

Manfred O. Hinz

Namibia still a colony after one hundred years:
neocolonialistic "protection" to fence off self-
determination?

1. 1884 - 1984

On May 1, 1883 and August 25, 1883 the Bremer trader F.A.E. Lüderitz, represented by Heinrich Vogelsang, and Josef Frederiks of Bethanien signed the first contracts concerning the sale of Namibian land. Irrespective of their dubious status, they documented Lüderitz's land acquisition. Their object, free hold land sale, run counter to traditional Namibian views. Moreover, Frederiks found himself obliged to a five-fold land release: in the second contract he was deceived into believing a geographical mile was an English mile. On April 24, 1884 Bismarck instructed the German Consul in Capetown to declare Lüderitz's acquisitions to be territories under German protection. On October 28, 1884 the Kaiserlicher General Consul and Commissioner for West Africa, Dr. Nachtigall, entered a "protection and friendship agreement" with Josef Frederiks. Not many days later, on November 15, the Berliner Congo Conference opened to produce with its final declaration a document decisive for the colonial order and outlook.

Up to our days, we may occasionally hear of Lüderitz's "purchase" as of a normal legal title that justified the German Reich's colonial ruling in Namibia. So it is by no means unimportant to study those contracts and agreements of sale and friendship. However, the first colonialistic steps were not a matter of legitimation and jurisprudence. The parties convened at the Berliner Congo Conference needed no other legitimation, but their conviction to be the herolds of a civilisatory mission from which the right to colonize emanated. As a matter of course, economic interests were openly acknowledged as part of this mission. In contrast, the above Protection and Friendship Agreement of October 1884 was full of sovereignty pathos putting on the same foot "His Majesty the German Kaiser" and the "independent Lord of Bethanien in Great Namaqualand". Bismarck himself spoke in a separate, but similar context (the Carl Peter's contracts in East Africa) of documents marked with "nigger crosses" that for themselves would not bind him poli-

tically or legally. The relevance of such agreements and contracts consisted exclusively in that they allowed - when needed - an engagement in a territory coveted as a colony. In particular, they helped in keeping out other colonial powers.

In this year 1984, Namibia is still a colony. The Republic of South Africa, today's colonial power, sets forth its occupation despite unmistakably compelling UN resolutions. And it is trying to undermine Namibia's 18 year old struggle for independence also through agreements that rightly evoke those of 1883 and 1884 and aim at neutralizing the external front. On the internal front, after the failure of the Democratic Turnhalle Alliance (DTA) the Multiparty Conference (MPC) has emerged as the new body to lead Namibia into neocolonial (in)dependence.

2. South Africa's manoeuvres to frustrate Namibia's independence efforts

2.1.

A comparison of the Nkomathi Agreement of 16 March 1984 between South Africa and Mozambique with the Lusaka Agreement of 16 February 1984 between South Africa and Angola quickly makes clear how South Africa is manoeuvring on the external front to prevent Namibia's independence along the lines of the 1978 Resolution 435 of the UN Security Council. The Nkomathi Agreement does not explicitly touch on the Namibia issue. Nonetheless, we have to consider it because it really unveils the set up that fits South Africa's pacification interests while the Lusaka Agreement has not been publicised in its integrity.

The Nkomathi Agreement (non-aggression pact and agreement on good neighbour relations between the Government of the People's Republic of Mozambique and the Republic of South Africa) raises questions right from its preamble. Emphasis is put on both sides' wish to recognise the "principle of strict respect of sovereignty and territorial integrity"; the "principle of non-interference in internal affairs of other states"; the principles of international law for self-determination and independence; the duty for a state not to use force, i.e. the duty to solve conflicts by peaceful means; etc.

