



NAMIBIAN POLITICAL FINANCE

– An unresolved regulatory question





Key observations

Political finance regulation has long been a sensitive, but under-appreciated, topic on the Namibian political landscape.

However, given the increasing severity of recessionary economic conditions that have devastated large parts of Namibian society since mid-2016, the issue has gained prominence. This is especially significant as indications are that Namibians are largely dissatisfied with the 'value for money' of political parties and politicians representing them in parliament, and whose continued existence they are effectively subsidising with transfers from the State Revenue Fund.

It is clear that Namibian political parties are not doing enough to be transparent and accountable to the electorate, and that electoral authorities, primarily the Electoral Commission of Namibia (ECN) and Parliament, are not fully exercising their regulatory and enforcement powers to ensure that the use of public funds is effectively safeguarded and accounted for.

It is against this backdrop that warning flags have to be raised, as the amounts of money paid out to political parties by the state are enormous by Namibian standards, and are meant to buttress some of the fragile pillars of Namibian democracy – political pluralism, public participation and representation and legislative oversight.

Recommendations

In light of these observations, it is recommended that:

- Every effort be made by various stakeholders not to allow a culture and climate of unlawfulness to characterise and undermine the integrity of Namibia's electoral governance processes and landscape;
- Electoral and parliamentary authorities prioritise the full implementation of regulations relating to the declaration of assets and liabilities of political parties and the disclosure of foreign and domestic financing of political parties, organisations or other persons;
- The Electoral Commission of Namibia (ECN) demonstrate greater zeal in the enforcement of its regulatory mandate, specifically around holding political parties accountable for non-compliance with legal provisions concerning political financing;
- Political parties, of their own volition, make every attempt to comply with legal frameworks and be regularly and consistently open and accountable about their funding and finances to their members and the broader public;
- Government as a matter of urgency bring to the fore discussions around the draft access to information bill and table the bill in parliament;
- Ordinary Namibians and civil society organisations be continuously and proactively concerned with monitoring the political finance governance environment; and
- The media play a more active and expanded role in informing and educating the broader Namibian public on developments in the political finance landscape.

1. Introduction

The state of political party funding and finances in Namibia is an area on the Namibian political landscape that remains largely foggy. This is despite the rules that have been put in place over the last decade to ostensibly infuse more transparency around an issue that has attracted intermittent critical concern and engagement over the last two decades.

Election year for democracies all over the world is an important year not just for the electorate but also and especially for political parties themselves. Silver (2013) states that a party that is well funded is likely to perform well during elections and well-funded candidates also do better than their poorly funded opponents.¹ Therefore an election year is a big spending year for most political parties, considering the competitive nature of elections.

The sources of political party funding varies across the globe. In Namibia, political parties already represented in the National Assembly receive state funding proportional to the seats they hold. Effectively, this means that the ruling Swapo Party has received the bulk of state funding since independence in 1990.

However, to combat inequalities in state funding allocations, political parties are often allowed to raise funds in other ways. Additional sources of party funding include internal memberships, and donations from private individuals or organisations. While these sources of funding can be a way to level the playing field, they can also raise concerns around the influence that funders have on political parties and their policy priorities.

A notable example is the United States. Conservative groups with seemingly unlimited funds, such as the National Rifle Association, have given substantial and sustained financial support – largely to the conservative Republican Party – to the extent that even skyrocketing gun violence and domestic terrorism have not been able to overcome the political power of the gun lobby.²

While this is an extreme example, it does shed light on the potential dangers of unregulated political donations. In Namibia particularly, the sources of party funds (especially during an election year) become an important consideration because democracy requires that transparency and accountability be observed to ensure that there are no third party influences on the policies and activities of political parties.

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2. Why monitor party funds?

Warren (2003) writes that “policy capture occurs when the interests of a narrow group dominate those of other stakeholders to the benefit of that narrow group. In a democratic context, this involves the exclusion of parties and opinions, and violates basic democratic norms”.³ This is problematic because the expected outcome from any political process such as elections is that decision-makers will be good custodians of the trust bestowed on them by the electorate once they are in power. Therefore, having access to information detailing where political parties (especially ruling parties) get their funding deters influence and capture of any policy making-process. An example is given of how public procurement has often been used by elected officials to ‘return favours’ to donors or exclude known entities/ persons who supported their opponents.⁴

A key concern in such instances is that policy decisions are made in favour of a minority at the expense of public interest – a process fundamentally at odds with the principle of ‘inclusive growth’, which should be a priority for decision-makers. Even the perception that the decision-making process has been compromised can erode the public’s trust in the government. Monitoring of political party funding is practised in many democratic countries, often through regulations and by independent electoral commissions, as well as by parliamentary ethics committees. Successful monitoring of party funding requires transparency from the parties themselves, as well as clear regulatory frameworks to avoid leaving room for electoral integrity concerns, particularly vote buying and coercion during elections.⁵

1 Silver, N. (2013), “New Rove group could backfire on G.O.P.”, *FiveThirtyEight* blog, <http://fivethirtyeight.blogs.nytimes.com/2013/02/11/new-rovegroup-could-backfire-on-g-o-p>.

