

**NATIONAL ASSEMBLY  
ASSEMBLY CHAMBERS  
WINDHOEK  
10 NOVEMBER 2016**

**HON DEPUTY SPEAKER:** Thank you. Any discussions on this issue, Honourable Venaani?

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**HON VENAANI:** Honourable Deputy Speaker, I beg for your indulgence to adjourn this Debate until next week Thursday. It is very voluminous, I want to read it properly.

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**HON DEPUTY SPEAKER:** Next week Thursday. Anyone who would like to adjourn to an earlier date or do we agree on Thursday next week? I recognise the Deputy Minister of Information and Communication Technology.

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**HON DEPUTY MINISTER OF INFORMATION AND COMMUNICATION TECHNOLOGY:** Thank you very much, Comrade Deputy Speaker, I am not adjourning, I am going to have my bite in terms of the Bill that has been tabled and I would like to make the following contributions:

First of all, before I come to two specific issues that I want to raise with the Honourable Minister, with the intention of seeking clarifications, I want to say the following:

I would firstly like to commendation the Minister and his Colleagues for having accelerated the process of consolidating two related Acts into one, a Bill and subsequently an Act of Parliament that will be more consolidated and more integrated, and even to a certain extent very comprehensive.

Secondly, Honourable Deputy Speaker, I believe that there is no doubt in our

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country that the hunger for land is universal amongst all Namibians, particularly those Namibians who were formerly disadvantaged. However, this, notwithstanding, and this is my view, there is merit for us, within the spirit of the existing policy, to consider embracing a differentiated approach in allocating land acquired by the State for the purposes of resettlement. A differentiated approach that should tilt, and in there lies my emphasis, that should tilt towards those who by virtue of our unsavoury past continue to be sandwiched and compressed like sardines in barren desert-like areas, a situation that hampers their efforts to extricate themselves from poverty and march together with their compatriots towards prosperity.

On the establishment of Communal Land Boards, Comrade Minister, these are indeed useful entities that should assist in expediting the registration of land rights in communal areas. However, experience shows that, instead of facilitating some Land Boards, and I am qualifying, some Land Boards are frustrating the process of registering land rights. Some Boards have become theatres of tribal land disputes, so much that the integrity to execute their mandates has been severely compromised. It is critical for established Communal Land Boards to operate strictly within the ambit of the relevant Legislation and to consistently guard against any ethnic or tribal bias.

There is also a need, Honourable Deputy Speaker, Honourable Members, to infuse efficiency in the operations of the Board for they seem to take too long to conclude the process of considering applications made. As of now, there are huge backlogs dating back to several years ago, worst of all, because of such delays, some Communal Land Boards have to content with two, three or more applications for the same piece of land, more so, from fellow Namibian citizens who abuse the Provisions on the Constitution to settle anywhere; however, subject to such individuals following the prescribed procedures.

Honourable Deputy Speaker, Honourable Members, the Provision in the Bill that prohibits the acquisition of agricultural land by foreign nationals is a progressive intervention, which in my view, is long overdue and, in fact, answers to the prayers of a multitude of our citizens. We cannot be a sovereign State whose citizens in terms of access to land continue to be thwarted by foreign land barons. Our nationals will not enjoy the fruits of the

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Independence of their motherland if there continue to be squatters in the land of their forefathers and mothers.

The last issue that I want to touch on, more general, before I come to the two specific issues Comrade Minister is, I hope the powers provided to the Chiefs in terms of this Bill will not accelerate the current proliferation of Chiefs, where almost in every household, including mine, harbour intentions of becoming chieftainships. The unit of our Nation is being severely compromised by unabated avalanche, to borrow the military word, battalion of Chiefs. Communities that were once united are being torn apart, literally disintegrated due to the unparalleled appetite of certain individuals who want to be Chiefs.

Honourable Deputy Speaker, Honourable Members, if we continue to nurse the current situation, we run the risk of taking our Nation back to the colonial era of Bantustans that some of us do not want to see happening. In the spirit of our Constitution, we should strive to foster unity in diversity. Moreover, all of us cannot be Chiefs, others should continue to remain Indians and I am happy to be one of those who want to continue to be an Indian. That concludes my general contributions.

My specific enquiries, Comrade Minister, but I need to admit that I have not read the Bill in detail, and if indeed, I run the risk of asking a question that is aptly answered in terms of the Provisions of the Bill, I beg your indulgence to bear with me, Honourable Minister.