It is not uncommon for international agreements to refer to international law principles or to resolutions of international bodies. In the Nkomathi Agreement, however, such references are very generic and not documented, for instance the lengthy preamble does not mention the UN Charta or texts of similar dignity. The Nkomathi Agreement just ignores the existence of Article 7, Para. 7, of the UN Charta on the peaceful solutions of conflicts and non-interference in other states' internal affairs. Radar Asmal submitted to the ANC an analysis of the Nkomathi Agreement and offered some explanations for this South African approach. Like the colonial agreements of one hundred years ago, a pathos of sovereignty and peace is fostered which is instrumental in concealing the real situation of South Africa vis-à-vis Mozambique and the front line states, and within the international community. Apartheid continuously provokes and nourishes the South African conflict fire. To get around this knot of problems in a bilateral agreement with generic references to international principles only means getting around UN resolutions focusing on Apartheid and Namibia. In 1963 the UN General Assembly stated that Apartheid represents a serious threat to international peace. In 1965 the General Assembly asked the Security Council to respond to South Africa's threat to international security with sanctions in accordance with Chpt. VII of the UN Charta. In 1977 the Security Council made a first use of this clause imposing an international arm embargo against South Africa. In the same line are numerous measures taken mainly by the General Assembly, e.g. the Resolution 3060 (XXVIII) concerning the fight against and the punishment of apartheid crimes where Apartheid is exposed as a crime against humanity. Also related are UN resolutions on Namibia: Resolution 2145 (XXI) of the General Assembly in 1966; and the 1969 Security Council Resolution 269 firmly holding that South Africa's mandate on South West Africa had expired and that its continued occupation of Namibia was illegal. The last of all those resolutions is the Security Council Resolution 435 of 1978 which calls for Namibia's independence through free elections under UN supervision.

All these texts make clear that apartheid - the distinctive mark of the general situation in Southern Africa - is in no way an internal South African problem. Oppression of the great majority of the South African population and their deprivation of rights represents

an international problem on which international bodies already made legally compelling interventions, also clearly indicating their will to intervene again in the future.

We do not discuss the Nkomathi Agreement's legal consequences for ANC's freedom struggle in South Africa, but the points made here may suffice to characterize its political dimension: under the pretext of a peace initiative between equals, South Africa has scored at least a short term success for its policy. More precisely, at least as long as the insight prevails that the Nkomathi Agreement is null and void to a great extent (because it collides with compelling norms of international law) or that it does not concern at all apartheid and the fight against it.

Very different from the Nkomathi Agreement is the Lusaka Agreement of 16 February 1984 between South Africa and Angola. It is not a non-aggression pact. Although South Africa's interest must have been to lure Angola into an Agreement similar to that signed with Mozambique, it only obtained an arrangement for a mixed commission to supervise the South African forces' retreat from Angola and the ceasefire on the Angolan-Namibian border. The Angolan President, Dos Santos, has explicitly stated that his country does not deem it necessary to enter a non-aggression pact with South Africa. However, Angola is very much interested in supporting all efforts for a modus vivendi among countries in the region. No trade-off is implied herein since it is ruled out from the outset that Cuban troops should withdraw from Angola or that Angola's Namibia policy should renounce Resolution 435 essentials. Besides, the reality of the modus vivendi does not look encouraging. The South African withdrawal from Angola should have been accomplished in March 1984, but according to a communication of 21 June 1984 from Angop, the official Angola press agency, two South African bataillons were then still stationed 40 km north of the border. Similarly, it can be fairly assumed that South Africa is still training, arming and sending into Angola Unita troops.

2.2.

South Africa's attempt to neutralize internally Namibia's independence aspirations channelling them into a neo-colonial mould go back to the year 1975. In that year South Africa turned to a new tactic. It convened a Constitutional Conference that was supposed to lay down the legal foundation for the future Namibia. Taking

part, were representatives of white parties and also a number of chiefs who hoped for personal advantages in collaborating with the colonial lords. The Conference took place in Windhoek in a sport hall (Turnhalle) and so became known as Turnhalle Conference. In 1977 a Democratic Turnhalle Alliance (DTA) was formed under South African auspices. South Africa arranged 1978 for token elections to pre-empt elections under UN supervision. Pressure and intimidation were put on the black population to force people to vote for pro-South Africa groups. SWAPO was not participating. Beside DTA, only groups even further on the right presented candidates. 41 out of 50 seats went to DTA, the rightwing Aktur took 6.

DTA abolished the small apartheid laws, like those on mixed marriages, passports, land acquisition by blacks. The big apartheid, i.e. the reservations, were kept in force. "Against race discrimination", a new law was passed on urban residential quarters and public facilities.

