or not, with the expectation that such judges would be more prone to side with the government.

Notably, in the analysis below, I consider the role of these factors both as they have operated on their own (controlling for other factors), but also what happens in the event of interactions between variables. For



example, I consider not only if it matters that a foreign judge appointed after 1994 decided the case, but also if it matters that such a judge decided the case *after 2000*. As we will see, such interactions are important to understanding the patterns of decision-making in the Namibian judiciary.

Techniques and Cautions

The analysis below is devoted to examining whether and how these factors have influenced whether or not a judge’s decision went for or against the government. The analysis is based on logistic regression techniques, which are used when the variable being predicted is dichotomous. Since the key outcome variable is whether a decision was “for” or “against” the government, such techniques are well suited to the analysis. As with all multiple regression techniques, those employed here allow us to detect the influence of one variable while controlling for the influence of other variables.

The analysis employs five different statistical models, which are specified differently to handle the problems of covariance among several of the important predictor or independent variables in the analysis. These problems are described in more detail below. Further, for each model, we run not only basic logistic regression analyses, but also analyses that are designed to detect the marginal effects of the variables of interest. This allows us to observe not only whether there is a relationship between the predictor variables and the outcome variable of the case decisions, but also the extent to which that variable has an effect. Finally, in all of the models below, I employ clustering techniques to correct for the fact that the many of the decisions were taken on panels of judges, as opposed to individually. In statistical terms, this problem stems from the fact that our observations in such situations are not independent of other observations. In effect, we need some step to correct for the fact that decisions on panels may be different from decisions taken by judges independently. The clustering technique allows us to do this. Before describing the findings, it is important to acknowledge some potential limitations of the study and the techniques employed. As any good social scientist recognizes, statistical analysis is but one technique to try and understand social phenomena, and there are potential problems with such techniques. For example, to the extent that the dataset is incomplete, then the findings are problematic. Problems can also exist to the extent that certain variables are “left out” of the analysis. Finally, problems can also exist with the techniques employed. Given this, findings should be treated with caution, and subject to review and re-analysis by knowledgeable individuals. To this end, I have listed all of the cases included in this dataset in an appendix.³

What then do the findings indicate about politics and judicial decision-making in Namibia? Table 2 below lists the results of the regression analyses for the five models. For each variable, the table provides the estimated raw coefficients with robust standard errors. In practical terms, since the models are designed to predict decisions against the government, a positive score indicates that the variable *increased* the likelihood of an anti-government decision. Those listed in bold are statistically significant. For those variables that are statistically significant, I have also listed the marginal effect statistics (along with standard errors). These are listed directly beneath the raw coefficients. These marginal effect statistics indicate the changed likelihood of an anti-government decision with a one-unit increase in the variable (with other dichotomous variables held at zero and continuous variables held at their means). Again, only those variables listed in bold are statistically significant and marginal effects are only listed for those that obtain significance.

Table 2: Determinants of Judicial Decisions for or against Government

Variable	Model 1	Model 2	Model 3	Model 4	Model 5
Context:					
Supreme Court	-.625 (.511)	-.681 (.513)	-.688 (.498)	-.648 (.523)	-.684 (.510)
Post 2000	-.123 (.489)	-.374 (.524)	-.190 (.504)	.211 (.533)	.272 (.548)

³ The data can be accessed by contacting the author.