On Page 23, Section of the Bill, I know that in terms of the current Provision, the maximum size of land that one can register without applying to the Minister, and I am saying this under correction, currently stands at 50 hectares. However, when I look at 25(1), Comrade Minister, it seems as if that Provision keeps the size open and leaves the discretion to the Minister with the consent of the Minister responsible for Agriculture to prescribe the maximum. I just want to enquire whether indeed my reading is correct in terms of the size that we currently have. If indeed it is open, I am not complaining, I need to submit my interests being a communal farmer because I would like to apply for space providing for more than 50. So, I would highly appreciate that.

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My last enquiry, Comrade Minister, is on Part 5, Section 114(6)(c), Page 86 of the Bill, particularly under (c), which starts from (i) up until (vi). Here, Comrade Minister, I simply want to enquire whether it is also possible to add the need for us to accord our communities the opportunity to acquire shares in ventures that are conducted in areas under their jurisdiction. The reason why I am asking that, Comrade Minister, is simply that, if we want to have meaningful empowerment, if we want to add our efforts to address poverty, I think in addition to employment creation, development of capacity, we should think in terms of requiring some of these investors to allocate a reasonable number of shares in this venture, so that the community in whose localities the activities are undertaken can also share in the profits that will be derived from these activities. If we include that, and God willing going forward, we will be able to make a serious dent on poverty and ordinary Namibians out there will also feel included in our empowerment efforts.

Those are the few issues, Comrade Deputy Speaker, Honourable Members, that I wanted to advance, but once again, I am prepared to continue to be an Indian because all of us cannot be Chiefs at the same time – who is going to lead who? We need Leaders, and at the same time, we also need to have followers. I thank you very much.

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**HON DEPUTY SPEAKER:** Thank you. Any further discussions? In the absence of any, the Debate is adjourned up to next Thursday, as requested by Honourable Venaani.

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**HON SPEAKER:** The Secretary will read the Second Order of the Day.

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**RESUMPTION OF DEBATE ON SECOND  
READING – LAND BILL [B.19 – 2016]**

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**SECRETARY:** Resumption of Debate on Second Reading – *Land Bill* [B.19 – 2016].

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**HON SPEAKER:** When the Debate was adjourned on Thursday, the 10<sup>th</sup> of November 2016, the question before the Assembly was a Motion by the Honourable Minister of Land Reform and that the Bill be read a Second Time.

Honourable Venaani adjourned the Debate and I now offer him the Floor.

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**HON VENAANI:** Thank you very much, Honourable Speaker. Honourable Members, I rise to make my humble contribution to the Bill before the House.

According to the figures of the Ministry of Agriculture, Water and Forestry, foreign nationals or absentee landlords, today, own 281 prime farms, while the bulk of the Namibian people are relegated to farming on communal land with no security of tenure.

Upon introducing the Bill, Honourable Nujoma acknowledged that the *Land Bill* must reflect the *aspirations of the Namibian people*. The Ministry of Land Reform and the Harambee Prosperity Plan have both promised that a Land Conference will be called during the course of this year. This has proven to be

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yet another empty promise, and the Land Conference was abruptly called off without the public being adequately informed of the reasons behind its cancellation.

It is surprising that after the cancelling of the Land Conference, which inform and guided our Land Reform Policy in our country, we are now being confronted with a voluminous *Land Bill* which, while it addresses many of the shortcomings, also does not address many other equally critical issues.

I think the Minister has paid lip service to consultation that was done back, in July 2010, that is supposedly sufficient to have informed the drafting of this Bill. However, I think between 2010 and now, the landscape relating to land has significantly shifted focus from agricultural land to the public outcry against the huge challenge of land, and especially urban land poverty.

I find it surprising that the Minister, in his Motivation Statement, implies that sufficient consultation was done when, since this Bill was tabled, I have been inundated, for the last week that I have postponed this Debate, with phone calls from representatives of Civil Societies who wish to air their grievances on the general lack of consultation during the drafting of this Bill.

It is true that there may be some Laws, which do not require extensive consultation; however, the issue of land is one issue, which has captured not only the imagination of the Namibian people, but the struggle of the Namibian people has been vested upon the desire to have their land, where they can leave, bare children, farm, and call their home.

To present a Bill of this magnitude and significance to this House in the absence of proper consultation, in our view, is contrary to the principle of the Government for the people and by the people.

