

## **Namibia – Eric Bjornlund – 1989**

Hello, my name is Eric Bjornlund. I had the good fortune to observe the landmark transitional elections in Namibia in November 1989 with the National Democratic Institute for International Affairs NDI. But those elections were themselves a major step toward the independence of Namibia. Africa's so-called last. And as part of my work in Namibia, I sensibly wrote a book length report about the transition process entitled Nation Building: The UN in Namibia. It was a report commissioned by members of Congress on both sides of the aisle to study how the UN was getting involved in a new way in promoting nation building, nation building and democracy around the world. The UN supervision of elections in Namibia in 1989. Were part. A major peacekeeping operation during the territory's transition to independence, and they marked the beginning of a new phase of more comprehensive UN involvement in post conflict nation building environments.

Although in the tradition of earlier election monitoring, in the context of decolonization. The Namibian operation represented a considerable expansion of view and involvement in non self governing territories. In 1978, the Security Council had adopted a settlement plan for the conflict over Namibia. The resolution proposed to establish the United Nations Transition Assistance Group UNTAGGED to “ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations.” South Africa, which controlled Namibia in violation of international law, only agreed to the plan a decade later, taking up its year-long mandate in April 1989. Untagged oversaw an A process that led to Namibian independence in March 1990. In addition to managing about 8000 peacekeeping, per. So now UNTAG was charged with responsibility of supervising the constituent Assembly elections administered by South Africa and UNTAG had to certify whether those elections were, quote, free and fair for the first time, UN peacekeeping was associated with the UN in elections.

I think it would be helpful for me to explain how I ended up in that role and how I got there. I'm a lawyer and I practise law at a large law firm for a few years after law school and in that role, I did some pro bono international human rights work. I was able to meet a young lawyer from Namibia who had been involved in the coming transition and the effort to protect human rights in Namibia and his name is David Smuts. He was a white South African. But adopted Namibia as his home country and later became a citizen of the new independent Namibia and one of its leading human rights lawyers. He introduced me to what was going on in 1980. There was significant development in Namibia when South Africa. Transferred political authority to an interim government and established a Bill of Rights South Africa uses the Westminster tradition of government, which does not have a written Bill of Rights, but Namibia now had one. South Africa was still in 1985 trying to hold off international pressure to allow Namibian independence and

its control of what it called SW Africa was not recognized internationally and not legal under international law.

So I think that the transition to a multi party conference of an interim government and adopting a Bill of Rights was probably something of a public relations gesture on their part. But Dave Smutz and many other lawyers in Namibia recognized that it was something else. It was the law. It was something that could be used to try to defend against human rights abuses, to argue against detention without trial. Prior restraints of the press. And other problematic activities by the South African controlled government. And in order to justify those arguments, they look outside examples from countries with an established tradition of litigation under Bill of Rights, one of those countries, of course being the United States. And I got involved in litigating a number of high profile cases using precedents from US constitutional interpretation.

Arguing those cases in the Namibian courts, I went to Namibia for a period of time to work with the human rights lawyers there in 1985 and work on the case. And. Was really struck by what an amazing situation it was, how important it was to work with the human rights lawyers there in 1985 and work on the case and was really struck by what an amazing situation it was, how important it was and and and and what a what, a challenge it could be. And I continued to follow Namibia over the subsequent years and eventually wrote actually a law review article about how the Bill of Rights in Namibia could be litigated in a way to protect human rights and how the law review article about how the Bill of Rights in Namibia could be litigated in a way to protect human rights. And how the situation there could be something of a test case of a transition to majoritarian genuine democracy in South Africa, which had not yet happened in the late 1980s. Meanwhile, in 1988, going back to what happened in the world, there was an agreement between Angola, Cuba and South Africa to end the conflict that had been going on in Angola and Namibia .

