



REPUBLIC OF NAMIBIA

DEBATES

OF THE

NATIONAL ASSEMBLY

1995

FIRST SESSION, SECOND PARLIAMENT

30 MAY - 23 JUNE 1995

VOLUME 1

6 June 1995

TRADITIONAL AUTHORITIES BILL:
RECONSIDERATION

SECOND ORDER READ:

Reconsideration - *Traditional Authorities Bill*, [B.33 - '94].

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Mr Speaker, I move -

That the Assembly now goes into Committee to reconsider the Bill and that the Speaker leaves the Chair.

MINISTER OF DEFENCE: I second.

AGREED TO.

ASSEMBLY IN COMMITTEE:

CHAIRMAN OF COMMITTEES: The Committee has to reconsider the *Traditional Authorities Bill*, [B.33 - '94].

Clause 1 put.

MR PRETORIUS: Mr Chairman, against the background of Article 75(4)(b) of our Constitution I want to move

DEPUTY MINISTER OF HOME AFFAIRS: On a point of order. I want clarity. Are we discussing the amendments to clauses 2 and 6 or are we starting again from the beginning?

CHAIRMAN OF COMMITTEES: We will come to the reconsideration of the amendments, but one of the members also has an amendment and from the Chair we allowed him to do that. So, we listen now to the amendment.

DEPUTY MINISTER OF HOME AFFAIRS: Cde. Chairman, we have already passed this Bill, including clause 1. Are we again to reconsider the Bill from the beginning?

CHAIRMAN OF COMMITTEES: We have passed it already, but the Constitution allows that any member can introduce a new amendment. We proceed.

MR PRETORIUS: Mr Chairman, perhaps I must read the article. Article

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MR PRETORIUS

75(4)(b) of the Constitution reads as follows.

CHAIRMAN OF COMMITTEES: Your amendment, Hon. Member. Leave the Constitution.

MR PRETORIUS: Mr Chairman, I want to move on subclause (1) -

The insertion after the definition of "designation" of the following definition:

"member", in relation to a traditional community means a person who has been accepted by that community as a member thereof."

MINISTER OF JUSTICE: Can the Hon. Pretorius just briefly motivate his amendment for us to be able to understand exactly what he is aiming at?

MR PRETORIUS: Mr Chairman, perhaps I must remind the august House that when we discussed the Draft Bill, I raised this point and it was accepted by the Hon. Minister who came up with an amendment at that stage, but it was not dealt with in the House. So, I objected several times during the Committee Stage that this Bill, to me, is meaningless, and impossible to implement in practice without a definition of the word, "member". As a matter of fact, even in the Third Reading of the Draft Bill I put it very clearly that we are accepting legislation for a community of nobodies, because if a member of a community and this concept of a member of a community is mentioned more than eighteen times in the Draft Bill, if such a member is not identified, to my opinion it is impossible to implement it in practice. For example, as soon as you come up with a problem within a certain community where they have to choose their leaders, it will be impossible to say who is a member and who not.

Perhaps I must read the definition at that time, which was on the Order Paper and which was not even discussed. I quote:

"By the insertion after the definition of "designation" of the following definition:

"Member" in relation to a traditional community means a person either or both of whose parents belong to that traditional community and includes any other person who by marriage to or adoption by a member of the traditional community or by any other circumstance has assimilated the culture and traditions of that community or has been accepted by that community as a member thereof."

I think it is very important. Just now the Hon. Minister, in connection with

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the Bill on Casinos and Gambling Houses, said very correctly that because it was new they made a few mistakes and it must now be removed. I think the same will happen here. Without a definition of a member - and I have now defined it very simple - it will not be possible to implement this Bill in practice. So, I am moving the amendment.