In 1980 the National Assembly elected a Council of Ministers as an executive body. Its members were DTA chairman Dirk Mudge (white) and one representative each from 11 ethnic groups.

In 1980 the so called second level elections were held. Again SWAPO did not take part since the elections were an instrument for deepening ethnical division. South Africa started a public relations campaign on a world scale praising the new system which would ensure to all Namibian population groups a saying in the political decision making. Dirk Mudge, the chairman of the Ministerial Council, resigned in 1983 revealing the white Namibians' growing discontent with their economic dependence on South Africa. South Africa had to resume formal direct control of the country again.

In 1983 it was time for second start with the so-called Multiparty Conference (MPC). Signatories were SWANU, DTA, the Damara Council, the SWAPO Democrats and the Rehoboth Freedom Front. The aim of the Conference was to establish political conditions to ease the path towards internationally recognised independence. As the Conference opened, the Namibian Christian Democrat Party (NCDP) joined it, while the National Party - Namibia's counterpart to South Africa's Government party - took the status of an observer.

The MPC turned out to be a replica of DTA as its approach to UN Resolution 435 quickly showed. At the beginning,

the Resolution seemed to find at least some mention in the discussions, but soon they turned away from the idea that it should be the basis of Namibia's independence. In their declaration of February 1984, the MPC set for themselves the task of establishing a lasting constitutional framework. This shift of interest went ahead amid endless quarrels. Already in December 1983, the NCDP had left the Conference, the NP had joined it. In March 1984 the Demara Council led by Justus Garoëb also left, with the explicit justification that the MPC was trying to promote itself as an alternative to Resolution 435. In SWANU two groups emerged. The first (of which we shall mention Nora Chase) advocated a collaboration with SWAPO, while the SWANU President, M. Katjinongua, stuck to the MPC - supporting, however, Resolution 435 of which he demands a "more pragmatic" implementation.

In May 1984 South Africa held negotiations with the SWAPO in Lusaka being represented by its General Administrator for Namibia van Niekerk together with MPC delegates. The situation had already radically changed. Siding with SWAPO were people from the Demara Council, the NCDP, the Namibia Council of Churches and the oppositional SWANU wing.

3. One hundred years colonialism are more than enough

The already mentioned Angop report of 21.6.84 also says:

"There is only one explanation for the dust cloud whirled up by South Africa for the benefit of the international community and especially of the African states when it decided to accept negotiations with Angola: it has got lots of internal difficulties caused by its war against its neighbours. SWAPO's struggle in Namibia, ANC's struggle in South Africa, the Angolan offensive for destroying the puppets and driving off the country the invasion troops, all this has precipitated an immense economic crisis that makes impossible for South Africa to pursue the war on all fronts.

Thus, Pretoria's readiness to enter negotiations with Angola is understandable. And still, it cannot be concealed that South Africa has not given up its treacherous games. It does not intend to leave Angola, it has not stopped supporting its Angolan puppets nor it is willing to sign a ceasefire with SWAPO in order

for Resolution 435 to be implemented."

Quite correct, South Africa does not want any of this. Nonetheless, its aim to reach a Nkomathi or MPC type pacification is just an illusion: Resolution 435 is kicking and alive.

18 years ago the United Nations terminated South Africa's mandate in South West Africa (Namibia) and declared illegal its continued occupation. For 18 years South Africa has been defying international resolutions paving Namibia's way to independence. Western countries tolerate this abuse and even support it through their cultural, economic and military ties with South Africa. The countries members of the Namibia Contact Group in particular, bear special responsibility for Namibia. The true value of this responsibility appeared most unmistakably during the recent Europe trip of Prime Minister Botha. He just proposed that the Contact Group or some of its members should take over administration and security in Namibia. Then South Africa would be ready to withdraw from the country within two months.

The struggle of the Namibian people for independence under SWAPO leadership has also been going on for 18 years. SWAPO's declaration of 26 August 1966 opening the armed struggle marked a new phase in the colonial record. It summed up and lasted on the suffering and experience of the Namibian resistance to colonialism from its very beginning. To one century colonial domination corresponds one century resistance and struggle - unbroken by any tricks of land buyers and by any South African pacification.