

# DEMOCRACY REPORT

Issue No. 3 2011

A Civil Society Perspective On Parliament

## THE NATIONAL BUDGET THE NEED FOR A MORE INCLUSIVE APPROACH

**The scope of the 2011/2012 National Budget and the ambitious 2011-2014 Medium Term Expenditure Framework raises important considerations around the accuracy of information used to allocate resources and begs questions about the state of consultation and consensus-building within legislative and broader state governance processes.**

In some ways the National Budget of 2011/2012, as the start of the Medium Term Expenditure Framework (MTEF) 2011-2014, is ground-breaking.

For starters and most significantly, it is the first time that government has introduced a focussed budget aimed squarely at addressing, across the spectrum of expenditure areas over the next three financial years, a specific socio-economic national ailment, namely unemployment.

In early 2010, with the unofficial release or coming to light of the Namibia Labour Force Survey (NLFS) 2008, Namibia awoke to the reality of rampant unemployment and the pervasive and deep poverty it signified.

The NLFS 2008 officially pegged unemployment at a shocking 51.2 percent, with rural young women across the northern regions of the country being the hardest hit. This situation has to be viewed against prevailing inequalities, with Namibia continuously ranked amongst the most unequal societies, in terms of income and wealth distribution, in the world.

According to government's Targeted Intervention Programme for Employment and Economic Growth (Tipeeg), the state is going to spend N\$14.6 billion over the next three financial years to create 104,000 jobs – 34,670 jobs per year or 128 jobs per working day – primarily in earmarked sectors such as construction and agriculture.

As is evident, the Tipeeg initiative is laudably ambitious and a giant step in the right direction.

However, even though government's response is highly commendable, the MTEF 2011-2014 raises or highlights a few critical questions, chief amongst these being whether the 2008 unemployment statistics can still be considered an approximately accurate reflection of the situation in 2011 through 2014? More succinctly, is it appropriate to use statistics which are questionable as the basis for allocating such a huge chunk of state revenue over the next three years?

The questionability of the unemployment statistics relate to them having been three-years-old by the time Tipeeg was announced, prompting questions around the

accuracy of the figures, especially since it would appear that the statistics reflect the situation prior to the job losses brought about by the cascading global financial crisis of 2008. Economic commentators have stated that the unemployment situation is probably considerably worse, when allowing for the effects of the global economic meltdown, than captured by the 2008 NLFS.

Importantly, this raises a disturbing question, namely: If government already knew in 2009 what the unemployment situation was, why did it take another two years to respond? This question raises the spectre of politicisation having shrouded the issue in the run-up to the 2009 National Assembly and Presidential elections, something which remains unproven but suspected.

It would seem to be crucial to introduce annual labour force surveys (and this could be a key responsibility of the new statistical agency) to ensure the impact of Tipeeg is monitored and can be evaluated.

### Absence of a social contract

Despite Tipeeg being a noble attempt at introducing policy stability on the issue of unemployment, it does not appear to have been the result of wide consultation, but rather comes across as a unilateral reaction by the state.