DEPUTY MINISTER OF HIGHER EDUCATION, VOCATIONAL TRAINING, SCIENCE AND TECHNOLOGY: Mr Chairman, I have one concern regarding the amendment. Any person, let us take for example the Hon. Pretorius, can by some means or other, persuasion or even bribery, persuade a community, whether he has assimilated their cultures and traditions or not, to accept him as a member. He doesn't go near that community other than on the occasion that he takes the bribe along to accept him as a member of the community. They agree to accept Hon. Pretorius as a member of our community and now we can make him our chief or he can vote for the chief. Does it imply this, because then in my opinion there is something wrong with the amendment?

MINISTER OF JUSTICE: Mr Chairman, can this amendment stand over, so that we can really understand what is behind it? Otherwise we do not really understand what is going on.

MR PRETORIUS: If we can reach an agreement, I have no problem.

CHAIRMAN OF COMMITTEE: I will report progress on clause 1.

Clause 2 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Mr Chairman, it is always better to consult the people concerned. This hijacking of Mr Pretorius is not appreciated.

Coming to clause 2, there was a concern that it seems as if communities are forced to have one chief all the time. Therefore there is an insertion here, that clause 2(1)(a) will read: "one chief or one senior traditional councillor". If people do not want a chief, they can opt for a senior traditional councillor, as it is now at some places in the North. I move that we accept this

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amendment.

Furthermore, section 2(1): "Every traditional community may be entitled to have a traditional authority comprising the following traditional leaders, namely.." We have removed "shall" and replaced it with "may."

MR KATJIUONGUA: Mr Chairman, just a question to the Minister. Is this Bill influenced by Kwanyama tribal politics?

MR J GAROEB: Mr Chairman, for practical reasons we cannot support this amendment on clause 2, because it is contradictory to the letter and spirit of the Bill. The Bill seeks to establish three positions of traditional leaders, namely the chief, the senior traditional councillor and the traditional councillor. Now this amendment seeks to add another position of a senior traditional councillor who heads the traditional community.

Mr Chairman, Sir, this boils down to the fact that we are adding another position. Will the senior traditional councillor, who is also the head of a specific community, be equal in status to the chief who is also the head of a given community, or will the status be equal to the ordinary senior traditional councillors? That is the problem.

The second problem is the same problem which Hon. Mr Pretorius had with the first clause. There is no definition of senior traditional councillor who is also the head of a given traditional community in clause 1 and since this position is not defined in clause 1, I do not see how we can accept the amendment. I thank you.

MR LUIPERT: Mr Chairman, we agree with the principles of the Bill, i.e. that traditional leaders must be respected and that the traditional authorities must be organised in accordance with the Constitution of the Republic of Namibia and in accordance with a law on traditional authorities. But we disagree with most of the content of the Traditional Authorities Bill and we have already mentioned the reasons when the original Bill was before the House. Therefore we are going to vote against the amendment.

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MR MAXUILILI: Mr Chairman, we talk about chiefs and councillors and this is very new to us as Namibians. If I talk about Maherero, he was not a chief, he was a king. Now we are only talking about chiefs and councillors. What is the meaning of chief? A man with royal blood or is it a chief who has been appointed by the community or by a foreign government, like the South African appointed chiefs here? I want to understand, I am serious.

We had in our country a king and we had chiefs, i.e. headmen. Automatically that headman becomes a chief. If the king is not there, then the headman must take over and decide what is going to happen.

Now here I am confronted with chiefs and councillors and these are new things. Do we forget about our traditional king? How do you address King Kauluma? Do you address him as chief or king? I want an answer from the Minister. Here we had King Maharero, here we had King

HONOURABLE MEMBER: Garoeb!

MR NATHANIEL: No, no. Do not confuse me. LAUGHTER. You can collect your councillor or your chief, but a king is born. Do you want to tell me that a king is a chief? What has become of the king? That is the answer I want.

HONOURABLE MEMBER: We are traditionally confused.

MR KATJIUONGUA: Mr Chairman, is there no caucus consensus in the ruling party on this thing?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Cde. Chairman, we had this Bill before us in this House ...