Case Character					
Political	-0.471 (.511)	-0.426 (.521)	-0.481 (.516)	-0.352 (.531)	-0.423 (.519)
Elections	-0.478 (.791)	-0.645 (.783)	-0.517 (.797)	-0.697 (.777)	-0.590 (.811)
Human Rights	2.00 (.520) .37 (.088)	2.00 (.549) .34 (.084)	2.02 (.533) .34 (.085)	2.03 (.554) .37 (.086)	2.03 (.540) .36 (.084)
Judge Character					
Race	-0.084 (.344)	-0.400 (.350)	-0.319 (.357)	-0.289 (.554)	-0.287 (.319)
Acting	-0.131 (.312)	-0.096 (.321)	-0.088 (.318)	.041 (.324)	.072 (.326)
Post-94 Appointee	.289 (.440)	.829 (.505)	.431 (.448)	.314 (.441)	.157 (.445)
Foreigner	-0.028 (.322)	-----	-----	-----	-----
Post-94 Foreigner	-----	-1.23 (.478) -0.29 (.102)	-----	-----	-----
Post-93 Foreigner	-----	-----	-0.603 (.399)	-----	-----
Interactions					
Post-94 Foreigner* Post 2000	-----	-----	-----	-1.66 (.640) -0.35 (.101)	-----
Post-93 Foreigner* Post 2000	-----	-----	-----	-----	-1.25 (.571) -0.28 (.110)
N	247	247	247	247	247
Constant	.048 (.429)	.261 (.375)	.256 (.397)	.092 (.360)	.137 (.359)
Pseudo r-square	.154	.173	.160	.178	.169

Preliminary Findings

On the whole, the findings indicate that judicial independence has held up fairly well in Namibia. With respect to the first factor of interest, the context in which the decision was taken, there is simply no evidence that politics has intruded upon the decision-making of judges. Judges at the Supreme Court have been no less likely to side against the government than judges at the High Court. This is evident in Table 1 above—in none of the models is the variable indicating that the decision was taken at the Supreme Court statistically significant. Further, it should be added that in other analyses (not shown) there was no evidence that political cases heard at the Supreme Court were any more likely to be decided in favour of the government.

Much the same, it does not appear that the court *as a whole* has been more compliant since the public attacks on the judiciary in 2000. In general, decisions taken after this period have been no more likely to be decided in favour of the government. This said, as I will indicate below, the analysis did reveal that one particular group of judges had been more likely to support the government since that time. The second factor of interest was the nature of the case. Have decisions in political or elections cases, for instance, been more likely to go in favour of government? The answer based on the analysis is no. In none of the models does the variable indicating that the decision was taken in a political case come up as significant. Much the same, the variable indicating that the decision was taken in an elections case fails to obtain statistical significance. This suggests that judges on the whole have not felt the need to defer to government when faced with rendering decisions in political cases.

This said, one very important finding does emerge from our attention to the nature of the case in which the decision was taken. Specifically, the findings unequivocally indicate that decisions in human rights cases are in fact more likely to be decided against the government. Indeed, the marginal effect statistic indicates that, all other things being equal, the likelihood of anti-government decision increases by 34 to 37 percent if the case involved human rights. This certainly indicates that the courts are doing a good job in cultivating and upholding



a rights culture in the country. How can this finding be interpreted? Several factors appear important. In the first place, as mentioned above, since the period prior to independence, the Namibian courts have become quite accustomed to hearing cases concerning human rights and upholding those rights. Thus, human rights jurisprudence has a relatively deep history in the country that today's judges seem to draw upon. Further, Namibia has also been served by very effective and powerful human rights advocacy organizations, such as the Legal Assistance Centre, which have provided legal counsel for those seeking legal redress when their rights have been violated. Finally, oftentimes these cases involve administrative incompetence by government agents, not the express designs of those holding power. Thus they are very difficult cases for the government to defend. And, indeed, in several of the cases it is quite possible that government did not enter a defence.

Finally, does it matter what type of judge made the decision in the case? It is here, that some of the most important and interesting findings emerge. In the first place, the findings indicate quite clearly that white judges have been no more likely to side against government than other judges. In none of the models does the variable "race" come up as statistically significant. Much the same, judges appointed after the first term of Sam Nujoma have been no more likely to decide in favour of the government. The same can be said of acting judges. Despite their lack of secure tenure, they have not demonstrated any tendency to be more supportive of government than their permanent colleagues on the bench. Finally, foreign judges on the whole have shown no tendency to either support or rule against government. Model 1 very clearly shows that decisions made by such judges are no more likely to be decided in the government's favour. Yet interesting findings emerge when we consider those foreign judges appointed after 1994. As Model 2 very clearly indicates, judges in this group have displayed a tendency to side with government. The marginal effect statistic indicates that all other things being equal, decisions made by foreign judges appointed after 1994 are 29 percent more likely to decide in favour of government.