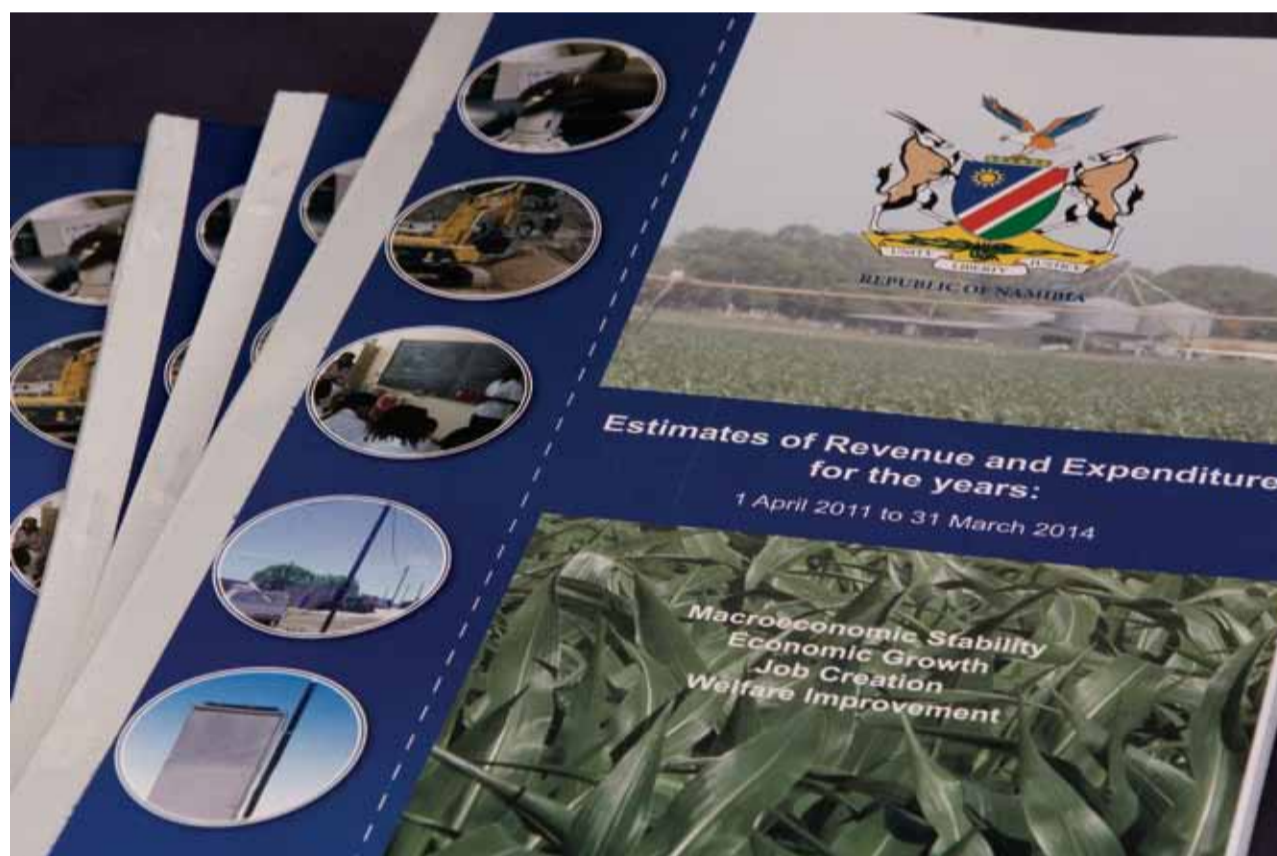
Democracy, as too implied by the liberal values of the Namibian Constitution, is built on consultation and consensus-building between the state and civil society, especially with regard to social issues with the potential to divide and destabilise a society. High unemployment is such an issue, as it entrenches marginalisation, exacerbates poverty and stokes crime.

In a real sense, the response to unemployment

has once again become a missed opportunity for cooperation between the state and various other affected stakeholders in collectively dealing with the issue, underlining the shortcomings of the Namibian democratic and political model.

The unemployment issue could have and should have been one around which a social contract or compact could have been reached.

A social contract or compact happens when and where different groups in society rise above their immediate short-term interests, and cooperate in the pursuit of a wider



**IN A REAL SENSE, THE RESPONSE TO UNEMPLOYMENT HAS ONCE AGAIN BECOME A MISSED OPPORTUNITY FOR COOPERATION BETWEEN THE STATE AND VARIOUS OTHER AFFECTED STAKEHOLDERS IN COLLECTIVELY DEALING WITH THE ISSUE, UNDERLINING THE SHORTCOMINGS OF THE NAMIBIAN DEMOCRATIC AND POLITICAL MODEL.**

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and long-term goal. This explicitly suggests mutual endeavour, and possibly mutual sacrifice, towards mutual benefit.

In other words, a social contract is aimed at building and maintaining trust between and amongst social partners in recognition of the fact that all stakeholders need to commit to find solutions and define a clear vision and set manageable targets.

Importantly, such an approach would also define leadership and responsibility roles, and possibly inspire those tasked to take bold actions to address the issue at hand. This is an issue which is unclear within the framework of the Tipeeg initiative.