HONOURABLE MEMBER: And we rejected it.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: And you rejected it and I know the reasons why. We discussed this Bill and it was not bulldozed through as the Hon. Member is saying there. We had consultations with each and everyone who was concerned - and the other side as well.

Maybe Hon. Garoeb does not understand. We are not bringing in anything new. What we are merely saying is that some traditions do not have kings or chiefs. There are people who have chiefs, there are communities who have

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only senior headmen. We are allowing for those people who at this stage or in future do not want to have a chief per se, but a senior traditional leader. In one community you are going to have a chief, you will have a senior traditional leader and traditional councillors. In one community you do not have a chief, you only have the senior traditional councillor and the councillors. So, we are not bringing in something new. The way it originally stood, it forced every community to have a chief, a senior traditional leader and councillors. Some communities will opt to have only a senior traditional leader and councillors and not a chief. It is just to give a choice to the communities and not to force every small community to have a chief. That is why we brought this amendment.

MR KATJIUONGUA: Mr Chairman, clarification before the Minister continues on this point. If I understood the position of the Government, it was that Namibia is a republic and not a kingdom, and the Prime Minister at one stage said at Mokuti Lodge that you cannot have kings if you do not have a kingdom. Can the Government, this House and my dear father over there tell the nation-at-large that kings are no longer allowed to be called kings, whether it is Kauluma or somebody in Ogandjera or my brother here, and henceforth there will be only chiefs or you can call yourself in your tribal language what you want. But officially there are no kings in this country, only chiefs. I want clarity on that.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: On the question by my father, who asked a direct question, we have set a precedent and the whole party has agreed - I do not know where the Hon. Member was - that we are no longer going to have kings, because this is a republic and not a kingdom and we cannot have thirty kings for 1,5 million people. Therefore, the official title, as far as the Government is concerned, is a chief. When I go to Kavango I will say "Homba", when I address the chief there, since I speak Nama, I can say. "gaob." INTERJECTIONS.

Any traditional community can call their traditional leaders by their own names. In English it remains chief.

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BUSINESS SUSPENDED AT 15:40 AND RESUMED AT 16:00

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I was saying that in English it is chief. To Chief Kauluma I always say "Omukwanilwa" or "ohamba", which is his traditional title. But this Government has decided that there will be no such title as king here. All I can say to my honourable father is that I hope that we are not going to deliberate on this as this is the policy of the Government. Every traditional community can call their traditional leaders by their real names.

With that I accept the amended clause. I thank you.

MR MAXUILILI: Cde. Chairman, I agree, but I am still not happy that the Government wants to undo what God has done by calling the king of this country a chief. A chief can be a Chief Justice, a chief can be a Chief Engineer. But let it go through because I do not want any delay. But just for the record, the Government must never ever again do such a thing without consultation with all the people of this country. Thank you.

MR RIRUAKO: Mr Chairman, it is a pity to listen to this kind of discussion of kings and chiefs. It is a coined word, a given word to an African, not equal to Queen Elizabeth or King George. We ourselves assimilated this word and it has become one of our symbols. Therefore, I am not party to so-called chiefs. If we happen to find a word suitable to our conditions, then and only then I will agree.

Those kings in Ovamboland have the right even to sell the land and the chiefs here must remain chiefs of communities without land. Similarly we do not have the right to our land. It is quite clear.

DEPUTY MINISTER OF HOME AFFAIRS: May I ask the Hon. Member a question?

MR RIRUAKO: I have my rights and I have liberty in this House.

DEPUTY MINISTER OF HOME AFFAIRS: I just want to ask the Hon. Member whether he is a chief or a paramount chief or king, because he calls himself a paramount chief.

MR RIRUAKO: Mr Chairman, what is the meaning of the word, "ombara?"

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Can you explain that to the House?

CHAIRMAN OF COMMITTEES: Hon. Riruako, if you use another language you must translate it for the record.