2 Gun lobbying and gun violence stats

3 Warren, M.E. (2003), “What does corruption mean in a democracy?”, *American Journal of Political Science* 48/2, pp328-343

4 Ibid

5 Department for International Development Governance Department 2001, ‘Political Party Financing: Problem, Solutions and Action,’ DFID, London



For the most part however, the state of political party funding and finances in Namibia has not attracted wide-spread critical public engagement. At the time of going to print, the topic has yet to feature prominently in general political discourse. This is despite the fact that Namibian taxpayers actively fund the political parties represented in parliament. As it stands, the topic has largely been confined to academic discussions. One of the aims of this paper, therefore, is to publicise the state of political finance in the country, and highlight that which is unknown, especially as national and presidential elections draw near. The current economic recession has put increasing pressure on the government's fiscal resources, making public funding for political party an even more critical topic.

This is not the first time we have explored this topic, and over the years, a distinct picture of Namibia's political finance regulatory environment has emerged. Some of the key observations noted are as follows:

- A lack of regulation/under-regulation seems to dominate the political party finance environment;
- There is a need for stronger institutional regulation and oversight;
- The above factors have contributed to a political party finance space marked by a culture of non-compliance with the existing regulatory structures;
- A culture of transparency and accountability struggles to develop without demonstrated transparency;
- The relevant state authorities have been slow to intervene when it comes to regulations and enforcement;
- Political parties themselves have not been vocal about their compliance (or concerns) with the current regulatory framework, with sporadic exceptions;
- Public engagement around this important issue is, unsurprisingly, inadequate and occasionally inaccurate.

Calls to reform Namibia's political finance regulatory space have come a long way⁶, but such rhetoric has been slow to translate into action. The above points should be considered while being aware that Namibian political parties are heavily reliant on the state for funding; the concerns around political party funding and finances are no small matter, given the amounts of taxpayer dollars involved, especially over the last decade. To be clear, the purpose of that funding is "to enable parties to represent and engage with citizens – in other words, the funding is ultimately taxpayers' money spent for taxpayers' benefit"⁷.

Namibian political parties with representation in parliament (both the National Assembly and the National Council) are funded through a scheme introduced in 1997, following a Cabinet resolution of 1996. The system uses a formula applied to the number of votes garnered and seats held by a political party to determine the amount of money that would flow to a specific political party.

To quantify the issue, over the 15-year period from 2000 through 2014, the state disbursed an estimated N\$282 million (see Table 1⁸) amongst the ruling Swapo Party and the various official opposition parties (DTA, CoD, RDP), with roughly 83% of these funds flowing to the ruling party. In other words, the state spent an average of N\$19 million each year funding three or four political parties during this time. Notably, as can be seen from the table, this did not include money allocated to the numerous smaller opposition parties which had representation in the National Assembly and National Council over the course of the specified 15-year period.

Table 1: **Public Funding for Parties, 2000/15 (N\$)**

Party	2000-2004 period	2005-2009 period	2010-2014 period
Swapo	61, 000, 000	68, 400, 000	104, 600, 000
DTA	7,700, 000	4,900, 000	3,900, 000
CoD	7,700, 000	6,200, 000	1,900, 000
RDP	0	0	15,500, 000

Please note that these numbers are estimated only, and rounded down to the nearest hundred thousand. Sources: Boer, Martin. "The Life of the Party" (2004), and own calculations based on annual Budgets.

Following the expansion of parliament with the third constitutional amendment of 2014, in the 2015/16 financial year roughly N\$116 million was allocated for disbursement amongst political parties in parliament (see Table 2⁹). Even so, this represented an almost 600% jump in funds earmarked for political parties, compared to the average for the preceding 15 years.

6 State to scrutinise parties' spending" in The Namibian (Windhoek, Namibia) 17 June 2004, accessed at: <https://www.namibian.com.na/index.p?id=6366&page=archive-read>
7 Perspectives On Parliament, Issue 2, March 2016 accessed at: <https://ippr.org.na/wp-content/uploads/2016/03/PartyFunding%20bulletin.pdf>
8 Taken from 'Party finances – What we know' in Perspectives On Parliament, Issue 2, March 2016
9 Taken from 'Party finances – What we know' in Perspectives On Parliament, Issue 2, March 2016
10 This information was gathered in early 2016 and it's unclear why these two parties were not included at the time.

In fact, the escalation in earmarked spending was so considerable that the ruling party's allocation for the 2015/16 financial year alone was greater than the amount of "funding all other parties have received over the last ten years combined"¹¹ (2004-2014). However, only about N\$38 million was actually disbursed, which still represented a 100% increase over the annual average until then.

Table 2: **Public Funding for Parties, 2015/16 (N\$)**

Party	Seats			Allocation
	National Assembly	National Council	Total	
SWAPO	77	24	101	96,764,000
DTA	5	1	6	5,748,000
RDP	3	0	3	2,874,00
APP	2	0	2	1,916,000
NUDO	2	0	2	1,916,000
UDF	2	1	3	2,874,000
WRR	2	0	2	1,916,000
RP	1	0	1	958,000

Source: tabled in the National Assembly on April 28, 2015

During the 2016/17 financial year Namibia entered a recessionary climate that has persisted to late 2019, without a clear end in sight at the time of writing this report. Recessionary pressures have meant that political party funding by the state, disbursed through the Ministry of Finance, has also stagnated and even declined slightly since 2016/17, but is projected to rise again over coming years, as the image below shows¹².