Furthermore, when viewing the reactions to Tipeeg in the wake of its announcement in the National Assembly in March 2011, by Finance Minister Saara Kuugongelwa-

Amadhila, it is clear that it was as much a surprise to the business community as it was to the rest of society. This despite the fact that government will largely rely on the business community to sustain the jobs to be created through the programme and even to add more over the medium to long term.

All this has come to cast doubts over whether Tipeeg will deliver the number of envisaged and stated jobs.

And the processes surrounding the programme, as well as the entire budgetary process, have once again come to challenge the nature of Namibian democratic governance – asking serious questions about the state of consultation and consensus-building within legislative and executive processes.

## THE BUDGET DEBATE

### Key points raised by MPs – Appropriation Bill of 2011 [B.6 – 2011]

#### Hon. Usutuaije Maamberua (Swanu President, MP)



##### TIPEEG

Let me turn to the Targeted Intervention Programme for Employment and Economic Growth (TIPEEG) ... unemployment is highest among the youth, yet little is said under this programme about the youth, vocational training and skills development.

##### SOEs

Giving state guarantees to well-known, technically bankrupt State-Owned Enterprises, like Air Namibia, has a far-reaching impact on the state finances. In fact, it would amount to blackmailing the state. If the Minister knows that an entity has no capacity to repay the commercial loan, why would a state guarantee be issued to that particular State-Owned Enterprise?

##### Budget Process

The budget process needs to be more transparent and be more consultative in nature. That is, Parliament needs to be consulted through the Public Accounts Committee and the Economics Committee. That is during the budgetary preparatory process.

Adjusting the budget in Parliament, like the one we are discussing now, has to become possible, where necessary and also where it is practicable. Otherwise it is a budget of the Executive and is not the budget of the Legislature.

#### Hon. Heiko Lucks (RDP MP)

There has been a lot of heated debate and controversy, also in this August House, about our jobless statistics. It is to me extremely worrying that a drastic and far-reaching budget, a budget that will so drastically increase government debt, like the one we are currently discussing, is based on statistics that are three-years-old. The 52% jobless rate that is currently on every-one's mind is the figure of a survey conducted in 2008. To ensure that an impression is not created that budget allocations serve limited interests, I would like to add my voice to calls of a broader inclusion of business, political, social and religious interest groups in the budgeting process.

#### Reply by Hon. Saara Kuugongelwa- Amadhila (Minister: Finance, Swapo MP)

##### Debt Sustainability

Our debt to GDP ratio will stand at only 28.3 percent at the end of 2011/2012 despite the significant expansion of the budget, well within the target of 30 percent. Over the MTEF period, debt will average at 32.2 percent of GDP, well within the internationally accepted debt sustainability target and below the SADC target of 60 percent. Our approach is therefore sustainable for now.



##### TIPEEG

We have adopted an approach where a few targeted sectors with significant growth potential receive a significant boost. These few, namely agriculture, tourism, transport and housing and sanitation were carefully selected because of the potential they have to create jobs, grow the economy and improve living standards. Agriculture is the most important sector in respect of employment. 65% of the workforce is directly and indirectly linked to agriculture. It is also the sector where import substitution is most likely to be achieved, and we must address food security as a matter of urgency. Further, in agriculture there is significant potential for both upstream and downstream development.

##### Government's Ability to Utilise Proposed Development Expenditure

The implementation rate for Government spending has increase over recent years, and in the 2009/10 financial year, the execution rate stood at 98 percent of total budget. This shows that the Government's ability to administer projects and programmes is improving in line with increasing funds. Further, as indicated previously, Government remains seized with the issue of addressing the remaining bottlenecks in the implementation of capital projects".

##### Revenue Administration

We are contemplating to implement a range of reforms to strengthen revenue collection and administration. These reforms include review of tax laws; development of new tax administration systems; improved communication with taxpayers and taxpayer education. I also announced that we shall introduce some new taxes, the detail of which are being finalised and will be communicated soon.

##### Engaging Opposition MPs on Appropriation Bill prior to its tabling

The public is well informed in advance of Government's expenditure plans. I once again urge those who wish to make input into the budget formulation to use the MTEF to engage Government on specific programmes in order that their proposals can be considered with time. A lot of time and effort are required to develop the programmes under the budget. They cannot therefore be redesigned on the floor of Parliament. Besides, MTEF programmes are formulated through an extensive consultative process between Government and communities of which the individual MPs are members. They are also based on NDPs, which were formulated through equally consultative processes.