MR RIRUAKO: The translated word you would like to hear from my side is quite simple, "ombara" means king of the nation. But if I want to address you with dignity, I can also call you "ombara Kameeta" instead of Dr Kameeta. What is wrong with that?

We have a traditional leader here and you are telling me that Captain Witbooi doesn't have the right to be what he is? He inherited it, he is the heir to that kind of right and you are taking this right away from him because of what? And he did fight for this country and I did also.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: On a point of order. Can we concentrate on the amendments, please?

CHAIRMAN OF COMMITTEES: During the Committee Stage it is required that we stick to the discussion of the clause. I got the impression that the Chief is discussing the clause, that is why I did not stop him.

MR RIRUAKO: I think I am right, I did not deviate. I leave it to the House to define what I said. It is quite clear, it is quite understood, and from there onwards we have to discuss a national law, otherwise we are not going to get a law.

Clause 2, as amended, agreed to.

Clause 6 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: The clause, as amended, is agreeable to me. So, I accept the amendment. It reads:

"To substitute the following for subclause (4):

(4) A person who before the commencement of this Act is duly designated as a traditional leader in respect of his or her Traditional Community and in respect of whose designation written notification has been submitted to the Minister, whether or not such Traditional Leader receives remuneration from the Government in respect of his

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or her traditional functions, shall have his or her designation recognised anew under this section."

Clause 6, as amended, agreed to.

Clause 13 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND
HOUSING: This amendment is also acceptable to me. It reads as follows:

"By adding the following after the words "subsection (5) of section 6" in 13(3), "provided that nothing in this Act shall prevent traditional communities to remunerate those traditional leaders not designated in accordance with the schedule to this Act."

Clause 13, as amended, agreed to.

Clause 14 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND
HOUSING: The amendment on clause 14 is also acceptable to me, so I accept that. It reads:

"By adding the following new paragraph after paragraph (b) of 13(3):
"The books of accounts referred to in 14(3)(b) shall be audited by the Auditor General."

Clause 14, as amended, agreed to.

ASSEMBLY RESUMED:

Progress reported and leave granted to sit again.

ADJOURNMENT OF ASSEMBLY

On the motion of the Deputy Prime Minister, seconded by Mr W. Biwa, the Assembly adjourned at 16:20.

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ATTORNEY GENERAL

Change in our legal profession is "*an idea whose time has come.*" I thank you.

MR KAURA: Hon. Speaker, after this presentation of the Hon. Attorney General, we would like to digest what he has placed before this House and, therefore, I would like to adjourn the debate until Tuesday, 13th June 1995.

MR JUNIUS: I second.

AGREED TO.

TRADITIONAL AUTHORITIES BILL: RECONSIDERATION

FIFTH ORDER READ:

Reconsideration of *Traditional Authorities Bill*, [B.33 - '94].

ASSEMBLY IN COMMITTEE:

CHAIRMAN OF COMMITTEES: When I reported progress yesterday, clauses 2 to 17 and the Schedule had been agreed to. On clause 1 the Hon. Mr Pretorius moved an amendment.

Clause 1 put.

MINISTER OF JUSTICE: Hon. Chairman, I rise to respond to the amendment proposed by Hon. Mr Pretorius. The term, "membership" in relation to traditional communities has explicitly been defined under clause 1 - and I hope everybody has the Bill. By analogy the definition of membership of the non-traditional communities has by implication also been defined in that section. To suggest any other definition of "membership" of community defeats indeed the purposes of that provision which is crystal clear and needs no ambiguities.

The essence of the definition proposed by Hon. Pretorius is predicated upon acceptance. What this means in theory and in practice is that rejection is also implied in the definition. Thus the danger of the proposed amendment is that a person can become a member of a community today because he or she is accepted and then become a non-member of the community tomorrow because he or she has been rejected by the community. Membership of the

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community, as a definition of traditional community, is natural and inherent and must remain so. Or else in accepting the amendment we are giving a group of people the power to decide who should and who should not become a member of a particular community within the country. This is a power we do not have. We must not confuse membership of the community, with residence among the community.

