

Politics and judicial decision-making in Namibia: Separate or connected realms?

*Peter VonDoepp*¹

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-à-vis other branches of government?²

To investigate this question at the heart of the study, I undertook a statistical analysis of nearly 250 decisions made by judges of the High and Supreme Courts since the country's independence in 1990. 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 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 period during which decisions have been taken, and regardless of the type of case being decided. This said, the analysis tentatively suggests that one category of judges – foreign judges appointed in the mid-1990s – has displayed a modest tendency to side with government. This tendency has been somewhat more apparent since 2000, when such judges became the target of attack from political circles after their

1 The author expresses his gratitude to the Institute for Public Policy Research, which provided generous support during the period when data was collected and analysed for the study. I am also grateful to the Legal Assistance Centre, whose library was used to collect much of the data for the study.

2 The paper builds on and modifies slightly the findings from an earlier working paper published with the Institute for Public Policy Research (IPPR) in Windhoek, Namibia. The earlier draft can be found on the IPPR website at <http://www.ippr.org.na/publications.php>.

decisions in certain cases. This is not to suggest that such judges have been wholly obsequious to the government; to the contrary, such is not the case and in several instances they have rendered important anti-government decisions. Nonetheless, 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 the 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 to 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 to side with the government in cases in which the president was involved. This suggested that these judges were concerned about how the executive branch would react to their decisions and, accordingly, tailored their decision-making in favour of the executive – a clear problem in terms of judicial independence.³ 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 in the foreseeable future.⁴ This raises questions about the extent of independence operating in the country's judiciary.

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

3 VonDoepp, Peter. 2006a. "Politics and judicial decision-making in Namibia: Separate or connected realms?". *IPPR Briefing Paper* No. 39. Available at <http://www.ippr.org.na/publications.php>; last accessed 31 October 2008.

4 Helmke, Gretchen. 2002. "The logic of strategic defection: Court-Executive relations in Argentina under dictatorship and democracy". *American Political Science Review*, 96(2):305–320.

Namibia. The sections that immediately follow describe the process through which this research was conducted and highlight the key findings. This is followed by a concluding section that discusses some of the implications of these findings.

Data

The data for this study consist of 247 individual decisions taken by judges of the Namibian High and Supreme Courts between 1990 and 2005.⁵ The bases for these decisions were 147 cases that came before the courts during this period. Excluded from the data set 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 data set case decisions with the following characteristics:⁶

- 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.
- Decisions in 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, and
- Decisions that could clearly be designated as either *pro-government* or *anti-government*.

While the Law Reports provided the majority of the decisions for the data set, on review it also became apparent that they represented an incomplete source of

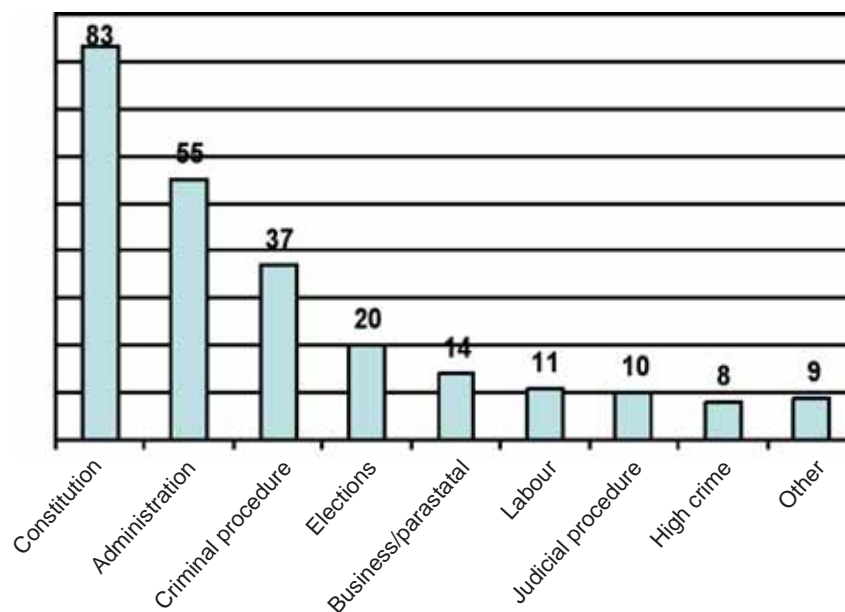
5 In this respect, the analysis offered here uses a slightly different database than that utilised in VonDoepp, Peter. 2008. "Context-sensitive inquiry in comparative judicial research: Lessons from the Namibian judiciary." *Comparative Political Studies*, 41(11):1515–1540. In the latter analysis, a total of 244 decisions were analysed as opposed to the 247 examined here. In the 2008 study, three cases involving municipal authorities were removed from the analysis. Notably, the results and key findings do not change when the same analysis conducted here uses the data set consisting of only 244 cases.

6 Legal Assistance Centre. [Various]. *Namibian Law Reports* (1990–2005). Lansdowne: Juta Law Publishers.

data. As Atkins (1992)⁷ 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 issues 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 10–15% of the decisions included in the data set.