In addition to this, this Bill was tabled before this House only last Wednesday, and yet today, a mere week later, Members are expected to properly deliberate and discuss one of the most important Bills that has ever been tabled in this House since our country's National Independence.

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Honourable Speaker, it is not enough to simply run through the processes when insufficient time and opportunity is given to allow all Members to properly reflect on and contribute to Bills tabled in this House. This is, especially important in a case of a Bill such as this one, which speaks to the very heart and soul of the Namibian people's hunger for land.

Honourable Speaker, let me briefly, as a footnote, quote a Greek warrior with the name Odysseus, who once said, *“Fighting a very important battle over land, men are haunted by the vastness of eternity. Will generations hear our names? Will our names be echoed through centuries to come? Will generations hear our names and ask who we were, how fiercely we loved and how bravely we fought?”*

Honourable Speaker, as a footnote, and as a general Debate to the introduction to the Land Bill, let me address a very important matter very close to our hearts and very close to the people of this country that now men we are moving away from the premises of the Land Debate and only taking the Land Debate to the periphery of communal land as opposed to the land that the majority of our people have lost.

Honourable Speaker, Honourable Members, Windhoek (Aigams) was once a communal area prior to 1882. It was a grazing area. Keetmanshoop was a grazing area. Mariental, Okahandja, Otjiwarongo, Omaruru, Tsumeb, Grootfontein, Otavi – all these places, but when we are talking about land, we are relegating getting the value of land only to the periphery of communal/commercial areas between here and the Cape. From here to the Gariiep River/Orange River, was a trading ground for Jan Jonker Afrikaner, Hendrik Witbooi, Tjamuaha and all our Leaders. But what has urban land turned into today? I want to start there as a premise.

If you go to Windhoek – the West of Windhoek today – no Namibian of any note owns any piece of land, the sandy towns that you see at Otjitenda, Okahandja Park, etcetera belong to the Municipality. They do not belong to any individual. The majority of the inhabitants that are in our urban centres today, do not own the land on which they live.

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When we are talking about the *Land Bill*, we cannot forget and surpass the majority of our people in their thousands, try to talk about their land when they go and farm, and forget the livelihood that they should make from the land that they call their own, and where they should raise their children.

As a vintage point, as I have quoted Odysseus, who said, “*Will generations ask who we were, how bravely we fought and how fiercely we loved? How do we love our land and our country? I get very emotional about it, Honourable Speaker. How do we love our country and love our land, if the majority of our people are idly parked in lands that do not belong to them in a country of their birth?*”

I want to move that there is time for a consultation that should pave the way to a Land Conference, so that we discuss urban land resettlement as a must. As a first vintage point that the poor of our country are given those areas or ervens where they are living.

After 1959’s forceful removal of people from the Old Location to Katutura, our parents were given those pieces of homes. Today’s Witvlei consist of those old pieces of homes where we were shifted, in Gobabis, from the Old Location to the New Location. Our parents would own property because they were given those small houses in Katutura with outside toilets.

I think it is time that, when we are addressing the premises of land, we should not forget about urban land. Urban land hunger is severe and serious. Go to Rundu and Katima Mulilo today, we are seeing a proliferation of shantytowns with people living on those lands who do not have access to those lands because there are no resources to fund them. I, therefore, think it is important that we should not shy away from addressing urban land as land hunger because it starts from urban centres.

Honourable Speaker, while addressing the urban land hunger, there is also a need for our municipalities to re-design the town planning of our towns and cities, so that they address the modern economic challenges that are faced by our people.



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Honourable Speaker, when you go around Windhoek, and it is nearly every town, in the design of our towns, there are tracts of land that are left open. You would see a riverbed as wide as half a kilometre where people are unable to live because there is a riverbed, but when you go to Hong Kong or Monaco, there is no land or space where people do not live; however, when we design our towns, we design as if we have ample space. Land in Windhoek is unaffordable, and I want to urge our municipalities to redesign our towns in such a way that every space can be utilised and we cannot be told that there is no land available.

If you travel between Khomasdal and the Western Bypass, there is a vast tract of land on both sides. In Rocky Crest, there is also a vast tract of land that can be developed, but the designs are of such a nature that if an electrical line is passing through, then nobody should live within 300 metres on both sides. However, if you go to other contemporary cities of the world today, you will find that every space accommodates people. We should really try to redesign those areas, so that we can address the disparities that exist in our country.