While these findings certainly give pause, *they also need to be treated with some caution*. The reasons for this are twofold. On the one hand, only five judges are included in this category. Thus it is entirely possible that one or two of these judges have skewed the results for group as a whole. Notably, preliminary indications suggest that this is not the case. For example, when the decisions of Judge John Manyarara, who has sided with government in 65 percent of his decisions in the data, are excluded from the data, the results do not change. The variable for foreign judges appointed after 1994 remains significant.

On the other hand, we need to acknowledge the somewhat arbitrary cut-off for judges included in this category – foreign judges appointed after December 1994. With this conceptualisation, we exclude from this category High Court decisions that have been undertaken by Judge Mtambenengwe. The latter was appointed in October of 1994. Indeed, if we change the category to include decisions by judges appointed after 1993, hence including Mtambenengwe's High Court decisions, the results change. As Model 3 indicates when such decisions are included, creating a variable labelled "Post93 Foreigner", the results are insignificant. Decisions by foreign judges appointed after 1993 are no more likely to be decided in government's favour.

In order to obtain more insight into this issue, in Model 4 and 5, I interacted the variables "Post93 Foreigner" and "Post94 Foreigner" with the variable "Post2000." This allows us to see whether decisions by these particular judges taken after 2000 have been more likely to be decided in government's favour. As any observer of the Namibian scene will recall, foreign judges were singled out for attack in 2000. Specifically, Home Affairs Minister Jerry Ekandjo threatened them with having their work permits revoked. Thus, we might expect that this particular group would be especially prone to support the government after 2000. The results indicate that this is indeed the case. Model 4 for example shows that decisions by foreign judges appointed after 1994 have been even more likely to go in government's favour in the period since 2000. In general, decisions by such judges are 29 percent more likely to be in government's favour. After 2000, decisions by such judges are 35 percent more likely to be in government's favour.

Moreover, and perhaps more importantly, decisions by judges appointed after 1993 (thus including Judge Mtambenengwe's High Court decisions) have since 2000 been more likely to be in government's favour. Thus, while the results in Model 3 suggest that such judges have not been more prone to decide in government's favour, the results in Model 5 clearly indicate that since 2000 they have. The marginal effect statistic indicates that the likelihood of a pro-government decision increased by .28 in the event that the decision was taken after



2000 and was rendered by a foreign judge appointed after 1993. In short, then, while the findings do not allow us to strongly conclude that more recently appointed foreign judges have in general been inclined to favour government, they do indicate that such judges have demonstrated pro-government tendencies since 2000.

Concluding thoughts

It again deserves emphasis that these findings should be treated as preliminary. The study and the insights presented here should be critically evaluated and critiqued by knowledgeable individuals. This will be an important additional step in generating better knowledge about the impact of political factors on judicial decision-making in the country. That being said, the analysis does offer important insights that, in my view, will stand up to scrutiny. Two issues in particular deserve highlighting when we consider the relationship between politics and judicial behaviour in the country. On the one hand, for those who are concerned with the independence of the judiciary, there is much to celebrate here. The findings clearly indicate that decisions in political cases have not been any more likely to be in government's favour. The same can be said of elections cases. It is also evident, that government tends to lose cases involving human rights. This certainly suggests that the Namibian political environment remains supportive of human rights – a very positive sign for the deepening of democracy in the country (Diamond 1999). Finally, the evidence presented here suggests that the government has not in general politicised the bench via its appointments. As indicated, decisions from more recent appointees have been no more likely to be decided in government's favour.