#### Hon. Erkki Nghimtina (Minister: Works & Transport, Swapo MP)



I am worried it takes too long and this process (budget approval) cuts into the programme of the implementation period. While I am aware of the 33% continuation budget that is always made available to bridge the gap, I am afraid to say that

this only caters for old projects that are on-going, but not for new projects. We need to address how we can significantly reduce the time we spend to approve the budget so that sufficient time is allowed for actual work to be done. My second worry is our budget system which seems to be rule-driven rather than mission-driven. Our Budget system behaves like it is fenced off. I am worried that such controls are often to the detriment of capital project implementation and therefore compromising delivery of service to the people of this country. Funds are fenced within line items that are often absurdly narrow in many instances. Over the last twenty years, civil servants have learnt that if they do not spend their entire budgets by the end of the fiscal year, they lose the money they have saved and they get less next year. As a result of this, smart civil servants spend every penny of their line item, whether they need to or not, when the end of the financial year is about to come to an end. Our budget systems actually encourage every civil servant to waste money.

#### Hon. Peter Katjavivi (Swapo Chief Whip, MP)

Like most democratic countries, Namibia has come to embrace the democratic culture and our National Assembly is at the centre of exercising its full authority in terms of accountability and oversight over the Executive. Therefore, open debate of issues such as those associated with the budget is a development that is to be expected.

##### TIPEEG

It is clear for everyone to see that this country faces an unprecedented challenge in the form of unemployment, which particularly affects young people and the unskilled. I therefore welcome the overall measures proposed in the Budget.

##### Tender Board

I would like to draw the attention of this August House to the question of the Tender Board. Government procurement plays a vital role in accelerating economic growth and development. In this respect, we need effective and efficient tender board procedures. At times, the utilisation of allocated funds in a timely and effective manner has been adversely affected due to cumbersome tender board procedures.

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### Hon. Steve Bezuidenhout (RDP MP)

If we refuse to, against common sense and sound advice, allow adjustments to the Budget, Parliament will in real terms abandon its mandate of oversight and its power and functions as contained in Article 63 of the Namibian Constitution. The possibility of amendments should not arise to a question of us and them, but what is in the best interest of Government's ability to execute its plans and programmes".

### Hon. Tjekero Tweya (Deputy Minister: Trade & Industry, Swapo MP)

As usually the case, some academics and so-called economists have expressed opposing views towards the budget and all they have observed is Government over-spending without waiting to analyse the implementation plan thereof or the impact it will have on the majority of our people in the rural areas. The fact of the matter is our rural majority are not interested to hear cheap "statistical analysis" or "political" debates on the budget, but rather see actions that address their daily bread and butter issues.

**Government Procurement**  
Still the bigger companies have the means to manipulate their way through the process by submitting lower prices as a result of longer operating life of their companies. As part of the process to realign this, the Government could draft Preferential Procurement Laws that would assist start-up of small companies to compete (especially Namibian entities owned by previously disadvantaged youth). Addressing the challenges faced by black and women entrepreneurs (especially the youth), should be another key area of focus for the Government in broadening economic inclusion and promoting transformation in the economy.

#### Municipal by-laws

The homes of the elderly are being auctioned because of laws existing since 1930, how long should we allow the trend to continue?

# AN EXECUTIVE IMPOSITION?

It would seem that for the first time in the history of Namibia, in April this year, while the Appropriation Bill for 2011/2012 was passing through the National Assembly, an amendment was introduced.

While not irregular, the amendment came as something of a blind-side, catching just about everybody off guard when Finance Minister Saara Kuugongelwa-Amadhila announced in early April that the Appropriation Bill, or National Budget, had been amended, while still not passed, to accommodate salary increments for civil servants.

The amendment – which saw an additional N\$844 million added to the National Budget – came on the back of government's surprise announcement of the Targeted Intervention Programme for Employment and Economic Growth (Tipeeg), which will see the state spending more than N\$14 billion to try and stimulate large-scale job creation across various economic sectors.