Honourable Members, while our Party, the DTA, applauds the initiative in the *Land Bill* to finally give legal recognition and security of tenure to communal land rights, the mechanisms the Bill seeks to put in place to do so present various technical problems, and I will address them.

The Bill states that Traditional Authorities will be responsible for the allocation of Communal Land Rights, but at the same time, under Sections 26 and 27 that state that, *such allocation by Traditional Authorities are of no legal effect, unless ratified and registered with various boards*. It technically means that Traditional Authorities have no rights, a customary right that we have bequeathed to Traditional Authorities in this country even to advise the President on traditional communal land have no rights because the Boards are now taking over these rights from Traditional Authorities. I foresee a serious conflict of interest that would arise if we treat Traditional Authorities in such a manner.

I also want to raise my utter objection on Article 61. Article 61 of the Bill OR Section...(interjection)

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**HON MEMBER:** Clause!

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**HON VENAANI:** Oh, Clause 61, *ndangi mundu wa hongaze* (thank you my dear cousin). *Iyaloo nghelo, ondapandula* (thank you last born).

Clause 61 reads, “*Where a Traditional Authority has not been recognised or where the jurisdiction area of two or more recognised Traditional Authorities are not clearly defined, any decision which, in terms of this Act could have been exercised by a Traditional Authority is exercised by a Board, and any ratification of a decision of a Board is exercised by the Minister.* This is a fundamental challenge to Traditional Authorities.

My Brother, Honourable Simataa, spoke very eloquently about the proliferation of Traditional Leadership, and I understood the narrative he is coming from. The historical narrative of the area he comes from is understood, for someone to stand and say, *why do people want to have many Traditional Authorities?* However, the contrary narrative that we hold, on this side, is that our traditional areas were Windhoek, which has become a Municipality, Outjo, Okahandja. It is not only that, Keetmanshoop was a Traditional Authority, even Karasburg – all these areas have now become towns.

You would have a proliferation of Traditional Authorities. For example, OvaHereros who were living under the leadership of Maherero around Windhoek, Otjimbingwe, a little bit of Karibib and Omatjete, all these OvaHereros were lumped together. Half of them were put in Otjimbingwe where Bishop Kameeta and my Brother, Honourable !Naruseb, were placed through colonialism. Honourable Speaker, Katjavivi and myself, on one side, were placed in Ovitoto. The other ones were placed in Omatjete because the space belonged to the new power.

People who never governed one another would be placed into one Traditional Authority – what do they do? From a hereditary point of view, that leadership has been disintegrated, because those that were running their lineage had gone

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into exile because of colonialism, or they had died during the genocide war. Now, people who never governed one another were placed in one communal area and they must govern themselves. They have societal needs to have a Traditional Leader. That is where you have an emerging proliferation of Traditional Leaders in this country because the people who were running Keetmanshoop are no longer the bosses of Keetmanshoop. That Traditional Authority has been taken...(*intervention*)

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**HON SPEAKER:** Dispersed?

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**HON VENAANI:** Dispersed. Even in Berseba, I remember there was a right-hand man of *Auta* Nanseb, who was captured – Isaaks. Isaaks convinced Nama Leaders to surrender. Now, some of these people who were surrendering did not fall under the same Traditional Authority. However, when they came to Berseba, they had to put up a Traditional Leadership as before, but the land that they were governing was not the same.

So, to start arguing that the proliferation of Traditional Leaders is a problem – I understand it is a problem in numerical terms or economical terms to Government, but on the historical narrative, the reason why we are negotiating with the Germans about genocide is land dispossession. Land dispossession has led to the proliferation of Traditional Authorities in this country.

When you create a situation, and you come to Ovitoto, the reserve where I come from Otjituuo, where our people were sent in 1923 after the Concentration Camps – in Otjituuo, we do not have a recognised Traditional Authority, but there is a non-recognised Traditional Authority. When you start saying that the governing structure that is there can no longer hold its communities together and they have no right to decide on the land they are living on, you are going to create a conflict between those people because the boss would neither have the community' blessing, nor their autonomy to govern and to execute the land because there is a Traditional Authority. So,

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that matter must be addressed in context.

Honourable Members, Clause 26(4)(c)(ii) talks about the prescribed size, which is in reality not prescribed in this Law because the Law says that there must be a prescribed land that you must occupy in a communal area. We must understand that in this country, what Sacky Shanghala knows about communal areas is not what Venaani knows about communal areas. It is the sheer reason that colonialism and oppression had different effects in many parts of Namibia and this is a story that I want to tell.