When that happened, and the world turned its attention to Namibia for much of the world, for the first time. I was one of the few Americans who had been to Namibia. I went again in 1989 with. A group organized by Citizens Energy Corporation of Boston based company that was closely associated, controlled by the Kennedy family and had been started by Joseph Kennedy, who subsequently became a member of Congress. And was then run by Michael Kennedy, who was the middle child I think of Robert and Ethel Kennedy's eleven children, were exactly my age and he was running a company, as an international oil trading company in effect. But he was interested in taking the delegation of VIPs to Namibia. I read about that in the newspaper. I wrote him a letter. He invited me to lunch and he ended up inviting me to, in effect, lead this delegation of 40 some people and a chartered plane that went to several countries in Africa, including

Namibia, in the summer of 1989. And then I was introduced to NDI around that time or shortly after that time as NDI was preparing to organize observers to the 1989 elections. And I then went back to Namibia with NDI for a good part of certainly the the time of the elections in November and for a number of weeks in the in the late fall of of 1989 when these important elections happened. That experience changed my life. It drew me into doing democracy promotion work and and and advocacy for human rights on a full time basis. And. I never went back to practising law again. What happened in Namibia was really pretty extraordinary as I've already suggested. And that those events were. They marked a time when there was a lot of optimism about what the UN could do. And. What the prospects were for nation building in new countries and in democratizing countries around the world.

In many ways, the UN was more successful there than it has been in many other places. The back the process in Namibia. Went back to the road map that was created in 1978. A settlement plan for Namibian independence that was codified in the Security Council, UN Security Council Resolution 435. That was the settlement plan and the creation of the UNTAED as I said, it did not get implemented until many years later, more than a decade later.

Then, in 1988, the parties agreed to allow the settlement plan to go forward, so in 1989. One year transition process to maybe an independence? Began on April 1st of 1989. The implementation of the settlement plan under Resolution 435. That's on my plane. Was ultimately a mechanism, not just for Namibian independence, but also for the international community trying to bring about Namibian democracy. And in many ways a a model for subsequent efforts around the world. One of the main. Activities of untagged one of the main responsibilities of the UN was to deliver a successful election. The elections themselves took place. The voting part of the elections took place over five days from November 7th to November 11th in 1989. But. That that was already after six months. Of developing the framework, the legal framework and negotiating the relationship between the UN and the party that was administering the election directly, which was the Administrator General's Office of Southwest Africa. In other words, civil servants from South Africa of. The. International community. Had very little trust in South Africa and in civil servants from South Africa running the election, so there was a lot of concern about how the process would unfold. The Secretary General of the United Nations appointed a special representative. Gentleman by the name of Marty Adassari, who later became President of Finland, he was a diplomat from Finland and he had a very important role to oversee this international supervision of the election. And to determine whether he could certify that the election was, quote, free and fair. And my understanding of the term free and fair and how it became such an important concept. In election observation, election monitoring and democracy promotion around the world, I think this was really the beginning of the significance of that phrase. I did research.

Search for a book on election monitoring and did find prior uses at the UN and elsewhere of the term, free and fair. But I believe that this Security Council resolution asking the untagged and the Special Representative to determine whether the Namibian election was free and fair was the first time that. Power was put in the phrase and where it really became kind of the key. Test of whether an election deserved credibility with the public in a given country and with the international community. In order to certify that the election was free and fair, the Special representative had to do so at each point in the process and had to be satisfied at all levels of the process, all stages of the process. Had met that standard. So in effect. Well, the UN didn't administer the election. As international bodies were doing in some other countries in emerging democracies around that time and in the subsequent several years, they had a very important role in certifying, supervising and and therefore in effect, veto power over a number of aspects of the process.