At the same time, there are some areas of concern. Most notably, there appears to be one category of judges who are tending in recent times to side with the government. Foreign judges appointed after 1994 have since 2000 been the allies of the government on the bench. Does this mean that they always side with government? Definitely not! There is clear evidence that such judges will decide against government. Some of the more important anti-government decisions in recent times, notably those in the Sikunda and the Mwilima cases, have come from foreign judges. This said, since 2000, there is a statistical tendency for such judges to side with government. Whether this represents a real and durable threat to judicial independence in Namibia remains an issue to be debated.

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Appendix: Case List

CASE	YEAR	NOTE
S vs Mbali	1990	Court grants evidence may be admitted in diamond trafficking case.
Cabinet of the Transitional Govt. of South West Africa v Dagnin	1990	Air accident involving plane and people employed by transitional govt Dept of Transport. Govt takes pilot's son to court to recover losses paid to other deceased in accident.
S v Acheson	1990	Govt seeks more time in case of Lubowski murder
S v Acheson	1990	Bail for Acheson, accused in Lubowski murder.
Min of Defense v Mwandighi	1990	Min of Defense for Namibia can be held accountable for actions of Min of Defense of South Africa
MUN v Rossing	1991	Rossing seeks to cut salaries and meets court action.
Min of Defense v Mwandighi	1991	SC addresses earlier HC decision.
S v Kleynhaus	1991	Treason case involving white extremists (verdict)
S v Kleynhaus	1991	Treason case involving white extremists (sentence)
Djama v GRN	1992	Courts demand release of Somali held by MoHa
Limbo v President of Namibia	1992	Original case brought against Admin-General of Namibia before independence; seeks permission to bring case against the pres.
Cultura 2000 vs GRN	1992	Constitutionality of State Repudiation Act
Garoeb and others v Pres of the Republic of Namibian and others	1992	Question of holding regional and local elections at the same time; asked court to declare void president's setting of dates for the election; call for extension of registration period
DTA asks for Muzzling of Maxuillili	1992	DTA effort to muzzle inflammatory speech ahead of local polls.
S v Hotel Onduri	1993	Discrimination case re Ben Ulenga
Alberts v GRN and another	1993	Court set limits on govt ability to redefine citizenship
African Granite v MUN	1993	Eviction order upheld in case where strikers were occupying houses
S v van Rooyen	1993	Criminal procedure in fraud case



