

# When cool heads prevail

By Jon Qwelane

**ON MARCH 21** Namibia will wake up to a new day, a new government, a new order, a new nation, new hope . . .

It will be Independence Day and the realisation of the new country's dreams of peace and prosperity for its slightly more than 1,5 million citizens.

Perhaps the mature, sensible and democratic manner in which the Namibian constituent assembly conducted itself in the two months of drawing up a constitution – in spite of initial deep-seated feelings of suspicion among many of its members – was in itself a good omen for things yet to come.

After the bitter and unrelenting accusations and counter-accusations leading to the independence elections last November it was anybody's guess if the constitution would enjoy the full blessings of all seven political parties represented in the assembly.

There had been those who had insisted the majority party in the assembly, Swapo, must first produce or account for "hundreds and hundreds" of people it still allegedly kept in detention camps in Angola and Zambia.

And there were those who claimed the elections, let alone independence, could never take place for as long as the United Nations Transition Assistance Group (Untag) was part of the scheme of things.

Then there were the cranks who produced "intercepted" radio messages allegedly relayed over Untag frequencies and giving "irrefutable proof" of a massive build-up of Swapo guerillas just across the northern frontier, in readiness to invade Namibia if the elections went against the party. They placed the SADF on alert. Somehow cool heads prevailed, and the elections resulted in the constituent assembly, which itself resulted in a mutually accepted constitution, which ended in March 21 being unanimously agreed upon as the day of "uhuru".

The relative ease with which the constitution was hammered out and eventually accepted by the assembly overshadows the long weeks of hard and tough bargaining behind the scenes which preceded the few days of debate prior to adoption. It was, says just about every member of the assembly, also the fair and impartial manner with which chairman Hage Geingob treated all the parties that eased a lot of tension and ensured the relaxed manner in which debate took place. Geingob was chairman, too, of the assembly's standing committee on rules and protocols. It was the committee which worked long days and nights preparing the constitution with the

help of three South African legal experts: Arthur Chaskalson SC, Professor Gerhard Erasmus and Professor Marinus Wiechers.

The first acrimonious notes on the constitution were sounded before the elections with Dirk Mudge, chairman of the Democratic Turnhalle Alliance (DTA), alleging Swapo was renegeing on the 1982 principles formulated by the Western five

The first two days of the assembly were characterised by acrimonious debate with

parliament and the structuring of parliament. Swapo wanted an executive president elected directly by the voters, a system of constituent voting and a single-chamber parliament. The DTA and three or four other parties wanted a ceremonial head of state elected by parliament, a system of proportional representation and two houses of parliament.

In the end Swapo won the executive presidency it wanted, in return for giving the DTA and its allies the second house of parliament and a parliamentary system of proportional representation.

But as the newfound camaraderie in the assembly enveloped members, dark clouds were gathering on the constitutional horizon: the DTA wanted the bill of rights made non-negotiable and protected from amendment, but ran head-on into the Namibia National Front which argued that the present generation could not decide for future ones.

Geingob allowed the DTA five hours to state its case, which also involved opposing a clause empowering the president to call a national referendum if both houses failed to reach a vote of two-thirds on amending the constitution. The party felt the president was

being given too much power. Again Geingob allowed the DTA time, and at resumption next day the DTA dropped all its objections. Mudge stated why: a minority party had been given five long hours to state its case thoroughly without being subjected to any undue pressure in the process, and that was very revealing and showed that democracy indeed was alive and well in Namibia.

Few could have disagreed.

Happy endings, however, are the stuff of fairy tales. The constitution had its opponents – Kosie Pretorius of the National Party was opposed to a bill of rights and hinted he would abstain from voting, while Kaptein Hans Diergaardt's Federal Convention of Namibia opposed the entire constitution because it made no room for "own affairs" structures and also did not make Namibia a federal state.

Such was the democratic spirit that those parties were allowed to disagree, while the majority view won the day.

Even the unveiling of the new nation's flag had pleasant surprises for everyone. The banner has one blue half, the other green and both halves neatly separated by a broad red diagonal along which runs two smaller strips of white either side. A bright yellow sun shines from the top left-hand corner of the blue half.

The colours of the flag, amazingly, contain at least two from each party's flag. How much more democratic could they get?



the DTA. It declared that the 1982 principles were non-negotiable and must be incorporated in the constitution. It did not strike the DTA as odd that as the immediate past "interim government" it had itself not respected human rights at all, and had sat silently while the army and Koevoet paramilitary units ran riot throughout northern Namibia maiming and killing and burning and raping.

Swapo's foreign affairs spokesman, Theo-Ben Gurirab neatly pulled the rug from under the DTA when he not only said his outfit had been party to the controversial principles, but also moved that they form part of all deliberations in the assembly forthwith. That set the tone for the harmony that followed, and it was unanimously accepted that debates would not be political since the assembly had the sole purpose of drafting and adopting a constitution. Former adversaries got to know each other better during the weeks that followed, and the tags of "sell-outs" and "South African puppets" and even "band of terrorists" which had characterised the run-up to the election lay buried in the lush lawns of the Tintenpalast, the seat of government in Windhoek.

It was perhaps a sign of times changing for the good that all seven parties agreed that Swapo's blueprint for a constitution be accepted as the basis for a future state.

There were three major areas of difference between Swapo and the minority parties led by the DTA: the nature of the presidency, the system of returning legislators to