Additional Notes:					
Recipients of Budget Transfers	2017-18 Actual	2018-19 Revised	2019-20 Projection	2020-21 Projection	2021-22 Projection
046 Sub National Bodies					
Political Party Funding for Vote	112,007,000	112,580,000	116,482,350	119,894,400	123,606,462

When considering the figures presented here, of utmost importance is not only how political parties have spent their funding, but also the level of accountability that has been displayed regarding this spending.

It is against this backdrop, and in light of the 2019 National and Presidential elections, that this paper examines any new developments around political party funding and accountability, and aims to encourage greater public attention to an issue that is seldom part of the national discourse about the operations of political parties.

Box1: **Where do political parties get their money**

Namibian political parties, especially opposition political parties, generally come across as financially stretched.

For the most part, according to accounts, aside from significant transfers from the state for those parties represented in parliament, political parties rely on membership contributions and donations, investments (if they have any) and ad hoc fundraising events to raise money.

The ruling Swapo Party also has a large commercial arm – Kalahari Holdings – which over the years has funneled funds to party coffers, but the holding company appears to have suffered due to alleged mismanagement and corruption over the last decade¹³ and longer, which has seemingly undermined its ability to financially contribute to the ruling party's political and electoral activities.

11 Taken from 'Party finances – What we know' in Perspectives On Parliament, Issue 2, March 2016.

12 Taken from Estimates of Revenue, Income and Expenditure, 1 April 2019 to 31 March 2022, page 140. It can be accessed at: <https://mof.gov.na/documents/35641/36556/%2312843+MoF+ESTIMATE+2019+-+20.pdf/be9467a4-05bb-aa99-bd8e-ef02f1d1bf0a>

13 For more on this read 'Exposing the Rot' (<http://www.insight.com.na/exposing-the-rot/>); 'Swapo (Pty) Ltd: A troubled capitalist empire' (<https://www.namibian.com.na/index.php?page=archive-read&id=145340>);



It is clear that Namibian political parties are not financially self sustainable and those in parliament (National Assembly and National Council) substantially rely on allocations from the state to operate and function.

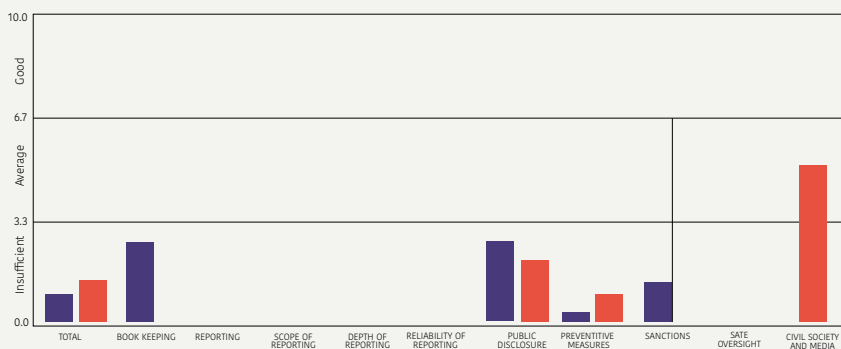
3. Background – Revisiting NURU

Between 2009 and 2010, the Institute for Public Policy Research (IPPR) was part of a five-country southern Africa research initiative, aimed at mapping national political finance landscapes. The research project was a collaborative initiative spearheaded by international anti-corruption organisation Transparency International (TI) and formed part of a wider effort to understand what was happening in the global political finance space. The project was titled 'Nuru', which is a Swahili word meaning 'ray of light'.

The objective of the Nuru project was "to contribute to the strengthening of the legitimacy and credibility of democratic institutions by increasing the levels of transparency and accountability in political finance systems in southern Africa"¹⁴.

Nuru applied a methodology which made use of a tool that assessed and scored the national political finance legal and practical environments according to ten (10) dimensions. Country environments were either rated "insufficient", "average" or "good" using the tool. A score of 10 meant a country had a "good" legal and practical political finance environment, while a score from 0 to 3.3 meant an "insufficient" regulatory and oversight environment.

On the whole, using this tool, Namibia fared woefully, scoring just 1 out of 10. Graph 1 (Law and Practice) below visualised the overall Namibian performance.



Graph 1 (Law and Practice) ... Namibia scored 'insufficient', in both law and practice, across all dimensions, except civil society oversight, which contributed to a very low overall country score of 1.0.

Basically, what Nuru established was that Namibia effectively had little to no regulatory mechanisms in place on the political finance landscape, and was rated "insufficient".

The only area where the country scored moderately was on civil society and media oversight, where a score of 5 out of 10 was attained. This was due to a small group of civil society actors (including IPPR) and media players who were consistently questioning what was happening around political finance in Namibia.

It should be noted that none of the other countries in the study – South Africa, Zambia, Zimbabwe and Mozambique – fared particularly well either, and it was clear that on the whole political finance regulation was a relatively underdeveloped legislative and regulatory area in southern Africa.