Skeleton Coast Safaris v Namibia Tender Board	1993	Question of tender granted by NTB
GRN vs Cultura 2000	1993	Supreme Court decision
S v Haita	1993	Criminal procedure in dagga possession case. Right to call witnesses
S v Hansen	1994	Appeal vs procedure, issue is access to psychiatrist, courts grants access to psychiatrist
Kauesa v Min of Home Affairs and Others	1994	Kauesa makes comments about the white command structure and inspector general on TV. Question of whether his speech was protected.
Du Plessis vs Govt of Republic of Namibia	1994	Duplessis sues GRN for not meeting contractual obligations incurred by previous govt. Previous govt, admin for whites, had granted loan to Duplessis in Jan 1990. GRN refused to pay.
S v Nassar	1994	Case cited in press regarding rules of discovery of evidence. State had to hand over material to defense in gem case.
State v Strowitzki	1994	Appeal vs Olinn decision refusing appellants application to stay proceedings against him. Question of whether the courts have jurisdiction to hear this appeal.
Vlaisu v Pres of Namibia and others (including Ministry of Health)	1994	Did govt act out of its authority when it fired a doctor and caused him economic distress.
Eimbeck v Inspector Gen of Police and another	1995	Siggi Eimbeck demands that he gets paid while his case is pending.
Mwandingi v Min of Defense	1995	Govt sued for actions of SADF - HC and SC cases.
Kausa v Minister of Home Affairs and Others	1995	SC hears appeal of earlier decision made in HC. Declares section of the Police Code from 1964 that infringes on free speech is invalid. Does not declare anti-discrimination law invalid, only the law that forbids police from commenting unfavorably in public on the administration of the force.
S v Heidenrich	1994	Right of accused to a speedy trial
Nel v Kalahari Holdings	1995	Contract/payment dispute. Kalahari holdings belongs to Swapo
Koevet case	1994	Koevoets returning to Nam, case not covered in law reports. Court declares that they must be allowed entry into the country.
DTA election case	1995	Do courts have power to open ballot boxes after 1994 elections?
Eimbeck v Inspector General	1995	Eimbeck's application to have termination reversed. Eimbeck loses.
Baster land case	1995	Baster leadership's effort to have properties transferred to its name. Govt succeeded in taking properties from them. HC ruling, SC listed below
PG vs AG	1995	Does AG have authority over PG?
DTA Elections Case	1995	Can court order opening of ballot boxes – SC case.
Sex Shop Case	1995	Police confiscation of items from sex shop declared illegal
Navacheb vs MUN	1995	Court confirms order preventing unlawful conduct by striking workers, required them to strike in designated places; highly contentious statements from Labour Minister in public
Hartleif vs union	1995	Court forbids workers from keeping non-strikers from entering the premises; Labour Minister condemns ruling, as do unions
Sex Shop case 2	1995	Court also orders MOHA to stop interfering with their business and demands return of items confiscated
19 foreigner vs MOHA	1995	Court grants temporary application to foreigners being held by MOHA
21 foreigners vs MOHA	1995	Court tells govt to free 21 foreigners
Govt ordered to allow lawyer access to immigrants	1995	
Pres of the Republic of Namibia and others v Vlaisu	1995	Could govt appeal previous HC decision, listed above.
DuToit v Office of the PM	1995	Reinstatement of employee; issue was failure to renew contract of employee.
Gauseb v Min of Home Affairs	1995	Judicial procedure in case of man shot by SA police in Walvis Bay in 1993
Ohlthaver and List v Min of Regional and Local Govt and Housing	1996	Appeal vs HC judgment that sided with the ministries. Question of rezoning of Post Street.
Rehoboth Bastergemente v GRN	1996	SC version of the Baster land case listed above
Kruger v Office of PM	1996	Question of whether money was owed to employee. Specifically, whether supplementary allowance was the same as remuneration under the Labour Act of 1992.