The former is natural and inherent, the latter depends upon acceptability. Such a denomination will be good when deciding such legal fictions as citizenship and sovereign state.

For the reasons I have just briefly discussed, I leave the decision of acceptability, of rejection of the amendment in the hands of our able Minister of Regional and Local Government and Housing. I thank you.

MR PRETORIUS: Mr Chairman, I have listened very carefully to the Hon. Minister and I am afraid that we still disagree. So, I think this will also be a question of agree to disagree, because for me it is not about the wording of my amendment, it is about the principle, and the principle involved here is that in this Draft Bill there is also provision for the election of chiefs, etc. And as soon as one has to do with elections, you must identify people who are eligible to vote. That is very important to me.

Perhaps I must quote myself from the Third Reading in January this year, and I quote from the Minutes. I said:

"The concept of membership is mentioned at least eighteen times in the Draft Bill. So, without membership defined, I believe this Bill cannot be implemented successfully. In practical life all interest groups are based on membership. Even if I am a farmer - and it is well-known to everybody that I am a farmer - I have no say in the Agricultural Union before I became a member. The same applies to the membership of the Namibian Chamber of Commerce and Industry, etc., etc. Yes, even if I am a Christian, I have only a say in a specific church after I have become a member of that church."

Mr Chairman, therefore it is very important to me that to apply this Bill in practice, in case of the difference between chiefs and there must be an election, how will these members be identified? It cannot be said that people in a certain group who are members of that group, because it is not about the supporters. There is a very important difference between people who support a specific group or community or live there and those who have the right to

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vote.

Perhaps I must conclude with an example from the government party itself. I haven't seen their constitution

MINISTER OF JUSTICE: May I ask the Hon. Member a question? Thank you, he is always a gentleman. I just want to find out because I have gone through so many legislations dealing with the same issue from different countries. Is there any precedent or example where a member in similar legislations has been defined as he wants us to do now, because I have not seen any in all the laws I have read so far.

MR PRETORIUS: Yes, Mr Chairman, I think definitely so, because in a heterogenic set-up there are problems and in a homogeneous set-up there are no problems. But even in a country you are only eligible to vote if you are a citizen and 18 years old and registered. Your name must be put on a voters' list.

I was busy referring to the government party's constitution. To the best of my knowledge - I do not know whether it was changed in the meantime, but I can remember about ten years ago I read that constitution and there was a prerequisite written in there, that even if they were part of the liberation movement, members, those who could vote, could only become members if they are recommended by existing members who have already for five years been members of Swapo. So, Swapo made provision for this question of membership. INTERJECTIONS. They made provision for this question of membership because it is very important, and I want to leave it there. I shall ask that my position be recorded according to article 46 of our Standing Rules and then we must wait for the practice to prove me wrong or right. Thank you, Mr Chairman.

MR KATJIUONGUA: Mr Chairman, I am not being contaminated by my neighbour here ... LAUGHTER ... in what I am going to say, because I said this when this Bill came before the House for the first time.

CHAIRMAN OF COMMITTEES: Hon. Katjiuongua, an Hon. Member cannot contaminate. Influenced.

MR KATJIUONGUA: Yes, influenced, that is what I wanted to say. I am saying that I said at that particular time - and I think what the Minister of Justice was trying to say now is more confused than confused, is more vague than ambiguous - if you read the Constitution of Botswana, they specify,

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when they talk in terms of the Council of Traditional Leaders or Traditional Authorities or tribes in the country, they say, "bangwato", "batlokwe" and all kinds of other designations.

In this case there is no designation, it is a fact of life. No clarity has so far been provided.

HONOURABLE MEMBER: Can you translate that?