The data include judicial decisions on 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, election disputes, criminal procedure, the actions of administrative agencies, etc.

Chart 1: Decisions by case type



⁷ Atkins, Burton M. 1992. "Data collection in comparative judicial research: A note on the effects of case publication on theory building and hypothesis testing." *Western Political Quarterly*, 43(3):783–792.

Variables

Of greater importance than the type of case associated with the decision, however, is how these cases were decided by judges. 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 were decided against the government, offering some limited evidence of judicial independence in the country.

Table 1: Decisions by individual judges

Court level	Pro-government		Anti-government		Total	
Supreme Court	34	57%	26	43%	60	100%
High Court	78	42%	109	58%	187	100%
Total	112	45%	135	55%	247	100%

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, I am necessarily challenging the image that judicial decision-making is a practice that is insulated from the political environment. Of course, this is the ideal vision of the judiciary that many legal and judicial professionals hope would 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 body of 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.⁸ Seeking to see if such insights applied to the Namibian

8 Ginsburg, Tom. 2003. *Judicial review in new democracies: Constitutional courts in Asian cases*. New York: Cambridge University Press; Iaryczower, Matias, Pablo Spiller & Mariano Tommasi. 2002. "Judicial independence in unstable environments, Argentina 1935–1995". *American Journal of Political Science*, 46(4):699–716.

courts, each decision in the data set was coded according to the following considerations:

- Firstly, 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”.
- Secondly, was the decision taken *before* or *after 2000*? The reason the year 2000 is designated as significant is that it was when the judiciary had to decide a number of contentious cases,⁹ and came under attack as a result of the anti-government decisions that they rendered in those cases.¹⁰ The then Minister of Home Affairs, Jerry Ekandjo, several members of the ruling party, and segments of the 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 is 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.¹¹ For instance, some of my earlier research on the Zambian courts clearly indicated that the Zambian High Court had been less likely to decide against the government in cases in which the president was involved.¹² To the extent that judges are fearful of political

9 Such as the *Sikunda* case and *Osire Stars* case. In the former case, Judge John Manyarara issued an interim edict restraining the Ministry of Home Affairs from detaining or deporting Jose Domingo Sikunda. This interdict is described in *Government of the Republic of Namibia v Sikunda* (SA5/01; SA5/01) [2002] NASC 1 (21 February 2002). In the latter case, Judge Anel Silungwe issued an order restraining the government from deporting or detaining members of the Osire Stars musical group. This is described in *The Namibian*, August 2000. The specific case in question is *Alphonso Ngoma v Minister of Home Affairs*, High Court Case No. A206/2000.

10 See Bukurura, Sufian. 2002. *Essays on constitutionalism and democracy on Namibia*. Windhoek: Out of Africa Publishers.

11 Herron, Erik S & Kirk A Randazzo. 2003. “The relationship between independence and judicial review in post-communist courts”. *Journal of Politics*, 65(2):422–438; Iaryczower et al. (2002).

12 VonDoepp, Peter. 2006b. “Politics and judicial assertiveness in emerging democracies: High Court behavior in Malawi and Zambia”. *Political Research Quarterly*, 59(3):389–399.

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:

- Firstly, 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, i.e. cases that were on the government radar at the time they were being heard. Unfortunately, the only way to make this determination was to allow the author some subjectivity in assessing, in each specific case, the extent to which government had an interest. 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".
- Secondly, 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".
- 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 organisations who 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 is 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.¹³ 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:

- Firstly, 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.
- Secondly, was the judge in question appointed after the first term of the Founding President, Sam Nujoma? The reason for designating decisions on this basis is that, during Sam Nujoma’s first term of office, the judiciary demonstrated, via several highly visible decisions, that it was willing to take an independent line vis-à-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 seeks to place loyalists on the bench.¹⁴ If this were the case in Namibia, we would expect judges appointed after 1994 to side with the government more than judges appointed prior to that date. In the analysis that follows, this variable is labelled “post-1994 appointee”.
- Thirdly, was the judge in question a foreigner? Foreign judges have also been the target of government attack. As above, this begs the question of whether they have demonstrated different tendencies in decision-making compared with other judges on the bench. In the analysis below, this variable is labelled “foreigner”.

13 Segal, Jeffrey & Harold Spaeth. 1993. *The Supreme Court and the Attitudinal Model*. New York: Cambridge University Press; Tate, C Neal. 1981. “Personal attribute models of the voting behavior of US Supreme Court Justices: Liberalism in civil liberties and economics decisions, 1946–1978”. *American Political Science Review*, 75(2):355–367.

14 Ramseyer, Mark J & Eric B Rasmusen. 2001. “Why are Japanese judges so conservative in politically charged cases?”. *American Political Science Review*, 95(1):331–344; Songer, Donald R & Susan Haire. 1992. “Integrating alternative approaches to the study of judicial voting: Obscenity cases in the US Courts of Appeals”. *American Journal of Political Science*, 36(4):963–982.