In the end, the Nuru study made a range of recommendations for various Namibian stakeholders to contribute to improving the political finance regulatory and oversight environment, with specific advice for the government (see Box 2 on the next page).

14 Promoting Transparency and Accountability of Political Finance in the SADC Region can be accessed at: <https://ippr.org.na/wp-content/uploads/2011/03/Namibia.pdf>

Box 2. Nuru's recommendations for government

- Broadly, because many political parties receive money from the state, the legislative framework should be strengthened and expanded to include laws specifically dealing with the issue of monitoring and regulating political party finances, as well as other governance issues within political parties.
- Legislation should be created that:
 - Divides a proportion of state funding equally among parties represented in the National Assembly or National Council;
 - Divides the rest of the state funding according to seat allocation in the National Assembly;
 - Creates a separate fund for election campaigning, which is divided equally among parties registered for the election;
 - Makes the release of funds conditional on the satisfactory accounting and auditing of previous state funding to a particular party;
 - Makes funding conditional on parties having up-to-date lists of members and having raised a proportion of their funds through membership subscriptions;
 - Places the oversight of the funding system with an independent electoral management body, and gives the Auditor General a role in checking party spending; and
 - Ensure parties' spending of state funding is publicly disclosed.
- Access to information (ATI) legislation should be drafted and passed to facilitate transparency and accountability within political and bureaucratic processes, whether within government, political parties or the private and non-governmental sectors.

The purpose of revisiting the Nuru study is firstly to show that the regulation of political finance in Namibia has been an area of critical enquiry¹⁵ for at least the last decade. Secondly, the study provides a jumping off point to assess to what extent the political finance landscape has changed in the 10 years since the study concluded.

4. Regulations on Party Funding

The issue of regulating political party finance is country specific, as enforcement needs to be facilitated by country-specific legal frameworks. Usually the election management body (EMB) of a country is viewed as best suited to enforce campaign and party finance regulations. However, limitations exist in the form of insufficient institutional and financial resources, or concerns around staff ability to enforce regulations impartially due to party affiliation.¹⁶

A study by the National Democratic Institute for International Affairs (NDI), titled 'Money in Politics', stated that legal and regulatory strategies "do not necessarily result in reform, in part because they are too difficult to monitor and enforce".¹⁷ In other words, a country may have good laws around party financing, but underperform when it comes to enforcement, allowing parties to ignore regulatory frameworks with impunity. Furthermore, the integrity of regulatory and enforcement bodies is often undermined due to lack of funding or political influence, resulting in non-compliance by political parties as the "inability to effectively enforce regulations is a key obstacle to overcoming corruption in party financing".¹⁸

4.1. Types of Campaign Finance Regulations

The International Institute for Democracy and Electoral Assistance (International IDEA)¹⁹ database on political finance regulation is the leading source of information on political finance regulation worldwide. The database has been updated since 2012, and includes information from 180 countries with a focus on UN members states. The database excludes countries where political parties are legally banned or not allowed to register candidates in elections and where no elections have been held during the last 30 years. This includes countries such as the People's Republic of China (PRC), Cuba, Eritrea, Vietnam, and Qatar.

¹⁵ Even though there had been earlier studies to map and/or analyse occurrences in the political finance space, Nuru was by far the most comprehensive and rigorous study of political finance in Namibia before and since 2010.

¹⁶ See <http://aceproject.org/ace-en/focus/campaign-finance/onePage>

¹⁷ Baer, D. & Bryan, S. (2005). Money in Politics, A Study of Party Financing Practices in 22 Countries. National Democratic Institute (NDI) See <https://www.ndi.org/node/23757>

¹⁸ Ibid

¹⁹ See <https://www.idea.int/publications/catalogue/political-finance-regulations-around-world-database-overview>



The database reflects that most of the countries listed regulate political party funding within specific categories, as outlined in the table below.

Table 3: International standards of political finance regulation

Area of funding regulation	Relevant Standard
<p>1. Source of funding</p>	<ul style="list-style-type: none"> • Council of Europe: Recommendation (2003)4: "Objective, fair and reasonable criteria should be applied regarding the distribution of state support." Recommendation (2003)4: "State support should be limited to reasonable contributions" in order to avoid "the weakening of links between parties and their electorate" Rec 1516(2001) • Commonwealth of Independent States (CIS): Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the CIS: "Any foreign donations, inclusive of those from foreign physical and legal entities, for candidates and political parties (coalitions) participating in elections, or to other public unions and organizations, which directly or indirectly, or in another manner relate to or are under a direct influence or control of the candidate, political party (coalition), and facilitate or contribute to accomplishment of goals of the political party (coalition) are not allowed."
<p>2. Campaigning</p>	<ul style="list-style-type: none"> • United Nations (UN): United Nations Human Rights Committee, General Comment 25: "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. The results of genuine elections should be respected and implemented." United Nations Convention Against Corruption: "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties." • EISA and Electoral Commissions Forum of SADC, PEMMO: "The use of public assets and funds for political party purposes should be regulated in order to level the playing field for political competition."