In the North Central parts of the country and the Odendaal Commission, in trying to coerce people to join Bantustans, created land that was surveyed, demarcated and given to people. That is where you will find the Mangeti Farms. That is where you will find the whole of Okamatapati, in fact, the history of Okamatapati. There was a group that accepted the Odendaal Plan – the minority group of the OvaHereros that were living there accepted the Odendaal Plan, while the rest of the community refused. Therefore, today, Okamatapati is a communal area that has been fenced off in totality.

In Okamatapati, each farm would measure 5,000 hectares of land, measured and surveyed – in it is there. That is what people would refer to as Outemba – Farming Lands. However, in the north-central part of the country, Engela, Hayungu, all these areas were not surveyed, nor were they demarcated. When you are talking about a prescribed sizeable land, you must also speak from the backdrop of diverse communal areas that exist in our country.

If you go to Aminus today – before Aminus, let me go Damara Land. Damara Land, because of dispossessions, all these mountains from Daan Viljoen here, the Otjiwarongo Mountains, were inhabited by our colleagues, the Damara people. However, because of the realisation that the Damara people were lumped together in the Okombahe area, and in the Tubuses Mountains, there was a lack of space. So, the colonial regime created the new Khorixas in Damara Land. However, Damara Land, when it started to develop there were white-owned farms that the Government of the colonial administration was buying to create the new Damara Land.

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If you go to the old maps of Damara Land, you will find surveying, and there are people that are in some pockets of farms, so are the Riemvasmakkers who came later from South Africa to the country who were given a few farms and they have created the Riemvasmakkers Reserves or whatever you call them.

So is Aminus. I am trying to elucidate this point in the manner that tells all of us, as Legislators, that what you know in your area might not be a carte blanche situation in other areas. Therefore, if you are talking about a prescribed size of land, it will depend on a number of dynamics. For example, those of us who have read the early history of Otjimbingwe, the river, and I think Bishop Kameeta can bear testimony, I am sure he would have lived to have seen this, since some of us were too young to have lived. (*Interjection*)

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**HON MEMBER:** Even me!

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**HON VENAANI:** Of course, but at least, him. I would doubt you, but you might also have seen it. Be that as it may.

Otjimbingwe was once a prosperous agricultural area. Corn would grow in the riverbeds. (*interjection*)

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**HON MEMBER:** That I know!

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**HON VENAANI:** Oh, that you know? Okay. However, if you go to Otjimbingwe today and talk about trying to have 5,000 hectares of land in Otjimbingwe because of the sheer rise, perhaps Traditional Authorities would not tell you, but if you go to...(*interjection*)

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**HON MEMBER:** Katjina Katji!

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**HON VENAANI:** No, not Katjina Katji. When you go to Tjivitjivi – I do not think you know that place. Tjivitjivi is a farm of a friend of mine in the hinterlands of Okavango. There you can have sizeable land there. In Kavango, you can have 10,000 hectares of farm because of land availability. Therefore, when you speak of prescribed size of communal area, it will depend on a number of dynamics. So, to make it *carte blanche* and say there must be a prescribed size of land, would also be a toothless exercise because communal areas are very different.

If you go to Tsumkwe (*interjection*)

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**HON MEMBER:** Is it Kalipa?

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**HON VENAANI:** Kalipa is a good friend of mine. I know the country very well.

If you go to Tsumkwe, a lot of our farmers from the North and Kavango and from Gam and Herero areas have invaded the former Bushmen land. (*Interjection*) No, I am talking about Tsumkwe, before I go to Eiseb.

In the Tsumkwe Communal Area, an individual can have 15,000 hectares of land because of land availability there. However, in Ondjambaalala, in the North, you might not be able to quantify and satisfy the prescribed land size because of the sheer amount of people who are living there and the size. When we are speaking about communal areas, they are not the same. They vary. Therefore, the Bill must also take that variance of communal areas into account.

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One area where we are lacking that I want to address is restitution, and I want us to be very sensitive because when you talk about land, there is emotional attachment to land. Between Okondjatu, Otjituo, Otjinene, Gam and Tsumkwe on the one side, there is a triangle. Over 200,000 hectares of land is uninhabited – close to 200,000 hectares of land. (*Interjection*) It is called The Triangle. Some of us rode on horses, while we were young in those areas. It is between the Otjozondjupa and Omaheke area. It is uninhabited, there is no claimant to that land. I think the only people who can claim that land properly, are the Bushmen who were hunting there. However, because there is a lack of water, it is an uninhabited virgin land.