The Administrator general proposed the election. The election was for a constituent assembly, so a A a group of people that would write a constitution and then subsequently become the first Parliament of the independent country of. Namia. But the details of that election were then negotiated between UNTAG and the South African administration, and there were many respects in which the law was changed. Upon the. Objections of the international community represented by the Special Representative. Some examples are that the process proposed had had numbers on envelopes in order to ensure that people weren't voting twice and to be able to to trace ballots. I guess but one of the most important concerns of untagged was the secrecy of the ballot. This was a country that had been going through war. They had 23 years of armed conflict. And there was, of course, tremendous mistrust. So at Texas insistence, they changed the process so they wouldn't use numbered ballots. The process changed in terms of how verification of the. Ballots and the counting would take place. Moved to 23. I think it's 23 counts. Nurse around the country with care. Transportation of the ballots that have been cast to those counting centres, but the international community felt that that was a safer way to count ballots, that it could be verified more carefully. The law was changed to allow voters to vote outside the districts in which they had registered by using a tender ballot process. The law allowed a kind of tender ballot process so that voters could be. Verified that they were eligible to vote without compromising the six. The secrecy of the ballot. There were changes to ensure that there were untagged supervisors that were present anytime a voter had the process to explain to him or her and how it worked, particularly given that there was concern about a large number of illiterate voters. The process ensured that even illiterate voters could not be accompanied into ballot boxes and into the ballot screening places where they cast the ballots. And the law. Also untaxed insistence allowed party access so that party representatives could monitor the process.

I think that big principles that the UN insisted on in the election itself were the secrecy of the ballot. A process that allowed reasonable speed and counting the ballots and ensuring that the process was accountable to and open to the competing parties. The election took place, as I said, over a period of a number of days. There were about 1700 election supervisors from all over the world. That's by UNTAG that were in each polling place. In most polling places, there would be about 5 civil servants, South African officials running the elections, with typically about four international supervisors. Watching everything they did. The process was developed in a way that suggested that the. Contact at the UN. The international community didn't really trust the South Africans. In practice, what we saw was a lot. Built up trust among the officials from having worked together in preparing for the elections and in polling places, they seem to work together. Very well and and and bowling tended to go much better than than many people had expected. There was a lot of trepidation about how the elections would go. There was a sense that maybe five days weren't enough for everybody to get there. I should say that Namibia is one of the least densely populated countries in the world. It's very small at the time, with an added population of about one and a half million people, but spread out over a country the size of Western Europe, so there was. People are very, very dispersed and one of the ways that the election administration handled that was to have mobile polling places. That traveled around and tried to get closer to people and give them a chance to.

So in fact it worked very well. They had registered voters over the course of the summer in 1989 that the Northern hemisphere summer and. And something like 97% of registered. Voters which? As close to a census as you could get under the circumstances, and something like 97% turned out. They had been very concerned about problems with spoiled ballots, with mistakes because many people couldn't read. In fact, there are very few problems with spoiled ballots and and. Relatively low rate and spoiled. And most importantly, the process itself was entirely peaceful. It was an election that took place because of EU NS involvement in a free environment free under fair rules. There are. There are a lot of concerns about intimidation and problems in the months leading up to the election. And there was Anton Lasky, who was the highest ranking White member of SWAPO, the Southwest Africa People's Organization, which was one of the parties to the election. And it was in conflict with the South African backed troops in Angola. Levsky was murdered in September of 1989, which of course didn't bode well. He had been one of the election leaders of the party. And there were, you know, plenty of concerns about intimidation and such. But the UN really had this unusual mandate. I think it was the first time it ever had any kind of mandate along these lines, which was. To encourage political reconciliation and bring about free and fair elections.

The Special Representative Marty Asari, shortly after the elections came out and. He certified that in fact, the election had been free and fair. There and the process moved on SWAPO the independence movement. 157% of the vote, and which was 41 of the 72 seats in. Constituent assembly. Its main opposition, much closer associated with South Africa, won about 29%. But they were able to move together into a constituent assembly and begin the work of writing what became a very liberal, very impressive constitution and move towards independence, which the country received on March 21st of 1990.