Area of funding regulation	Relevant Standard
	<ul style="list-style-type: none"> • Commonwealth Independent States (CIS) <p>Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the CIS: "The candidates, political parties (coalitions) participating in elections should, with periodicity stipulated by the laws, submit to the electoral bodies and/or other bodies, mentioned in the law, information and reports on receipt of all donations to their election financial funds, on their donors as well as on all their disbursements from those funds on financing of their election campaign. The electoral bodies shall provide for publication of the said information and reports in mass media and means of telecommunications mentioned in the laws."</p>
<p>3. Reporting / oversight / sanctions</p>	<ul style="list-style-type: none"> • African Union <p>African Commission on Human and Peoples' Rights Guidelines on Access to Information and Elections in Africa</p> <p>20. Political parties and candidates (including independent candidates) shall proactively disclose the following information:</p> <p>(i) Assets, investments, membership subscriptions, subventions and donations; and (j) Financial schemes initiated.</p> <p>21. The legal framework of States Parties shall provide for the proactive disclosure by political parties of: (a) Receipt of campaign funding from both public and private sources; (b) Campaign expenditure broken down into distinct line items and specifying the sources of funding and actual amounts; Annual audited financial reports; and (d) All other information, proactively disclosed or available on request.</p> <ul style="list-style-type: none"> • SADC: <p>SADC Parliamentary Forum, Norms and Standards for Elections in the SADC Region: "(The Electoral Commission) should be empowered to ensure that proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts."</p> <ul style="list-style-type: none"> • Council of Europe <p>Recommendation (2003)4: "States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions."</p>



5. Something positive for Namibia – The Electoral Act of 2014

The regulation of political finance in Namibia was modernised with the enactment of the Electoral Act (No. 5) of 2014 to replace the old Electoral Act (No. 23) of 1992, which was almost completely silent on political finance issues.

When he motivated for the new political finance regime – specifically the implementation of regulations regarding the funding formula as contained in article 154 of the 2014 law – in the National Assembly in April 2015, finance minister Calle Schlettwein²⁰ had the following to say about the importance of state funding for political parties:

“When the Electoral Act was passed in this august House at the end of last year, we have realised that political parties and candidates need access to money in order to reach out to the electorate and explain their goals and policies, and receive input from the people about their views. We also recognised that political finance has a positive role to play in our democracy: (a) it helps strengthen political parties and candidates, and (b) it provides opportunities to compete on more equal terms. Indeed, sufficient access to funding is crucial to the overall vibrancy of an electoral and democratic system, which helps citizens believe in (and trust) politics and politicians.”

Against this backdrop, the 2014 Electoral Act²¹ is very clear and relatively comprehensive about how political parties must handle their finances and funding and how they should maintain their financial accounts, as well as methods of reporting on such accounts and how the public should be afforded access.

Table 4:
The Electoral Act of 2014 on Namibian political finance regulation

Article	Regulatory parameters
139 (Declaration of assets and liabilities)	Within 60 days of the end of its first year as a registered political party, a party must submit accounts of its assets and liabilities to the Electoral Commission of Namibia (ECN). ECN must open up such accounts for public inspection within 30 days of receiving such. Failure to submit such accounts will result in deregistration of the party.
140 (Records and audit of registered political parties)	Registered political parties must maintain records of all donations, “showing the sources of its funds and the name of every person who has contributed to the funds”, and all transactions related to such donations. Such records should be accessible to all members of such parties and parties must have their finances audited every year. The audited accounts must be submitted to the ECN and be published in at least two daily newspapers.
141 (Disclosure of foreign and domestic financing of political parties, organisations or other persons)	Political parties or their members may receive and accept foreign funding or donations, up to a prescribed limit for any financial year, to be used for campaigning, provided such funds and their sources are publicly disclosed and the details of such funding declared to the ECN in the prescribed manner and time.
142 (Obligations of political parties to provide information to the Commission)	The ECN may at any time request records and accounts related to party funding and finances from any political party in order to assess compliance with the law. A political party must comply with such a request.
154 (Funding of political parties)	“The National Assembly must fund political parties with monies appropriated by Parliament for that purpose.”

20 See ‘Tabling of Determinations to be issued by the Minister of Finance under the Electoral Act, 2014 (Act No.5 of 2014) in the National Assembly’ at https://docs.google.com/document/d/1sPNBA5vZRxnwVix5i5k4MarzV_yGyEsevgDN3k8fQ/edit?usp=sharing
21 See https://laws.parliament.na/cms_documents/electoral-bd560ee15c.pdf