The minute – and this is a sensitivity of land that we must drive towards – the minute you open up and say that we must address Namibians who are destitute and are land hungry, so that they are resettled in those areas, you will create *ethnocratic* wars between our people. Therefore, when you manage these virgin lands, you must manage them in a manner and fashion that also addresses the land hunger of the communities that are living there.

The reason why a close to conflict arose in Kavango West is not because the northern farmers were not coming from a need to have expanded land due to a thriving economy in a cattle industry, no! It was more of an ethnic thing. The people were saying, *we are being encroached, our land is being taken away from us and we do not know who is taking it.*

So, when you are taking land from one another that process must also be macro managed, so that it addresses, first and foremost nationalism and it also addresses the question of restitution for people to feel that they are also not losing out.

Let me also address...(intervention)

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**HON SPEAKER:** On a Point or Order, just to give you a break.

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**HON VENAANI:** Is it? (*Interjection*)

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**HON MEMBER:** Point of Interruption!

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**HON MBAI:** I am not rising on a Point of Interruption, but a Point of Information.

You mentioned the triangle area, are you aware that traditionally, the Otjituuo residents occupied those areas from time to time? However, because of the political demarcations, the triangle area was demarcated into the Tsumkwe Constituency?

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**HON VENAANI:** I am very well aware.

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**HON MBAI:** I thank you.

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**HON VENAANI:** I am aware of the fact. We, from Otjituuo, know that we used to hunt in that area. That is the triangle where we used to go and hunt and during the drought seasons we would move *ozohambo* right in the fence, but because of the new demarcations the land now belongs to the Tsumkwe Constituency as opposed to the Okakarara Constituency boundaries. I even know the dynamics of Outapi, Kunene...(*intervention*)

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**HON MEMBER:** Colonisation?

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**HON VENAANI:** Wait, let us not be emotional when we are talking, the country is listening to us and we need to harmonise people's views about what we are doing. I do not want this matter to be emotive because land is emotive, but when we are addressing it, we must be more mature. We must rise above the undertones that are happening in those areas.

I know that there is also a big fight between Omakange and Outapi areas. The Aangandjera know, the Aakwaludhi know. There is also a fight between Ovazemba and Aakolongadi...(interjection) Ruacana is a person's name – Ruhakana Wa Kangombe, but a Zemba would feel that, *this land is not mine*. There are so many dynamics when we are addressing communal land. (Interjection) Okay. (Intervention)

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**HON ATTORNEY-GENERAL:** Mr Speaker, may I kindly ask a question? Mr Speaker, I am actually enjoying the discussion and I will want to, at a later stage, come in and correct my Brother on some of the issues on the Odendaal Commission or just add onto it a little.

However, the general thrust of what I hear Honourable Venaani indicating is that, when you look at land, it has a component of direct affinity of communities to it. There is nothing wrong with that. That affinity and that structure of the community is then organised into a traditional community and over it there is a structure.

The question is, the landholding pattern of the yesteryears in the then Nation States of the Traditional Authorities of the communities, *vis a vis* the States being the custodian as a Unitary State of the going concern of the Republic of Namibia; how do we reconcile the role of these Traditional Authorities, the role of State Organs at the various levels because you have land owned by Central Government, land owned by the Local Authority – and they can even raise taxes on it – land owned by the Regional Council. How do we reconcile these landholding patterns in the realm of the State, in present day of Namibia?

Secondly, in your idea, as you weave this discussion into a practical

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manifestation of land management, that is all it is actually – land management is what the Bill trying to do – how do we marry these contesting, and I do not want us to unravel the issue to ancestral land rights, but how do we...(intervention)

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**HON VENAANI**: That is right.

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**HON ATTORNEY-GENERAL**: Yes, how do we manage the competing, contesting, justifiable land claims and affinity, in a situation where the population dispersion around the country is no longer, only linked to the agrarian or agricultural type of lifestyle that this community was bound by then? In other words, I am trying to say, how do you advance those landholding patterns because some of the communities emerging today cannot even claim a Traditional Authority and, therefore, a traditional community and, therefore, a traditional area.