There were certainly times when things were. Didn't seem like they would turn out so well. In my experience of observing elections, we drove all over the country over the five days of balloting. Including much of the north, where most of the population lives closer to the border with Angola in the Vomboland. My observation partner and I. Drove 1000 kilometres over the course of those five days to observe different elections. In different places where the balloting was going. We observed the counting in a town called Ongadiva and the counting was going on over the course of the day and into the evening, and it and, you know, we continued to have a lot, lots. We were still very concerned about whether they would be manipulating the process or anybody. Be cheating or trying to do something with the count and in the middle of the as the count was going on in the evening in a large kind of auditorium of a school. The electricity went out, the lights went out and the whole counting place where there were dozens if not hundreds of people counting ballots from all over Onbalan went into Darkness. Which, you know, certainly concerned everybody. But there was a camera crew there that turned on the lights from their cameras. There were people with flashlights. There were some security officials that turned some security vehicles. That were outside towards the windows and turned on their lights and everybody generated enough light to be able to resume the count and. The electricity came on half an hour later and and. Everything seemed to continue to go well, so there had been a moment where. And we all wondered whether this was intentional on purpose. All of a sudden, the accounting centre was plunged into Darkness, but it appeared to be just something that happened and everybody moved to deal with it and the account continued and with apparently no no reason to believe there were any problems. And as I said that, the elections were declared free and fair and the process toward independence continued.

I didn't myself spend the next months continuing to do research on our extensive report about the EU NS role in this nation building effort. I did interviews not only with lots of election officials and legal officials and political advisors in Ontag in Namibia and among the parties in Namibia and. Yeah, South African election authorities, but also with the UN in New York. And I found it fascinating to sort of learn about the internal dynamics within UNTAG and between UNTAG on the ground and their supervisors. In the United Nations in New York, this was an event that was being followed very closely by the international community. It was. I'm very much on everyone's mind. There was obviously

lots of scepticism about the process or concerns about what it might, what might happen in scepticism about South African motives. And there was very much the sense of a kind of field centre dynamic that I have recognized in organizations that I've worked for subsequently. The people in the Home Office in New York, at the United Nations, had convened a working group to deal with the Namibian election process that actually met every day over the much of that period. And did a lot of second guessing of the people in the field feeling like that they were not. Strict enough and in pushing back against South Africa and pushing it back against the local South African administration on. Terms for the election of the rules, the process dealing with the, the various concerns. And. We're very much kind of what you know in what I have since recognized as a common situation where the centre of a geographically dispersed organization wonders what's going on out in the field ok. And yet, when you're in the field, you very much have the sense that the people back in the Home Office don't understand the actual realities on the ground. They don't understand. You know what the real incentives are that people have and the need to. Compromise and get along with them and build. Operative working relationship. In order to make the process go forward and and and happen on time and and be acceptable to all. And I thought that that was a very interesting lesson that I hadn't really kind of recognized until that time and and as I say, it's a dynamic.

I've seen a lot since I think I've seen it in myself when I have worked in the Home Office of Democracy promotion organizations and I've worked in the field. And when I think, the Home Office is not always understanding the realities in the field and when I'm in the Home Office, I think that the field is not always understanding what really should be done from the point of view of the home office. But ultimately you know the experience in Namibia suggested that the United Nations could play an invaluable and constructive role in ensuring that elections are free and fair. And in trying to build political reconciliation. And using elections as part of a process of building a nation.

The full implementation of UN Resolution 435 allowed the nibbling people to express their democratic aspirations. Representatives. To adopt A liberal constitution that provided a foundation for a new nation. Had as encouraging a beginning as it could possibly be. Be expected, especially given the difficult history and the legacy of conflict that they were dealing with. And in many ways, it was a triumph for the United Nations, a triumph for the international community. And a very significant one. Event in the international consensus on building democracy and, and promoting democracy around the world. In many ways, that promise has not been fully realized and we recognize that world some years later. Did not evolve and as optimistic and and and hopeful a way as we thought and maybe in 1989 but Namibia in 1989 the UN's and the role of using elections as a way of, of contributing to peace until reconciliation and democracy. It was.

It was a very, very important event and I was happy to be. It. Again, my name is Eric Bjarlin. Thank you for your interest in the Namibian transition process.