MR KATJIUONGUA: I think behind you there your sister speaks Tswana. I said it is vague. We are going to see who are going to determine these authorities. I said that time, are the Hereros and the Mbanderus going to be one tribe or separate tribes, the people in Kaokoland? Then we are going to see when the Council of Traditional Leaders is created whether those in Ovamboland will come as seven or as one. These are the ambiguities that he did not clear up.

Thank you.

MR E BIWA: Thank you, Mr Chairman. Mr Chairman, mine is just a little question, based on what my neighbour has just said. I think to some extent I tend to support the argument advanced by my neighbour, Mr Pretorius. There is an underlying truth in his argument and I do not know why we are running away from addressing that difficulty that we will be forced to solve tomorrow.

For instance, some person claims membership of a particular group and on that basis claims the right to vote in the election of a particular group of people. Is there any procedure in place to resolve that problem? For instance, if I claim that I am Bondelswarts and I have every right to vote in elections of a Bondelswarts chief, what procedure would we follow.

HONOURABLE MEMBER: You are a Herero.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Cde. Chairman, I do not agree in this sense with Hon. Pretorius' amendment because we are not talking of membership to some institution or body. If you read the definition of "traditional community":

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"Traditional community means an indigenous, homogeneous and endogamous social grouping of persons comprising of families deriving from exogamous clans which share a common ancestry, language, cultural heritage, customs and traditions, recognises a common traditional authority and inhabits a common communal area and includes the members of that community residing outside the common communal area."

It includes me, that I am a member of the community in Fransfontein. That is where I was born, that is where I belong but I live in Windhoek. So, me as a member who lives outside Fransfontein, I know I am a member of the community in Fransfontein. All of us sitting here come from somewhere where we are members of those communities. You are not a card carrying member of that community, you are born in that community. So, it is not an institution where you carry a card.

I think it is a waste of time.

MR KATJIUONGUA: A question to the Hon. Minister. This thing is becoming more confused and confusing. When you talk about homogeneous it means the same origins. So, it means if you have become an immigrant in some other place, you are not homogeneous to that community. Take out the word "homogeneity" because it is a contradiction in terms.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: The definition here of "traditional community" is giving a lot of options. You can read that and explain it to yourself. It is giving you a lot of options. What I meant here, to become a member of the Fransfontein community I do not have to go and apply for a card, I was born there, I belong there. If I married into that society, which is also provided for, then it is my choice. I can still belong to the Fransfontein community because that is where I belong. If I am married to Mr Kamburona ... LAUGHTER ... and he takes me to Aminuis, it is my choice as his wife to belong to his community, but I do not have to if I do not want to. In my heart I belong to Fransfontein. So, all these concepts are provided for. Mr Pretorius, it is not something where you go and apply for membership. You have been born there or you were married there and that is your community. All of you know the communities where you come from and you do not carry cards to say "I am a member of this." I go to Fransfontein and everybody knows I belong there.

The whole concept is that we have given many options there, either common ancestry, language or culture. So, homogeneity doesn't stand alone. You should not go and apply for membership, you are part of that community

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already. All of you sitting here know to which communities you belong, Rietfontein and you from the Cape community.

I am sorry, I reject the amendment. It has really been explained and I reject the amendment.

MR STUART: Mr Chairman, for clarity sake, this is a Bill Namibians have to live with for the rest of their lives. I see confusion and I ask, how are we going to organise an election in a certain community? Who will know who when they vote for a certain member?

Say for instance there is a small community in Aus and they want to elect a leader where you have the Bondelswarts, the Witboois. They are all being seen as Namas. There are a lot of people also staying in Aus for the last fifty years, accepted in the community but they are not Namas. How are we going to identify the people eligible to vote in that election to get a headman?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: My experience in Namibia is that every tribe knows him or herself. So, really, unless you are confused and do not know where you belong, there is no system of tribal cards. The communities know themselves. If I am going to elect somebody, I know I live in Aus but I am a Bondelswarts and they are electing Witbooi. Everybody knows herself in this country. But if we are going to start carrying membership cards to say we are this and that tribe - I know we are bringing back tribalism. So, let us leave it to the communities, they know themselves and there is no problem. Thank you.