The suddenness and unexpectedness of the announcement of the additional expenditure – which would see the state's salary bill rise from N\$10.3 billion to over N\$11 billion during the current financial year – raised eyebrows because it appeared to indicate

bad planning on the part of the Finance Ministry and the suggestions were that in all the effort put in to come up with the Tipeeg measures, Finance and other government officials had somehow

lost sight of the proposals for wage increases for civil servants which had already been submitted towards the end of 2010.

Confronted with the unexpectedness of the move, economists were of the opinion that the amending of the Appropriation Bill so early in the parliamentary budget approval process was undermining the credibility of the National Budget and its attendant processes.

Assertions were that the National Budget had not been well "thought through" and that it appeared that the additional expenditure had been included as an "afterthought" and the entire process was described as "quite an extraordinary way of budgeting".

**THE SUDDENNESS WITH WHICH THE AMENDMENT WAS FOISTED WITHOUT WARNING ON THE LEGISLATURE AND THE PUBLIC UNDERLINED THE FACT THAT THE STATE'S BUDGETING WAS FIRMLY CONTROLLED BY THE EXECUTIVE AND THAT OUTSIDE OF CABINET VERY FEW HAVE A SAY IN THE FINAL COMPILATION OF THE BUDGET AND PRIORITISATION OF EXPENDITURE AREAS.**

### 'Exercise in futility'

The announcement of the additional expenditure by the Finance Minister in the National Assembly highlighted another characteristic of Namibia's budget processes, namely that the

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## Allocation by vote in NAD and percent, 2010/11 and 2011/12

VOTE	2010/11 (NAD '000)	2011/12 (NAD '000)	2010/11 (per cent of total)	2011/12 (per cent of total)	Change in per cent
Office of the President	360,398	288,313	1.2%	0.8%	-20.0%
Prime Minister	164,509	267,782	0.6%	0.7%	62.8%
National Assembly	117,536	127,008	0.4%	0.3%	8.1%
Auditor General	52,867	88,160	0.2%	0.2%	66.8%
Home Affairs and Immigration	174,284	237,217	0.6%	0.6%	36.1%
Police	1,890,448	2,069,555	6.5%	5.5%	9.5%
Foreign Affairs	505,480	545,645	1.7%	1.4%	7.9%
Defence	3,014,774	3,126,363	10.4%	8.3%	3.7%
Finance	3,967,295	5,487,455	13.7%	14.6%	38.3%
Education	6,476,391	8,304,547	22.4%	22.0%	28.2%
National Council	51,016	51,285	0.2%	0.1%	0.5%
Gender Equality and Child Welfare	521,659	550,013	1.8%	1.5%	5.4%
Health and Social Services	2,593,039	3,332,615	9.0%	8.8%	28.5%
Labour and Social Welfare	1,140,182	1,196,371	3.9%	3.2%	4.9%
Mines and Energy	177,161	216,999	0.6%	0.6%	22.5%
Justice	326,735	389,871	1.1%	1.0%	19.3%
Regional and Local Government, Housing and Rural Development	958,693	1,445,764	3.3%	3.8%	50.8%
Environment and Tourism	347,927	791,561	1.2%	2.1%	127.5%
Trade and Industry	490,689	558,052	1.7%	1.5%	13.7%
Agriculture, Water and Forestry	1,518,737	2,268,638	5.3%	6.0%	49.4%
Prisons and Correctional Services	419,526	424,973	1.5%	1.1%	1.3%
Fisheries and Marine Resources	322,180	238,885	1.1%	0.6%	-25.9%
Works	462,877	535,098	1.6%	1.4%	15.6%
Transport	1,308,829	2,448,170	4.5%	6.5%	87.1%
Lands and Resettlement	190,196	221,764	0.7%	0.6%	16.6%
National Planning Commission	134,012	276,677	0.5%	0.7%	106.5%
Youth, National Service, Sport and Culture	459,260	509,065	1.6%	1.4%	10.8%
Electoral Commission	181,997	112,911	0.6%	0.3%	-38.0%
Information, Communication and Technology	251,487	316,483	0.9%	0.8%	25.8%
Anti Corruption Commission	36,786	62,546	0.1%	0.2%	70.0%
Veteran Affairs	274,538	1,210,804	1.0%	3.2%	341.0%
<b>Total</b>	<b>28,891,508</b>	<b>37,700,590</b>	<b>100.0%</b>	<b>100.0%</b>	<b>30.5%</b>

Courtesy of National Budget 2011/12: Bold steps – in the right direction?, by Klaus Schade, IPPR Briefing Paper No.54, March 2011.