- Fourthly, important as the general category of foreigner may be, it is also important to recognise 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 or were seconded 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 environments 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 will be seen below, the analysis also prompts the consideration of 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 those most lacking in independence.¹⁵ 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 in terms of what happens in the event of interactions between variables. For example, I consider if it matters that the case was decided not only by a foreign judge appointed after 1994, but also by such a judge *after 2000*. As we will see, such interactions are important for understanding the patterns of decision-making in the Namibian judiciary.

15 Dodson, J Michael & Donald Jackson. 2001. "Judicial independence and instability in Latin America". In Russell, Peter H & David M O'Brien (eds). *Judicial independence in the age of democracy: Critical perspectives from around the world*. Charlottesville, VA: University Press of Virginia; Ramseyer & Rasmusen (2001).

Techniques and cautions

The analysis below is devoted to examining whether and how the factors described above 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. Furthermore, for each model, we ran 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 means of correcting 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 recognises, statistical analysis is but one technique to try to understand social phenomena, and there are potential problems with such techniques. For example, to the extent that the data set is incomplete, then the findings are problematic. Problems can also exist by virtue of certain variables being 'left out' of the analysis. Finally, problems can arise due to the techniques employed. Indeed, the analysis below employs only modestly modified models from those utilised in the original study published by the IPPR. Yet the findings that emerge are different, leading me to be more cautious about my conclusions regarding foreign judges.

Given this, the overall findings should be treated with caution, and should be subjected to review and re-analysis by knowledgeable individuals. To this end, I have listed all of the cases included in this data set in an appendix.¹⁶

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 in question *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.

¹⁶ Furthermore, the data can be accessed by contacting the author.

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)	-.659 (.522)	-.677 (.511)
Post 2000	-.123 (.489)	-.374 (.524)	-.190 (.504)	.061 (.577)	.329 (.586)
Nature of the case					
Political	-.471 (.511)	-.426 (.521)	-.481 (.516)	-.363 (.534)	-.416 (.521)
Elections	-.478 (.791)	-.645 (.783)	-.517 (.797)	-.703 (.778)	-.593 (.812)
Human rights	2.00 (.520) .37 (.088)	2.00 (.549) .34 (.084)	2.02 (.533) .34 (.085)	2.02 (.555) .36 (.087)	2.03 (.539) .37 (.088)
Nature of the judge					
Race	-.084 (.344)	-.400 (.350)	-.319 (.357)	-.345 (.344)	-.252 (.352)
Acting	-.131 (.312)	-.096 (.321)	-.088 (.318)	.013 (.325)	.083 (.326)
Post-1994 appointee	.289 (.440)	.829 (.505)	.431 (.448)	.477 (.494)	.110 (.452)
Foreigner	-.028 (.322)	–	–	–	–
Post-1994 foreigner	–	-1.23 (.478) -.29 (.102)	–	-.397 (.603)	–
Post-1993 foreigner	–	–	-.603 (.399)	–	.142 (.500)
Interactions					
Post-1994 foreigner* Post-2000	–	–	–	-1.30 (.815)	–
Post-1993 foreigner* Post-2000	–	–	–	–	-1.39 (.729) -.30 (.120)
N	247	247	247	247	247
Constant	.048 (.429)	.261 (.375)	.256 (.397)	.151 (.380)	.095 (.404)
Pseudo r-square	.154	.173	.160	.179	.169

* Asterisks denote the use of an interaction term for two variables. Specifically, the two interaction terms listed above indicate that the case was decided by a specific type of judge (foreigners appointed after 1993 or 1994) after the year 2000.

Findings

Overall, the findings indicate that judicial independence has held up fairly well in Namibia. With respect to the first factor of interest, namely 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 2 above: in none of the models was the variable indicating a Supreme Court decision statistically significant. Furthermore, it should be added that in other analyses¹⁷ there was no evidence that significant political cases heard at the Supreme Court were any more likely to be decided in favour of the government.

Similarly, 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 election 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. In much the same way, the variable indicating that the decision was taken in an election 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.

Again, 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% 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 of the liberation struggle, the Namibian courts have been quite accustomed to hearing cases concerning human rights and to upholding those rights. Thus, human rights jurisprudence has a relatively deep history in the country that today’s judges seem to draw upon. Furthermore, Namibia has also been served by very effective and powerful human rights advocacy organisations, such as the Legal Assistance Centre, which have

17 Not shown here; VonDoepp (2008).

provided legal counsel for those seeking legal redress when their rights have been violated. Finally, these cases often 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. Indeed, in several of the cases it may even be that the 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. Similarly, judges appointed after Sam Nujoma’s first term 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 than local judges’ decisions.

Yet interesting findings emerge when we consider 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, foreign judges appointed after 1994 are 29% 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 the ‘most pro-government’ judge, who sided with government in 65% of his decisions in the data, are excluded from the analysis, 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, namely foreign judges appointed after December 1994. With this conceptualisation, we exclude from this category High Court decisions that have been undertaken by one specific judge appointed in October of 1994. Indeed, if we change the category to include decisions by

judges appointed after 1993, hence including this judge's High Court decisions, the results change. As Model 3 indicates, when such decisions are included, creating a variable labelled "Post-1993 foreigner", the results are insignificant. Thus, foreign judges appointed after 1993 are no more likely than their local counterparts to decide cases in government's favour.