155 (Formula for funding of political parties) ²²	... "funds are allocated in accordance with a formula - (a) determined by the Minister responsible for finance, with the approval of the National Assembly; and (b) based on the principle of proportional representation as contained in Article 49 of the Namibian Constitution"
156 (Payment of allocated funds to political parties)	In the absence of any impediment preventing such, funds allocated to any political party in parliament must be paid into a designated bank account by the National Assembly secretariat.
157 (Utilisation of funds allocated to political parties)	Political parties may not spend state allocated funds to pay their MPs and councillors, or on party related business activities, or any activities which do not relate to the party's political activities. If a party is no longer represented in parliament, any unspent money must be returned to the state.
158 (Political parties to account for funds)	Political parties must have separate bank accounts and keep separate books for funds received from the state and designate an office bearer to be responsible to account for such funds and report on their use and application. The Auditor-General may at any time audit a political party's accounts to assess compliance with audit stipulations.
159 (Recovery of monies irregularly spent by political parties)	"If any monies allocated to a political party in terms of section 157 have been spent in contravention of the requirements of this Act, the political party concerned is liable to repay the National Assembly or the National Council the monies that were irregularly spent, subject to interest as may be determined in terms of section 2 of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975)."
160 (Secretary to report to the National Assembly on allocated funds)	"Within three months after the end of the financial year, the Secretary of the National Assembly must submit all received audited statements of political parties allocated funds during the past financial year to the National Assembly for discussion."
161 (Surplus monies as at end of financial year)	"Any unspent monies as at the end of the financial year of a political party in the separate banking account kept by the political party in terms of section 158(1)(a) must be shown in the political party's books and records of account concerned as a credit balance carried forward to the next financial year, ..."

It should be noted that articles 139 to 142 apply to all registered political parties, irrespective of whether they have representation in parliament, while articles 154 to 161 apply to only those political parties represented in parliament. In effect then, political parties in parliament are doubly and more stringently regulated.

Articles 139, 140, 141 and 158 are of particular concern, and underpin and inform all the others in this discussion. These articles clearly obligate political parties to keep proper records, to submit such records to the electoral commission, and to make such records public in prescribed forms and by set deadlines, whether through the ECN or under their own volition as obligated by law.

It is against this set of legal provisions laid out in the 2014 Electoral Act that any discussion of the status of political finance in Namibia should commence. And the fact is that for the most part, political parties, whether in parliament or not, are not complying with these legal obligations nor are electoral authorities convincingly compelling them to do so as a matter of urgency. When this paper was finalised in October 2019, it was exactly five years to the month since the enactment and signing into force of the 2014 electoral law, and almost four-and-a-half years since the promulgation of some regulations around state funding of political parties²³. The ensuing sections (6 and 7) speak directly to the state of law enforcement and regulation by the ECN, as well as to the state of compliance of political parties with the provisions of the 2014 Electoral Act.

²² Government Gazette No. 5750 can also be accessed on the Legal Assistance Centre website at: <http://www.lac.org.na/laws/2015/5750.pdf>

²³ Strikingly and interestingly, especially given the significance of Government Gazette No. 5750, there's no link to it on the National Assembly website, as there are for other regulations pertaining to the electoral law. However, a copy of Government Gazette No.5750 was provided to the authors by Ms Carola Engelbrecht, who was a key informant for this paper.



6. State of regulation – Responses from the Electoral Commission of Namibia (ECN)

As far as the authors of this study could ascertain, the political finance sections of the 2014 Electoral Act had largely yet to come into force by October 2019, and as previously indicated, consequently a situation pertained of erratic and/or partial compliance with the relevant sections of the law.

According to the Electoral Commission of Namibia (ECN) this was because the primary regulations that effectively obligated political parties to play open book with their funding and finances, and to account for such, had essentially yet to be gazetted and implemented.

In an email response to questions related to this issue, the ECN stated: “In terms of the Electoral Act, “prescribe” means prescribed by way of regulations²⁴. Both sections 139 and section 141 of the said Act refer to a “prescribed form” as well as a “prescribed amount”. In order to facilitate this, the Electoral Commission held a workshop and several consultative meetings with political parties to enable the parties to agree on this “prescribed amount” as referred to in section 141.

“This was agreed upon during this year [2019] and a draft of the regulations is currently with the Directorate: Legislative Drafting in the Ministry of Justice and will only be gazetted after it has been approved and certified by them²⁵. Therefore, sections 139 and 141 are not currently in operation. Since the Act provides that the Commission will determine when it will come into operation, the Commission will consider the issue once the Regulations are gazetted.”

The ECN also claimed that “a good majority” of political parties have “complied to submit audited financial records”, but did not provide further information to substantiate this statement (see section 7 for more on this).

With regard to compliance under article 158, the ECN stated: “With regard to section 158, which is applicable to political parties represented in parliament, parties are slow to submit the requisite auditor’s report and audited statements, but during the previous financial year [2018/19], they did comply.”

However, the ECN then appeared to slightly contradict itself when it stated that “sections 139 and 141 are not currently in operation, hence, political parties will only be compelled to adhere to the regulations once it comes into operation.”

The communication added that “in terms of section 140, the ECN on a continuous basis reminds the parties to comply with the relevant provisions of the Act. Once the regulations are in place, and the Commission had decided on a date for it to come into operation, renewed efforts will be made to ensure strict compliance”.

Interestingly, in terms of section 140, in July 2018, then chief electoral officer Paul Isaak issued a media statement²⁶ in which he noted that most of the political parties represented in parliament had submitted annual audited accounts since 2015. This is slightly at odds with the recent ECN statement, as quoted, about waiting on the regulations to be in place before assertively enforcing this section of the law.

That aside, no explanation has been provided for why regulation formulation and implementation has been so slow since 2014.

When asked for her assessment of this regulatory stance and status, electoral governance activist and the director of Citizens for an Accountable and Transparent Society (CATS) since 2007, Carola Engelbrecht, who is a former opposition politician, said the following of the political finance regulatory situation:

“The regulation by the ECN seems to be ineffective to date. It has been almost five years since the promulgation of the Electoral Act of 2014, but adherence by both the ECN and those institutions / persons obliged by law to comply with the stipulations has not been consistent.