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## The Namibian Constitution and the National Budget:

The National Budget or Appropriation Bill – the allocation of state monies towards national priorities on an annual basis – is dealt with under Chapter 16 (Finance) of the Namibian Constitution. In this regard the Constitution states:

### Article 126 Appropriations

(1) The Minister in charge of the Department of Finance shall, at least once every year and thereafter at such interim stages as may be necessary, present for the consideration of the National Assembly estimates of revenue, expenditure and income for the prospective financial year.

(2) The National Assembly shall consider such estimates and pass pursuant thereto such Appropriation Acts as are in its opinion necessary to meet the financial requirements of the State from time to time.

When considering the language of these provisions, it is evident that the Constitution allows for the National Assembly to influence or in some way determine the allocation of funds from the State Revenue Fund towards government's expenditure.

The words "as are in its opinion" explicitly provides for this. However, in practice, the situation has been that by the time the Appropriation Bill reaches parliament, the sizes of the various budget votes have already been decided at Cabinet level, suggesting in some way an usurping of the role of the legislature in budgetary processes.

National Budget is a done deal by the time it reaches parliament and that the legislature effectively plays very little, if any, role in the design of the Appropriation Bill.

The suddenness with which the amendment was foisted without warning on the legislature and the public underlined the fact that the state's budgeting was firmly controlled by the executive and that outside of Cabinet very few have a say in the final compilation of the budget and prioritisation of expenditure areas.

Back in 2005, during the budget deliberations of that year, then Republican Party leader Henk Mudge stated in parliament, when confronted for the first time with the *fait accompli* that the National Budget is, that discussing the Appropriation Bill in the National Assembly was an "exercise in futility" and that since the budget was effectively already decided before coming to parliament, MPs should rather use the time spent 'debating' the budget to deliberate on other issues which they could influence.

In a 2007 paper for the Institute for Public Policy Research (IPPR), Professor Bill Lindeke summed up the situation as such: "Cabinet, through the Cabinet Committee on Legislation, originates virtually all of the Bills considered by parliament and monopolises the legal drafting capacity of parliament. Although parliament "debates" the bills and budgets, Cabinet has already determined the outcome. While both chambers of parliament may take months to "debate" the budget, not one cent of a budget under consideration has changed as a result. The budget is fully cooked when it is placed on the Speaker's desk."

When considering all this, the question that automatically arises is: Can Namibia's budgetary processes be considered democratic, transparent and inclusive?

## OUT OF STEP AND UNCONSTITUTIONAL

### The IPPR's comments on the Statistics Bill

The Institute for Public Policy Research (IPPR) welcomes the broad intention of the Statistics Bill to provide for the development of a National Statistics System; to establish the Namibia Statistics Agency; and to establish the National Spatial Data Infrastructure, among other matters.

At the outset we would wish to support the emphasis in the African Charter on Statistics of 2009 on the independence of national statistics institutes in relation to political authorities (Article 3). This Article stresses that statistical authorities should act without political interference and in an objective, professional and transparent manner. Under the same Article it is also stated that statistics should be disseminated in a timely manner without inexplicable delays. The United Nations Fundamental Principles on Official Statistics of 1994 also emphasise the same points.

#### 1. Independence of the new agency

##### a) Powers of the Minister

The Bill should explicitly emphasise that the Namibia Statistics Agency is an independent, impartial and transparent body and make this clear in the powers of the Statistician General. The international trend in line with the African Charter and the UN Principles is that national statistics agencies operate at arm's-length from government.