S v Angula	1996	Evidence and rules of discovery in fraud and theft case. Applicants appeal vs lower court ruling refusing to allow discovery.
Namibia Ports Authority v Leningrada	1996	Port Authority seeks to sell confiscated vessel in order to recover port dues. Should I include in dataset?
State v Smith and others	1996	Constitutionality of anti disc law. This is the case where a Nazi ad appeared in the WO. Parl given 6 months to fix the act.
Hameva and another v MOHA	1996	Question of costs in LAC case. Original decision by Teek and Mtambanengwe
Julius vs Commanding Officer of WDK prisons	1996	Civil imprisonment declared unconstitutional
Namib Machine Tools v Minister of Works.	1994	Plaintiff claims money from Min of Works for goods sold. Fraudster acquired goods using false govt purchase vouchers
Hindjou v GRN	1996	Constitutionality of the Income Tax Act. Appeal from decision of the High Court full bench
Gurirab vs Die Republikein	1997	Judge orders Ministry of Trade to hand over documents in libel case vs Die Republikein
LAC/Ovahimba	1997	Judge declares that president cannot ban meetings based on apartheid era law
Gurirab v Die Republikein	1998	Perm Sec wins lawsuit vs. newspaper
Neto Ruling v Moha	1998	Court orders govt to stop his removal from the country
Confession ruled out	1998	Two alleged confessions ruled as inadmissible because accused not advised of their right to representation
Disposable Medical Products v Tender Board of Namibia	1997	Application to review tender decision
Koortzen v Pros Gen	1997	Rules of discovery for the defense, ruling forced state to provide witness statements to defense
Swart v Moha	1997	Ruling that South African citizen in residence for 15 years be granted citizenship without first becoming a permanent resident
S v Kapika	1997	Admissibility of confessions; accused must be informed of rights.
Fantasy Enterprises v MOHA and Nasilowski v MOJ	1998	Sex shop challenges constitutionality of two laws and wins
Namibia Wholesale Workers Union v Democratic Media Holdings	1998	Respondents retrenched applicants. Labour case involving severance allowances. Should I remove?
Aonin Fishing v Min of Fisheries	1998	Application for delivery of certain documents in review proceedings
S v Uahanga and Others	1998	Magistrate correctly acquitted accused because prosecution failed to bring speedy trial.
Njathi vs PS MOHA	1998	Immigration officer appeals for reinstatement after he was dismissed for unauthorized leave.
S v Vries	1996	Constitutionality of mandatory sentences for stock theft. Parts of Stock theft Act of 1990 found to be unconstitutional
Correia vs Commanding Officer Windhoek Prisons	1998	Was the detention of a prohibited immigrant lawful?
Oryx Mining v Secretary for Finance	1991	Corporate tax dispute dating back to apartheid era. Question of whether the SC in Namibia had jurisdiction.
S v Likuwa	1999	Court declares minimum sentence as unconst. Challenges arms and ammunition act of 1996, thus undermines authority of the legislature
S v Smith	1999	Reverses conviction of Smith by Hannah on contempt charges. Hannah convicted Smith of contempt for refusing to disclose documents regarding Lubowski murder.
Muller v Pres of Republic of Namibia	1999	German national seeking to adopt wife's name, Discrimination case.
Frank and Another v Chairperson of immigration selection board	1999	Immigration board ordered to give her permanent residence status.
Namunjepo v Commanding Officer, Windhoek prison	1999	Leg irons issue – SC decision
Namunjepo vs Windhoek Prisons	1998	Leg irons – HC decision
Kerry McNamera v Min of works and others	1997	Locus standi of architectural firm seeking interdict and relief. Issue concerns issuing of tender to another firm
Hannah v Gov. of Namibia	2000	Hannah attempts to sue government over labor dispute
Seaflower Whitefish Corp Ltd. v Namibian Ports Authority	2000	Former sued the latter for overcharging of port fees.
Public Service Union of Namibia and another v.	2000	Question of appointment of PS. Appellant applied to have decision to appoint certain PS set aside.



Prime Minister of Namibia and others		
Nanditume v Min of Defense	2000	HIV case in NDF, lots of press coverage
Sibeya v MOHA, Mutumba v Moha, Mazila v Moha	2000	Does state of emergency apply only to Caprivi. Those arrested under SOE in other regions could not be held
Amakali v Minister of Prisons	2000	Prisons tried to keep incarcerated beyond the time of his sentence
Engelbrecht v Min of Prisons	2000	Prisoner sues for his treatment while awaiting trial
Van as v Prs general	2000	Does a release for failure to bring a speedy trial constitute a permanent stay of prosecution?
Namibia Insurance co v GRN	2000	Insurance co case.
DTA contests Gobabis Poll	2000	
Levy order re Rundu detainees	2000	Order that three detainees be given access to lawyers
Osire Stars v MOHA	2000	MOHA restrained from picking up Osire stars
Sikunda	2000	Reported in Namibian, Oct 25, 2000. Court (Manyarara) demands that he be released
Ekanjo Contempt	2000	Teek refuses to compel govt to comply w ruling by Manyarara
Sikunda v GRN1	2001	Ekanjo found to be in contempt by Mainga and Hoff
Omitara Farm settlers	2001	Kicks settlers off govt land abutting commercial farms; Swapo calls for eviction order to be ignored
Chairperson of Immigration Selection Board v Frank and another	2001	
S v Delie	2001	Case of failing to pay maintenance. Question of whether the appeal should proceed to the HC or SC
Sikunda v GRN3	2001	Sikunda release order
S v Ganeb	2001	Covered in press, court eases appeal process by declaring provision of security to settle disputes as unconst.
Mwilima and others v GRN	2001	Treason accused to get legal representation
Mostert v MOJ	2001	Power of minister to transfer magistrates is upheld
Gurirab v GRN	2001	Lawsuit vs govt. for holding him without granting bail
GRN v Sikunda	2002	State appeals HC decision
GRN v Mwilima	2002	Legal representation case at SC
Namibia Grape Growers v Min of Mines and Energy	2002	Question of property rights and right of government to engaging in prospecting under the Mining Act of 1992
Hendricks and others v AG Namibia	2002	Are brothels still legal?
Project Prado/Moha case	2002	Court orders govt. to return vehicles seized under "project prado"
Illicit trade money	2002	Court rules govt can confiscate money used in illicit trade. Found in press.
Omitara settlers	2002	Ruling refuses to compel govt to build fence "protecting" commercial farms from settlers.
Burger and another vs Ministry of Finance and Another	2003	MOF tried to cancel contract with medical service providers and court overruled the action
Private clinics	2002	As reported in Namibian, Sept 13, 2002. Ministry had ordered that nurses at private clinics stop dispensing medicine. Court overruled the ministry
Onesmus v Min of Labour	2003	Employee of social security commission seeks relief against actions of Ministry of Labour; court turns her down
Demonstrators access to Parl.	2003	Court rules in favor of MOHA as demonstrators try to deliver submissions to parl.
Mostert v Min of Justice	2003	SC case
Dresselhaus Transport v GRN	2003	Failure of police to protect spilled beer truck
Min of Works v Namupembe	2003	Labour case, accusation of unfair labor practices.
Ekanjo-Imalwa v Law Society of Namibia	2003	Constitutionality of Legal Practitioners Amendment Act
Namib Etosha Group v Tender Board of Namib	2003	Tender dispute; procedure for reviewing decisions.