“The fact that the ECN has yet to finalise and gazette [the regulations] is an indication that the ECN has not [fully] taken up its mandate in this respect.”

²⁴ The draft regulations are apparently titled ‘Regulations relating to the Declaration of Assets and Liabilities of Political Parties and the Disclosure of Foreign and Domestic Financing of Political Parties, Organisations or other Persons’

²⁵ At a meeting on 24 October 2019, between the ECN and civil society representatives, it was indicated by the ECN that the regulations would be gazetted in early November 2019.

²⁶ Go to: <https://drive.google.com/file/d/0B05xdd8StNNScqZ4UmRLM2Ftr0xYzFGQVJMRV92TIVxdXVN/view?usp=sharing>

7. State of compliance – The responses of political parties

The picture of political party compliance with political finance rules is a mixed, but generally unsatisfactory, in terms of transparency²⁷.

In July 2018 it was reported²⁸ that, with the exception of the ruling Swapo Party, all parties in parliament had been erratic in the submission of their audited financial statements to the ECN since 2014/15.

A list of questions about compliance with the political finance provisions of the 2014 Electoral Act was sent to all 10 political parties represented in the National Assembly. By end of October 2019 only six (6) had responded to the questions.

The political parties that responded are the official opposition Popular Democratic Movement (PDM), the All People's Party (APP), the Republican Party, SWANU, the United People's Movement (UPM) and the Workers Revolutionary Party (WRP). The ruling Swapo Party, the Rally for Democracy and Progress (RDP), the National Unity Democratic Organisation (NUDO) and the United Democratic Front (UDF) did not respond.

As far as compliance with the law goes, by end August 2019, out of the six parties that responded to the questions only the PDM appeared to be in substantial compliance with the law, stating: "The PDM has submitted its audited financial statements to the ECN every year since it received its first payment in April 2015 as required by the relevant Act."

However, despite the ECN claim that there was significant compliance with submitting financials for the 2018/19 period, it appeared that none of the respondent parties had submitted audited financial accounts for 2018/19 by end August 2019.

Most respondent parties indicated that they were in the process of finalising their financials for 2018/19 for submission to the ECN, while the WRP indicated it was not in a position to account for funds received from the state because of disputes²⁹ around access to a bank account into which such funds had been paid. With the exception of the WRP, all the others also indicated that they employ auditors to audit their financials, as required by the electoral law, and that in most cases a designated senior party office-holder (usually the treasurer) signed off on the financial accounts.

Concerning public access to political parties' financials, in November 2017 the Popular Democratic Movement (PDM) became the first political party to publicly release its financial statements to the media at a media conference in Windhoek. While it was not released as prescribed by law – advertised in two daily newspapers – it nevertheless was a significant step in terms of political finance transparency. On 3 July 2018 the PDM again held a media event at which it released its annual financial statements³⁰.

As far as the researchers could establish, over the last five years, since the law came into effect in late 2014, only the Swapo Party (see Image 1: Advertised Swapo Party financial accounts) and the UPM have advertised their audited financial accounts in two newspapers (albeit weekly newspapers). Swapo Party only did so once since 2015, as far as could be established, at the end of March 2018, while the UPM also did so in 2018, advertising its audited accounts in the weeklies Windhoek Observer and Confidente.

²⁷ It should be noted that according to the Electoral Act of 2014, if political parties and movements do not regularly submit financial accounts as prescribed by law, then they can be de-registered by the ECN.

²⁸ See <https://neweralive.na/posts/opposition-fails-to-account-for-millions>

²⁹ Two factions within the party have claimed access to the bank account and funds and the matter has been to court, involving a prominent banking institution and the Speaker of the National Assembly in the process. As of end-October 2019 the controversy - including allegations of corruption and mismanagement - have yet to be resolved.

³⁰ See 'PDM opens its books' at <https://webcache.googleusercontent.com/search?q=cache:SI4loHciSmUJ:https://www.namibiansun.com/news/pdm-opens-its-books2018-07-03+&cd=4&hl=en&ct=clnk&gl=na>



Image 1: Advertised Swapo Party financial accounts (Confidante, 29 March – 4April 2018)

Page. 6 | 29 March - 04 April 2018 CONFIDENTE *Lifting the lid*

SWAPO PARTY OF NAMIBIA

SWAPO PARTY OF NAMIBIA
POLITICAL FUNDING ACCOUNT
Condensed Annual Financial Reports for the years ended 31 March 2015, 2016 and 2017

CONDENSED STATEMENT OF FINANCIAL POSITION

Figures in Namibian Dollars	2017	2016	2015
Assets			
Current Assets			
Swapo Party intercompany balance	3,970,457	4,755,906	1,739,108
Cash and cash equivalents	85,280,791	47,255,900	11,578,969
Total Assets	89,251,248	52,011,806	13,318,077
Accumulated surplus			
Accumulated surplus	89,251,248	52,011,806	13,318,077
Total Surplus	89,251,248	52,011,806	13,318,077