MR KATJIUONGUA: For the last time, Mr Chairman, at this stage we must admit in all sincerity that it is a piece of confusion and a bit of cowardice to face the reality. I am not a medical doctor, so I am not trying to compete with the Hon. Minister of Regional and Local Government and Housing, but when you talk about indigenous, the word means "local or native" of that particular place. When you talk about endogamous, you are talking also about exogamous, you cannot use the same words for different things.

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MR KATJIUONGUA

Like Minister Hanekom said the other day, this Bill is likely to come up again for amendments. It is quite clear and I will abstain.

MR E BIWA: I would just like to remind the Hon. Minister that I also put a question and I would like to put a second question: Would one individual be entitled to belong to two communities on the basis of dual ancestry?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: It is normal practice that you have your father and your mother and it is your choice whether you choose your mother's side or your father's side. That is your own personal choice.

MR KAURA: I only want to find out from the Hon. Minister, for example we have in the traditional community of Otjinene three groups, three ethnic groups living there. We have the Damaras, Ovambos and Hereros. Up to now, whenever there was an opportunity to choose a traditional leader, they collectively chose that traditional leader. Given this Bill, either they will choose three leaders or if their numbers do not justify, they will be discriminated against in the choosing of a leader who is going to represent them.

In that kind of situation, I would like to find out from the Hon. Minister, isn't it going to be a disservice to a group of people who are small in number to appoint a leader and yet the larger group will appoint a leader in which they will have no say while they are living in the same communal area, sharing the same problems, having the same interests, etc. Under those circumstances, can the Damaras of Ondjouokahungu in Otjinene and the Ovambos who are also living there, and the Ovambos of Ovitoto and the Damaras of Okakarara, what are you going to do under those circumstances? They lived amicably together and chose their leaders together, but you are splitting them and you are discriminating against a smaller group living in that particular communal area. What are you going to do in those circumstances?

MINISTER OF JUSTICE: I am a little bit confused, I didn't understand exactly what my honourable nephew said. Are we talking about electing political leaders or traditional leaders?

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MR KAURA: Traditional leaders.

MINISTER OF JUSTICE: If we are talking about traditional leaders there is no confusion, unless we are talking about political leaders that we elect through that system.

MR KAURA: In Okakarara where you and I grew up there are Damaras living there. When a traditional leader is chosen in the Okakarara area, they participate in the choice of a traditional leader. They do. They participate and you do not know that because you are ignorant. Exactly this is what is happening in Otjinene. The Damaras of Ondjouokahungu participate in the choice of the traditional leader of Otjinene, that is the truth, because they are accepted as members of that community. What are you going to do under these circumstances?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Mr Chairman, I think this is in a way cowardice behaviour from the members, because this Bill was before this House and we discussed it in and out. What is probably confusing Hon. Kaura is these things they brought into this country to confuse the traditional leaders. It is actually from you people that we have this confusion here.

When we are talking of a Herero chief, Hereros are normally supposed to vote for their chief. If I live in Okakarara I do not have to vote because it is not my chief. If I am a Damara I have my chief in Damaraland. You people have confused this traditional leader issue. INTERJECTION. At Okakarara they will be voting for councillors, regional councillors and local councillors, but not for traditional leaders. We are not talking of councillors to be voted for.

Having said that, I would like to reject the proposal that we should postpone the clause. We know it is a tactic to waste our time. I oppose the amendment and we can vote.

MR KAURA: It has become traditional in this Hon. House for Bills to be bulldozed through, only to come back with amendments three months later, and I hope the Hon. Minister is not going to come back with amendments

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three months later when she comes to her senses.

MR STUART: You can bet on that.

MR J GAROEB: Hon. Chairman

DEPUTY MINISTER OF FOREIGN AFFAIRS: On a point of order. Cde. Chairman, can you guide us, because just before Hon. Kaura finished, he said "when the Minister comes to her senses." What does that mean in this Parliament? INTERJECTIONS.