S v Zemberuka	2003	Question of constitutionality of acting prosecutor general
Ndumba v MOHA	2003	Man shot by Namibian police is awarded damages
COD on Electoral Constituencies/Delimitation Commission	2003	
DTA effort to block Grootfontein Poll		
Appeal effort by DTA on Nudo	2004	Nudo – could Nudo break away
Hoff decision on jurisdiction in Caprivi 13 trial	2004	
Hoff refuses leave to appeal	2004	
Leave to appeal Hoff decision on jurisdiction	2004	
Caprivi 13 release bid at HC	2004	
Swapo struggle in Ongwediva	2004	Could Swapo replace elected councilors
Caprivi 13 trial at SC	2004	Jurisdiction appeal
MOHA v Luiza Lomba	2004	Person claims unlawful arrest and detention and seeks damages; was suspected of being an illegal immigrant. Magistrate court awarded damages to her, MOHA appeals.
Van der berg v Moha and Ekandjo	2004	Damages because of damage done to bakkie while in police custody.
ECN vs opposition	2004	ECN ordered to hand over poll documents
Alwweendo v Moha	2004	Officer shot by police awarded damages
ECN vs opposition	2005	Recount ordered
Police Act case	2005	Damaseb declares that sections of the Police Act giving people only a year to sue the police is unconst.
Avid Inquiry	2005	Heathcote turns down bid to stall Avid inquiry
Sharunguro v MOHA	2005	Suit for damages incurred while in custody fails
Munuma and others v the State	2005	Are the accused legally before the court?
Karuaihe v Min of Ed	2005	Case of mother kicked out of school. Judge declares application an abuse of the court process as another application is already pending
Shiyambi v Moha	2005	Unlawful arrest, plaintiff seeks damages
Block and Another v MOHA	2005	Unlawful arrest, plaintiff seeks damages
Mukenani v ECN	2005	Employment case
Hannah decision on Gay rights	1998	As listed in Namibian on that date. Possibly an earlier version of the Frank case
Olinn reversal of Hannah decision	1998	Claims wrong party was listed in the dispute.
Beyer vs Min of Finance	2005	Public servants found guilty have charges overturned
Manyarara refusal to recuse himself from treason trial	2005	
Ovahimba tribal chiefs vs Ministry of Local Govt	2001	40 chiefs sue government for refusing to recognize them
Avis 5 – racially motivated murder	1991	