In order to obtain more insight into this issue, I interacted the variables "Post-1993 foreigner" and "Post-1994 foreigner" with the variable "Post-2000" in Models 4 and 5. This allows us to see whether decisions by these particular judges taken after 2000 were 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, they were threatened by former Home Affairs Minister Jerry Ekandjo 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 from Models 4 and 5 are somewhat equivocal. On the one hand, they indicate that we cannot statistically conclude that judges appointed after 1994 were more likely to side in favour of government after 2000 than they were before. This said, other analysis, using different statistical models, suggests that they indeed were.¹⁸ Even more suggestively, the analysis indicates that decisions by judges appointed after 1993 have since 2000 been more likely to be in government's favour. The marginal effect statistic indicates that the likelihood of a pro-government decision increased by .30 in the event that the decision was taken after 2000 and was rendered by a foreign judge appointed after 1993.

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. Such will be an important additional step in generating better knowledge about the impact of political factors on judicial decision-making in the country.

Nonetheless, the analysis points to two issues that 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 than others to be in

18 See VonDoepp (2008).

government's favour.¹⁹ The same can be said of election 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.²⁰ Finally, the evidence presented here suggests that, in general, the government has not 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 than those appointed before them.

At the same time, there are some areas of concern. Most notably, there appears to be one category of judges – foreign judges appointed in the mid-1990s – who have tended to side with the government. Does this mean that they always side with government? Absolutely 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 *Mwilima* cases,²¹ have come from foreign judges. Despite this, the analysis tentatively suggests that such judges have displayed a tendency to side with government. Whether this represents a real and durable threat to judicial independence in Namibia remains an issue to be debated.

19 Further analysis by VonDoepp (2008) confirms this.

20 Diamond, Larry. 1999. *Developing democracy: Toward consolidation*. Baltimore, MD: Johns Hopkins University Press.

21 *Mwilima and Others v Government of the Republic of Namibia and Others* 2001 NR 307 (HC); the *Sikunda* reference here is to the interim interdict issued by High Court Acting Justice John Manyarara, inter alia, restraining the Ministry of Home Affairs from detaining or harassing Mr Sikunda. This is described in the case *Government of the Republic of Namibia v Sikunda* (SA5/01; SA5/01) [2002] NASC 1 (21 February 2002).