The independence of the Statistician-General is protected in Section 7 clause 5 which makes it a punishable offence for 'any person' to interfere with the Statistician-General in terms of his or her decisions on when a statistical collection is to take place and the manner in which they take place. However, Section 7 clause 2 (f) already gives the mandate to the NPC Director General to decide on the commencement of statistical collections. This is a contradiction which could be solved by giving the Statistician-General the power to order statistical collections to commence rather than the Minister.

##### b) Appointment of board

In the current Bill, the Board of the Namibia

Statistics Agency is appointed by the Minister after consultation with the President (Section 11). Persons appointed must "possess knowledge and experience in governance, statistics, information technology, spatial data, economics, law or related fields of expertise" (11 (2)). Again, in order to underpin the independence of the agency, it would seem important to consider other selection procedures for the board, including having would-be board members apply for the position and having a diverse interview panel representing groups that are concerned with the production and use of official statistics. This panel could then recommend names to the Minister and the President (in a manner that is not dissimilar to the selection of Electoral Commissioners in Namibia).

The Board could also be representative of various groups that have an interest in the production and use of official statistics including relevant ministries and government agencies, producers of statistics, organised labour and business, researchers, as well as civil society organisations and those representing rural, gender and disability interests.

#### 2. Problems emanating from Section 35

The IPPR agrees with the Legal Assistance Centre that Section 35 as it now stands is likely to be unconstitutional – in that it places unnecessary restrictions on private researchers working with data. Private researchers working with data would first have to gain the permission of the Minister according to section 35 (2a). The definition of "statistical collection", referred to in 35 (1) and set out in Part 1 of the Bill, is also problematic as it is extremely broad – stretching to include all manner of numerical information and not just government statistics. It is conceivable that a school student wanting to undertake a limited survey for a school project would have to apply to the Minister for permission first if the current wording was strictly applied.

We concur with the Legal Assistance Centre's position on Section 35 with the

following comment on Section 35 (2a) which states that "a person may not authorise the commencement of a statistical collection ... without the approval of the Minister acting after consultation with the Statistician-General"

In order to safeguard the constitutionality of this section of the Bill and to remove any ambiguity this clause should be removed.

In addition Section 35 (5) which states that

"a private or international organisation may not conduct any statistical collection, other than market research and feasibility studies, required for the purposes of market analyses, except with the approval of the Minister on the advice of the Statistician-General, subject to such conditions as the Minister determines"

should also be removed for the same reasons. Section 6 therefore would also fall away.

Limiting the definition of "statistical collection" to official, government-produced statistics would remove some of the problems in Section 35, although the IPPR believes that the deletion of 35 (2a) and 35 (5 and 6) is also necessary to remove all ambiguity.

#### 3. Access to official statistics

Although not directly addressed in the Bill, the IPPR feels that it is crucial that the dissemination of official statistics should be done in a timely and accessible manner. All official statistics and reports based on official statistics should be made available online and in hard copy form once the Statistician-General has decided they are ready for release. Where possible the public should have a right to access raw (but anonymised) official data in an accessible format. If such stipulations are deemed not appropriate for this Bill they should be included in the associated national statistics policy.

*Presented to the Public Hearing of the National Council on the Statistics Bill May 16 2011.*

## STATS BILL BACK TO NA FOR AMENDMENT

On May 24 the National Council referred the Statistics Bill (26 of 2010) back to the National Assembly with five amendments.

The amendments came about after it was pointed out by various observers, including the Institute for Public Policy Research (IPPR), that some sections of the draft legislation might be in conflict with the Constitution.

On May 16 the National Council convened a public hearing into the provisions of the Statistics Bill, at which various individuals and organisations made submissions with regard to what are perceived as problematic and possibly illegal clauses in the Bill.

While it was heartening that that the National Council deigned the issue important enough to call a public hearing, it has to be said that the amendments, as proposed by the National Planning Commission (NPC), do not go far enough to dispel the uneasiness that certain clauses in the Statistics Bill have given rise to.

The NPC recommended amendments, while in some way touching on concerns raised by other non-state entities, at a meeting in April, largely ignore the more sweeping proposed changes, aimed at establishing a democratic and independent National Statistics Agency, and come across as cosmetic, which could leave the Bill, if passed into law, open to legal challenge in future.

The National Assembly now has the role of ratifying the proposed amendments of the National Council.