CONDENSED STATEMENT OF RECEIPTS AND PAYMENTS

Figures in Namibian Dollars	2017	2016	2015
Political funding income	98,736,285	79,755,307	28,299,877
Interest received	3,672,597	1,212,575	886,343
Political funding expenditure	(65,169,440)	(42,274,153)	(40,068,475)
Surplus/(Deficit) for the year	37,239,442	38,693,729	(10,882,255)

CONDENSED STATEMENT OF CHANGES IN FUNDS

Figures in Namibian Dollars	2017	2016	2015
Accumulated surplus at beginning of the year	52,011,806	13,318,077	24,200,332
Surplus (Deficit) for the year	37,239,442	38,693,729	(10,882,255)
Accumulated surplus at end of the year	89,251,248	52,011,806	13,318,077

SECRETARIAT'S STATEMENT

The publication of the above condensed annual financial reports is done in terms of the requirements of the Electoral Act of Namibia. These condensed annual financial results should be read in conjunction with the complete set of annual financial reports for the years ended 31 March 2015, 31 March 2016 and 31 March 2017 which are available for inspection at the Electoral Commission of Namibia.

The Secretariat is required to maintain adequate accounting records of the political funding received in terms of the Electoral Act of Namibia and is responsible for the content and integrity of the annual financial reports and the related financial information included in the annual financial reports. It is the Secretariat's responsibility to ensure that the annual financial reports fairly present the state of affairs of the political funding financial position as at the end of the financial year and the results of the political funding operations for the financial year then ended, in conformity with the cash basis of accounting. The external auditors are engaged to express an independent opinion on the annual financial reports.

The condensed annual financial reports set out herein, which have been prepared on the going concern basis, were approved by the Secretariat and was signed on its behalf by:

Hon. N. Ngatjizeko
Secretary for Finance

Hon. N. Mbumba
Secretary General

AUDITOR'S STATEMENT

These condensed annual financial results should be read in conjunction with the complete set of annual financial reports for the years ended 31 March 2015, 31 March 2016 and 31 March 2017 which have been audited by BDO Namibia who have issued unmodified audit opinions thereon. The auditor's reports on the annual financial reports are available for inspection at the Electoral Commission of Namibia.

BDO
Registered Accountants and Auditors
Chartered Accountants (Namibia)

Windhoek
22 March 2018

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With the exception of the WRP, the political parties that responded to the questions from the researchers indicated that their financial accounts were regularly presented to their members at party meetings and that for some parties previous audited financial accounts should be publicly available at the ECN.

Notably, only the PDM, responding to the request by the researchers for access to the party's financial accounts, emailed audited accounts for the 2016/17 and 2018/19 financial years, while the Republican Party said the researchers could view them at the ECN.

8. Conclusion

The regulatory handling of political finance and the accompanying issues in Namibia continue to be a cause for concern, even as it does not appear to be a priority political issue for most Namibians.

That enforcement of legal provisions is spotty at best and that compliance by political parties comes across as erratic does not bode well for the integrity of a system and its processes, which are meant to safeguard the spending of public funds on political parties, and by extension, the maintenance of Namibian democracy.

It can be reasonably concluded that many political parties appear not to have taken an earnest interest in complying with the Election Act of 2014. Neither, it appears, has the ECN been robust and transparent in terms of their enforcement responsibility.

However, the situation has improved substantially, especially on paper, since the pre-2014 period when the public had almost no access to the financial accounts of political parties and there was little one could do to legitimately compel them to release information about their finances and funding.

In this regard, there are important improvements that should be commended in recognition of the conditions that pertained at the time the NURU study was done in late 2009 to early 2010. First, Namibia's political finance rules, as captured in the 2014 Electoral Act, are highly developed and quite comprehensive, as well as significantly in line with global best practices, and certainly amongst the leaders on the continent.

Even so, it is clear that transparency and accountability in the political finance sphere remain contentious and highly concerning and speak to an environment of decidedly lax oversight and regulatory inertia, as on the face of it there appears to be no significant reason why regulations for the effective implementation of the political finance provisions in the 2014 Electoral Act could not have been finalised and gazetted since October 2014, when the law came into force.

As the country entered another significant political period with elections scheduled for 27 November 2019, in the midst of a severe and prolonged recessionary climate, the importance of this issue cannot be overemphasised.



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Frederico Links has been an IPPR Research Associate since 2009. He has focussed on democracy and elections, party political finance, empowerment policies, internet governance, cybersecurity and public procurement. He has previously worked as a journalist for a range of Namibian publications. He is the current Chairperson of the ACTION Coalition which campaigns for greater access to information in Namibia.

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About Democracy Report

Democracy Report is a project of the IPPR which analyses and disseminates information relating to the legislative agenda of Namibia's Parliament. The project aims to promote public participation in debates concerning the work of Parliament by publishing regular analyses of legislation and other issues before the National Assembly and the National Council. Democracy Report is funded by the Embassy of Finland.

About IPPR

The Institute for Public Policy Research (IPPR) is a not-for-profit organisation with a mission to deliver independent, analytical, critical yet constructive research into social, political and economic issues that affect development in Namibia. The IPPR was established in the belief that free and critical debate informed by quality research promotes development.

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