Appendix: Case list

CASE	YEAR	NOTE
<i>S v Mbali</i>	1990	Court grants evidence may be admitted in diamond trafficking case.
<i>Cabinet of the Transitional Government of South West Africa v Dagnin</i> 1990 NR 14 (HC) 90 NR 14 (HC)	1990	Air accident involving plane and people employed by the Transitional Government of National Unity's Department of Transport. Government takes pilot's son to court to recover losses paid to other deceased in accident.
<i>S v Acheson</i>	1990	Government seeks more time in the Lubowski murder case.
<i>S v Acheson</i>	1990	Bail for Acheson, the accused in the Lubowski murder case.
<i>Minister of Defence v Mwanderinghi</i>	1990	Namibia's Minister of Defence can be held accountable for actions by the Minister of Defence of South Africa.
<i>Mineworkers' Union of Namibia v Rössing</i>	1991	Rössing Uranium seeks to cut salaries and meets court action.
<i>Minister of Defence v Mwanderinghi</i>	1991	The Supreme Court addresses an earlier High Court decision.
<i>S v Kleynhans</i>	1991	Treason case involving white extremists (verdict).
<i>S v Kleynhans</i>	1991	Treason case involving white extremists (sentence).
<i>Oryx Mining v Secretary for Finance</i>	1991	Corporate tax dispute dating back to the apartheid era; question of whether the Supreme Court in Namibia had jurisdiction.
Avis 5 – racially motivated murder	1991	Sentencing decision in murder case. Taken from press report, <i>The Namibian</i> , 9 November 1991.
<i>Djama v Government of the Republic of Namibia</i>	1992	Courts demand the release of a Somali held by the Ministry of Home Affairs.
<i>Limbo v President of Namibia</i>	1992	Original case brought against the Administrator-General of South West Africa/Namibia before independence; sought seeks permission to bring the case against the Namibian President.
<i>Cultura 2000 v GRN</i>	1992	Constitutionality of State Repudiation Act, 1991 (No. 32 of 1991) questioned.
<i>Garoeb and Others v President of the Republic of Namibia and Others</i>	1992	Question of holding regional and local elections at the same time; asks court to declare void the President's setting of dates for the election; call for extension of registration period.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
The Democratic Turnhalle Alliance (DTA) asks for SWAPO Member of Parliament Maxuilili to be muzzled	1992	Effort by the DTA to prevent inflammatory speech ahead of local polls. Taken from press report, <i>The Namibian</i> , 27 November 1992.
<i>S v Hotel Onduri</i>	1993	Discrimination case relating to Ben Ulenga.
<i>Alberts v Government of the Republic of Namibia and Another</i>	1993	Court set limits on the government's ability to redefine citizenship.
<i>African Granite v Mineworkers' Union of Namibia</i>	1993	Eviction order upheld in case where strikers were occupying houses.
<i>S v Van Rooyen</i>	1993	Criminal procedure in fraud case.
<i>Skeleton Coast Safaris v Namibia Tender Board</i>	1993	Question of tender granted by the Namibia Tender Board.
<i>Government of the Republic of Namibia v Cultura 2000</i>	1993	Supreme Court decision on constitutionality of State Repudiation Act, 1991 (No. 32 of 1991).
<i>S v Haita</i>	1993	Criminal procedure in dagga possession case; right to call witnesses.
<i>S v Hansen</i>	1994	Appeal against procedure; issue is access to psychiatrist, courts grants access to psychiatrist.
<i>Kauesa v Minister of Home Affairs and Others</i>	1994	Kauesa makes comments about the white command structure of the Namibian Police and the Inspector-General on TV; question of whether his speech was protected.
<i>Du Plessis v Government of the Republic of Namibia</i>	1994	Du Plessis sues the Government of the Republic of Namibia for not meeting the contractual obligations incurred by the previous administration; the Administration of Whites had granted loan to Du Plessis in January 1990, but the GRN refused to honour it.
<i>S v Nassar</i>	1994	Case cited in press regarding rules of discovery of evidence; the state had to hand over material to defence in a gem case.
<i>S v Strowitzki</i>	1994	Appeal against O'Linn decision refusing appellants application to stay proceedings against him; question of whether the courts have jurisdiction to hear this appeal.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Vlaisu v President of Namibia and Others (including Ministry of Health)</i>	1994	Did government act beyond the scope of its authority when it fired a doctor and caused him economic distress?
<i>S v Heidenrich</i>	1994	Right of accused to a speedy trial.
Koevoet case	1994	Former members of <i>Koevoet</i> (the South African Defence Force's notorious counter-insurgency unit) from returning to Namibia; case not covered in law reports. Court declares that they be allowed entry into Namibia. Taken from press report, <i>The Namibian</i> , 19 August, 1994.
<i>Namib Machine Tools v Minister of Works, Transport and Communications</i>	1994	Plaintiff claims money from Minister of Works, Transport and Communications for goods sold; fraudster acquired goods using false government purchase vouchers.
<i>Eimbeck v Inspector-General of Police and Another</i>	1995	Siggi Eimbeck demands that he gets paid while his case is pending.
<i>Mwandingi v Minister of Defence</i>	1995	Government is sued for the actions of the South African Defence Force; High Court and Supreme Court cases.
<i>Kausa v Minister of Home Affairs and Others</i>	1995	The Supreme Court hears an appeal of an earlier decision made in the High Court; the Supreme Court declares a section of the Police Code from 1964 that infringes on free speech as invalid. Supreme Court does not declare anti-discrimination law invalid, only the law that forbids the police from commenting unfavourably in public on the administration of the force.
<i>Nel v Kalahari Holdings</i>	1995	Contract/payment dispute; Kalahari Holdings belongs to SWAPO.
DTA election case	1995	Do courts have power to open ballot boxes after the 1994 elections?
<i>Eimbeck v Inspector-General</i>	1995	Eimbeck's application to have termination reversed; Eimbeck loses.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
Baster land case	1995	Baster leadership's effort to have properties transferred to its name. Government succeeded in taking properties from them. High Court ruling; Supreme Court ruling is listed below. Taken from press report, <i>The Namibian</i> , 29 May 1995.
<i>Prosecutor-General v Attorney-General</i>	1995	Does the Attorney-General have authority over the Prosecutor-General?
DTA Election Case	1995	Can the court order the opening of ballot boxes? Supreme Court case. Taken from press report, <i>The Namibian</i> , 14 March 1995.