CHAIRMAN OF COMMITTEES: There is consensus that they will discuss it outside. LAUGHTER.

MR J GAROEB: Hon. Mr Chairman, I just wanted to air my view, that we are not trying to frustrate the Hon. Minister. What we are trying to get through is that the question of membership here is very vague. All we want is to try and undo this ambiguity.

DEPUTY MINISTER OF HOME AFFAIRS: May I ask the Hon. Chief a simple question? Does the Hon. Chief imply that a chief does not know his people, his subjects?

MR J GAROEB: I said, Mr Chairman, that the issue of membership in this Bill is a bit vague and we just want to undo this ambiguity. What we are looking for here is a proper definition for membership, which is usually a part of a well arranged Act. Every community knows their members but unfortunately the courts do not and this Bill will not be helpful when differences come to the courts. That is my problem. I thank you.

CHAIRMAN OF COMMITTEES: Hon. Minister, will it do any harm if those members who are concerned can have a discussion with you and we come back to it again?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I do not want to be difficult and strong-headed, but I do not want this Bill to hang around until next year. If the members who are objecting can come with an agreeable definition of "member", then I have no objection that the Bill be discussed tomorrow. But then we have to meet before the Parliament and we must look at the definition of the members.

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I will allow them to come up with a reasonable definition of what is a member. I would then postpone this definition of "member".

MR KATJIUONGUA: Mr Chairman, in line with the proposal by the Minister and yourself to consider a definition, when this issue was discussed in the Committee Stage in January, the Minister provided the following definition and it was dropped later on....

CHAIRMAN OF COMMITTEES: After what the Minister has said, I am sure there will be room tomorrow to discuss that. You can take the floor tomorrow and bring that definition.

ASSEMBLY RESUMED:

Progress reported and leave granted to sit again.

ADJOURNMENT OF ASSEMBLY

In terms of Rule 20 of the Standing Rules and Orders, the Assembly adjourned at 17:25.

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provisions of section 6, section 7 or section 10 if in disuse more than two years.

Any person may appeal to the Minister if he feels aggrieved by a decision of the Registrar of this Act. Thank you.

MR MOUTON: Mr Speaker, I propose the adjournment of this debate until Thursday, 16th June.

MR JUNIUS: I second.

AGREED TO

TRADITIONAL AUTHORITIES BILL:
RESUMPTION OF RECONSIDERATION

FOURTH ORDER READ:

Resumption of Reconsideration of *Traditional Authorities Bill*, [B.33 - '94].

ASSEMBLY IN COMMITTEE:

CHAIRMAN OF COMMITTEES: When I reported progress yesterday, clauses 2 to 17 and the Schedule had been agreed to. On clause 1 the Hon. Mr Pretorius moved an amendment.

Clause 1 put.

MR PRETORIUS: Mr Chairman, without any discussion I want to withdraw my amendment because I want to propose another amendment.

AGREED TO.

Amendment withdrawn.

MR PRETORIUS: Mr Chairman, again without any discussion, we agreed on certain wording. It is the same as the Hon. Minister put on the Order Paper earlier this year. So, I move that clause 1 be amended by the insertion after the definition of "designation" of the following definition:

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"Member", in relation to a traditional community means a person either or both of whose parents belong to that traditional community and includes any other person who by marriage to or adoption by a member of that traditional community or by any other circumstance has assimilated the culture and traditions of that community and has been accepted by that community as a member thereof."

I move.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Mr Chairman, the amendment is acceptable.

Amendment put and agreed to.

Clause 1, as amended, put and agreed to.

ASSEMBLY RESUMED:

Bill reported with amendments.

ADJOURNMENT OF ASSEMBLY

On the motion of the Minister of Information and Broadcasting, seconded by Mr Wohler, the Assembly adjourned at 16:10.