Sex Shop Case	1995	Police confiscation of items from sex shop declared illegal. Taken from press report, <i>The Namibian</i> , 25 September 1995.
<i>Navachab v Mineworkers' Union of Namibia</i>	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 in support of the strikers and in opposition to the Navachab company. See <i>The Namibian</i> , 1 October 1995.
Hartliefs v Union	1995	Court forbids workers from keeping non-strikers from entering the premises; Labour Minister condemns ruling, as do unions. See <i>The Namibian</i> , 12 October 1995.
Sex Shop case 2	1995	Court orders the Ministry of Home Affairs to stop interfering with the Sex Shop's business and demands return of items confiscated. Taken from press report, <i>The Namibian</i> , 1 October 1995.
<i>19 foreigners v Ministry of Home Affairs</i>	1995	Court grants temporary application to foreigners being held by the Ministry of Home Affairs. Taken from press report, <i>The Namibian</i> , 1 November 1995.
<i>21 foreigners v Ministry of Home Affairs</i>	1995	Court tells the government to free 21 foreigners. Taken from press report, <i>The Namibian</i> , 13 November 1995.
Government ordered to allow lawyer access to immigrants	1995	Taken from press report, <i>The Namibian</i> , 19 December 1995.
<i>President of the Republic of Namibia and Others v Vlaisu</i>	1995	Could government appeal the previous High Court decision listed above.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Du Toit v Office of the Prime Minister</i>	1995	Reinstatement of employee; issue was failure to renew employee's contract.
<i>Gauseb v Minister of Home Affairs</i>	1995	Judicial procedure in the case of a man shot by the South African police in Walvis Bay in 1993.
<i>Ohlthaver & List v Minister of Regional and Local Government and Housing</i>	1996	Appeal against a High Court judgment that sided with the ministry; question of rezoning of Post Street.
<i>Rehoboth Bastergemeente v Government of the Republic of Namibia</i>	1996	Supreme Court version of the Baster land case listed above.
<i>Kruger v Office of the Prime Minister</i>	1996	Question of whether money was owed to employee; specifically, whether a supplementary allowance was the same as remuneration under the Labour Act, 1992 (No. 6 of 1992).
<i>S v Angola</i>	1996	Evidence and rules of discovery in fraud and theft case; applicants appeal against lower court ruling refusing to allow discovery.
<i>Namibia Ports Authority v Leningrada</i>	1996	Port Authority seeks to sell confiscated vessel in order to recover port dues.
<i>State v Smith and Others</i>	1996	Constitutionality of anti-discrimination law; this is the case where a Nazi advertisement appeared in the <i>Windhoek Observer</i> . Parliament is given six months to fix the Act.
<i>Hameva and Another v Ministry of Home Affairs</i>	1996	Question of costs in a Legal Assistance Centre case; original decision by Teek and Mtambanengwe.
<i>Julius v Commanding Officer, Windhoek Prison and Others</i>	1996	Civil imprisonment declared unconstitutional.
<i>Hindjou v Government of the Republic of Namibia</i>	1996	Constitutionality of the Income Tax Act, 1981 (No. 24 of 1981); appeal against decision of the High Court full bench.
<i>S v Vries</i>	1996	Constitutionality of mandatory sentences for stock theft; parts of Stock Theft Act, 1990 (No. 12 of 1990) found to be unconstitutional.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Gurirab v Die Republikein</i>	1997	Judge orders Ministry of Trade to hand over documents in libel case against <i>Die Republikein</i> .
Legal Assistance Centre/ <i>Ovahimba</i>	1997	Judge declares that the President cannot ban meetings based on an apartheid era law. Taken from press report, <i>The Namibian</i> , 7 August 1997.
<i>Disposable Medical Products v Tender Board of Namibia</i>	1997	Application to review tender decision.
<i>Koortzen v Prosecutor-General</i>	1997	Rules of discovery for the defence; ruling forced state to provide witness statements to defence.
<i>Swart v Moha</i>	1997	Ruling that a South African citizen in residence for 15 years be granted citizenship without first becoming a permanent resident.
<i>S v Kapika</i>	1997	Admissibility of confessions; accused must be informed of rights.
<i>Kerry McNamara v Minister of Works, Transport and Communications and Others</i>	1997	Locus standi of architectural firm seeking interdict and relief; issue concerns the award of a tender to another firm.
<i>Gurirab v Die Republikein</i>	1998	Permanent Secretary wins lawsuit against the newspaper.
<i>Re Miguel Simao Antonio and the Minister of Home Affairs</i>	1998	Court orders government to stop Neto's removal from the country.
Confession ruled out	1998	Two alleged confessions ruled as inadmissible because the accused were not advised of their right to representation. Taken from press report, <i>The Namibian</i> , 10 November 1998.
<i>Fantasy Enterprises v Minister of Home Affairs</i> <i>Nasilowski v Minister of Justice</i>	1998	Sex shop challenges constitutionality of two laws and wins.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Namibia Wholesale Workers' Union v Democratic Media Holdings</i>	1998	Applicants were retrenched by respondents; labour case involving severance allowances.
<i>Aonin Fishing v Minister of Fisheries</i>	1998	Application for delivery of certain documents in review proceedings.
<i>S v Uahanga and Others</i>	1998	Accused was correctly acquitted by magistrate because prosecution failed to bring speedy trial.
<i>Njathi v Permanent Secretary of the Ministry of Home Affairs</i>	1998	Immigration officer appeals for reinstatement after he was dismissed for unauthorised leave.
<i>Correia v Commanding Officer, Windhoek Prison</i>	1998	Was the detention of a prohibited immigrant lawful?
<i>Namunjepo and Others v Commanding Officer, Windhoek Prison and Another</i>	1998	Leg irons issue; High Court decision.
Hannah decision on gay rights	1998	As described in <i>The Namibian</i> on 6 April 1998.
O'Linn reversal of Hannah decision	1998	Claims wrong party was listed in the dispute. Taken from press report, <i>The Namibian</i> , 6 July 1998.
<i>S v Likuwa</i>	1999	Court declares minimum sentence unconstitutional; challenges Arms and Ammunition Act, 1996 (No. 7 of 1996), thus undermining authority of the legislature.
<i>S v Smith</i>	1999	Reverses conviction of Smith by Hannah on contempt charges; Smith was convicted of contempt by Hannah for refusing to disclose documents regarding the Lubowski murder.
<i>Muller v President of the Republic of Namibia</i>	1999	German national seeks to adopt wife's name; discrimination case.
<i>Frank and Another v Chairperson of Immigration Selection Board</i>	1999	Immigration Board ordered to give Frank permanent residence status.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Namunjepo v Commanding Officer, Windhoek Prison</i>	1999	Leg irons issue; Supreme Court decision.
<i>Hannah v Government of Namibia</i>	2000	Hannah attempts to sue government over labour dispute.
<i>Seaflower Whitefish Corporation Ltd v Namibian Ports Authority</i>	2000	Former sued the latter for overcharging of port fees.
<i>Public Service Union of Namibia and Another v Prime Minister of Namibia and Others</i>	2000	Question of appointment of Permanent Secretary; appellant applied to have decision to appoint a certain candidate for the post set aside.
<i>Nanditume v Minister of Defence</i>	2000	HIV case in the Namibia Defence Force; lots of press coverage.
<i>Sibeya v Minister of Home Affairs</i> <i>Mutumba v Minister of Home Affairs</i> <i>Mazila v Minister of Home Affairs</i>	2000	Does the state of emergency (SOE) apply only to the Caprivi Region? Those arrested under the SOE in other Regions could not be held.
<i>Amakali v Minister of Prisons</i>	2000	Prisons tried to keep plaintiff incarcerated beyond the time of his sentence.
<i>Engelbrecht v Minister of Prisons</i>	2000	Prisoner sues for his treatment while awaiting trial.
<i>Van As v Prosecutor-General</i>	2000	Does a release for failure to bring a speedy trial constitute a permanent stay of prosecution?
<i>Namibia Insurance Company v Government of the Republic of Namibia</i>	2000	Insurance company case.
The DTA contests the Gobabis poll	2000	Taken from press report, <i>The Namibian</i> , 20 October 2000.
Levy order regarding Rundu detainees	2000	Order that three detainees be given access to lawyers. Taken from press report, <i>The Namibian</i> , 26 October 2000.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Alphonso Ngoma v Minister of Home Affairs</i>	2000	Minister of Home Affairs restrained from deporting or detaining Osire Stars.
Sikunda	2000	Report in <i>The Namibian</i> , 25 October 2000; Court (Manyarara) demands that Sikunda be released.
Ekanjo contempt	2000	Teek refuses to compel government to comply with ruling by Manyarara. Taken from press report, <i>The Namibian</i> , 30 November 2000.
<i>Sikunda v Government of the Republic of Namibia (1)</i>	2001	Ekanjo found to be in contempt by Mainga and Hoff.
Settlers on Omitara Farm	2001	Kicks settlers off government land abutting commercial farms; National Union of Namibian Workers calls for eviction order to be ignored. Taken from press report, <i>The Namibian</i> , 25 January 2001.
<i>Chairperson of Immigration Selection Board v Frank and Another</i>	2001	
<i>S v Delie</i>	2001	Case of failing to pay maintenance; question of whether the appeal should proceed to the High Court or the Supreme Court.
<i>Sikunda v Government of the Republic of Namibia (3)</i>	2001	Sikunda release order.
<i>S v Ganeb</i>	2001	Covered in press; court eases appeal process by declaring provision of security to settle disputes as unconstitutional.
<i>Mwilima and Others v Government of the Republic of Namibia</i>	2001	Treason accused to get legal representation.
<i>Mostert v Minister of Justice</i>	2001	Power of Minister to transfer magistrates is upheld.
<i>Gurirab v Government of the Republic of Namibia</i>	2001	Lawsuit against the government for holding Gurirab without granting bail.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Kuaima Riruako and 46 others v Minister of Regional and Local Government and Housing, and The President of Namibia</i>	2001	Chiefs sue government for refusing to recognise them.
<i>Government of the Republic of Namibia v Sikunda</i>	2002	State appeals High Court decision.
<i>Government of the Republic of Namibia v Mwilima</i>	2002	Legal representation case at Supreme Court.
<i>Namibia Grape Growers v Minister of Mines and Energy</i>	2002	Question of property rights and right of government to engage in prospecting under the Mining Act, 1992 (No. 33 of 1992).
<i>Hendricks and Others v Attorney-General of Namibia</i>	2002	Constitutionality of the Immoral Practices Act, 1980 (No. 21 of 1980).
Project Prado/ Government of the Republic of Namibia case	2002	Court orders the government to return vehicles seized under “Project Prado”. Taken from press report, <i>The Namibian</i> , 18 June 2002.
Illicit trade money	2002	Court rules that government can confiscate money used in illicit trade. Taken from press report, <i>The Namibian</i> , 21 November 2002.
Omitara settlers	2002	Ruling refuses to compel government to build fence ‘protecting’ commercial farms from settlers. Taken from press report, <i>The Namibian</i> , 14 June 2002.
Private clinics case	2002	As reported in <i>The Namibian</i> , 13 September 2002; Ministry had ordered that nurses at private clinics stop dispensing medicine; court overruled the Ministry.
<i>Burger and Another v Ministry of Finance and Another</i>	2003	The Minister of Finance tried to cancel the contract with medical service providers; court overruled the action.
<i>Onesmus v Minister of Labour</i>	2003	Employee of Social Security Commission seeks relief against actions of Ministry of Labour; court turns her down.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
Demonstrators' access to Parliament	2003	Court rules in favour of Ministry of Home Affairs as demonstrators try to deliver submissions to Parliament. Taken from press report, <i>The Namibian</i> , 12 February 2003.
<i>Mostert v Minister of Justice</i>	2003	Supreme Court case.
<i>Dresselhaus Transport v Government of the Republic of Namibia</i>	2003	Failure of police to protect overturned beer truck.
<i>Minister of Works, Transport and Communications v Namupembe</i>	2003	Labour case; accusation of unfair labour practices.
<i>Ekandjo-Imalwa v Law Society of Namibia</i>	2003	Constitutionality of Legal Practitioners Amendment Act, 2002 (No. 10 of 2002).
<i>Namib Etosha Group v Tender Board of Namibia</i>	2003	Tender dispute; procedure for reviewing decisions questioned.
<i>S v Zemberuka</i>	2003	Question of constitutionality of Acting Prosecutor-General.
<i>Ndumba v Ministry of Home Affairs</i>	2003	Man shot by Namibian Police is awarded damages.
Congress of Democrats on Electoral Constituencies/Delimitation Commission	2003	Taken from press report, <i>The Namibian</i> , 2 December 2003.
DTA effort to block Grootfontein poll	2004	Taken from press report, <i>The Namibian</i> , 12 February 2004.
Appeal effort by DTA on National Unity Democracy Movement (NUDO)	2004	Could NUDO break away from DTA? Taken from press report, <i>The Namibian</i> , 11 February 2004.
Hoff decision on jurisdiction in Caprivi 13 trial	2004	Taken from press report, <i>The Namibian</i> , 24 February 2004.
Hoff refuses leave to appeal in Caprivi 13 trial	2004	Taken from press report, <i>The Namibian</i> , 5 March 2004.

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
Leave to appeal Hoff decision on jurisdiction	2004	Taken from press report, <i>The Namibian</i> , 18 March 2004.
Caprivi 13 release bid at High Court	2004	Taken from press report, <i>The Namibian</i> , 7 May 2004.
SWAPO struggle in Ongwediva	2004	Could SWAPO replace elected councillors?
Caprivi 13 trial at Supreme Court	2004	Taken from press report, <i>The Namibian</i> , 23 July 2004.
<i>Minister of Home Affairs v Luiza Lomba</i>	2004	Person claims unlawful arrest and detention and seeks damages; was suspected of being an illegal immigrant; magistrate's court awarded damages to her; Minister of Home Affairs appeals.
<i>Van der Berg v Minister of Home Affairs and Ekandjo</i>	2004	Damages claim due to damage done to pick-up truck while in police custody.
<i>Republican Party of Namibia and Another v Electoral Commission of Namibia and Others (1)</i>	2004	ECN ordered to hand over poll documents.
<i>Alweendo v Minister of Home Affairs</i>	2004	Officer shot by police awarded damages.
<i>Republican Party of Namibia and Another v Electoral Commission of Namibia and Others (2)</i>	2005	Recount ordered.
Police Act case	2005	Damaseb declares that sections of the Police Act, 1990 (No. 20 of 1990), giving people only a year to sue the Police is unconstitutional. Taken from press report, <i>The Namibian</i> , 27 May 2005.
Avid inquiry	2005	Heathcote turns down bid to stall Avid inquiry. Taken from press report, <i>The Namibian</i> , 19 July 2005.
<i>Sharunguro v Minister of Home Affairs</i>	2005	Suit for damages incurred while in custody fails.
<i>Munuma and Others v S</i>	2005	Are the accused legally before the court?

Politics and judicial decision-making in Namibia

CASE	YEAR	NOTE
<i>Karuaihe v Minister of Education</i>	2005	Case of mother kicked out of school; judge declares application an abuse of the court process as another application is already pending.
<i>Shiyambi v Minister of Home Affairs</i>	2005	Unlawful arrest; plaintiff seeks damages.
<i>Block and Another v Minister of Home Affairs</i>	2005	Unlawful arrest; plaintiff seeks damages.
<i>Mukenani v Electoral Commission of Namibia</i>	2005	Employment case.
<i>Beyer v Minister of Finance</i>	2005	Public servants found guilty have charges overturned.
<i>S v Munuma and Others</i>	2005	Manyarara claims court has jurisdiction over Caprivi accused.