How do we now marry these landless citizens that are being developed today in the realm of the very pressing need to have the continuous land rights in the present and continuous future? My question is, can we sustain that discussion or do we need to think out of the box and come up with a new landholding pattern along the lines of what you were talking about a week or two weeks ago, about how we can unlock value and make sure that future generations have access? So, it would be very interested, if you can address that type of discourse.

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**HON VENAANI**: Thank you very much. I think, if you were very attentive to what I started with...(interjection) Listen. You have just asked a question, let me answer it.

I started with urban land resettlement as a proposition. One reality, and that is

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the reality that you and I will face in the next 20 to 30 years to come. Not all of our communities or societies can become agrarian farmers. Not all our children will become farmers, therefore, we should not make as if we have land that is available for everybody. However, to lessen the burden of land, both commercial and communal, the biggest land hunger in the country is in urban land where our people do not have equity.

Therefore, having a resettlement process such as commercial land resettlement, which is a laudable exercise with a lot of mistakes because it addresses the political question, but it lacks in addressing economical questions. The same policy must also be a two-legged policy. If you take N\$50 million per year to service un-serviced land in Rundu, how many families are you going to service? How many people would have immediate equity in their hands for a portion of an erf that would immediately cost N\$100,000.00?

So, for us to hold ourselves and say that the people who have registered to be land hungry in Namibia are 265,000, we know the sizes of farms, we know the sizes of communal areas. If you make that to sum, the question would not tally. For the people who are there, and the available land that we have, people will not be able to consume the land that we have. We need to create an entry point in urban lands, so that the majority of the people living in Oshatotwa, Oshitenda and Okahandja Park can have equity.

Through the Speaker, that is our proposition, and it is not a new proposition.  
*(Interjection)*

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**HON MEMBER:** That is being addressed!

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**HON VENAANI:** No, it is not being addressed. *(Intervention)*

---

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**SECOND READING – LAND BILL  
HON VENAANI**

**HON SPEAKER:** Please continue. (*Interjections*) Please continue.

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**HON VENAANI:** It is not being addressed. Honourable Minister, I want to take you to Subsection (28) that speaks of linking your land tenure to one's life. If the motive of this Bill is to try to modernise property rights, you cannot attach land tenure to a person's life. It is very dangerous. You must be predictable because if you have a freehold and you want to go to a bank and say, *no, I want to buy some tractors and some seeds to be able to have better yields on my land*, the bank would not want to know how long you have had a leasehold on this land.

So, the leasehold cannot be based on the day that you depart mother earth because what if you borrow today and you would like tomorrow? That leasehold must be able to guarantee because the effectiveness of a freehold system is that your land is treatable and you can use it as collateral to access capital. Hernando de Soto has really expanded on that idea. I think Subsection (28) must be reformed a little bit.

I see in the Bill, and I have read it extensively, there is a lack of matrimonial joint ownership of land. The Bill is heavily gender insensitive such that it only speaks of a spouse in the event that you die; however, we know that we have matrimonial policies and matrimonial regimes in our country. You can be married to Lucia in community of property. Why should she wait until I die to inherit the land? It must be registered, there must be Provisions that allow for the registration of land, in both her rights and my rights, as joint custodians of the land. Therefore, in terms of matrimonial joint registration there is an absence of it and I think that more attention should be given that.

I also want to address the Muharukuas and Kavekotoras' problem who have multiple spouses in their communal areas. They are allowed to have more than one spouse. (*Interjections*) Yes, Muharukua and Kavekatora. (*Interjection*)

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HON VENAANI**

**HON MEMBER:** Are you encouraging polygamy?!

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**HON VENAANI:** Polygamy was in all our communities. In fact, before Bible, there was polygamy. However, in Kaokoland, for example, which is quite a very large tracts of communal lands, it is also very difficult to leave the wives outside of custodianship because there is a culture, at this point in time, the old OvaHerero culture would say – and it is not only OvaHereros, but many cultures of Namibians – *you would inherit your uncle's property.*

That regime, I now and then address in meetings in passing. That regime is very discriminatory. It is effective on one hand and very discriminatory on the other. Where you would marry four wives, they would raise the cattle, they would go after the goats, they would do everything, but at the time that they must get something that regime must be upheld, *muatje ovazia vepi? Where are the cousins? They must go and inherit from the uncle?* However, you know that you would have buried all the uncles and you have four wives. I also want these wives to be guaranteed.

Land, under this modern...(*intervention*)

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**HON SPEAKER:** I am assuming you still have a long way to go?

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**HON VENAANI:** Well I do.

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**HON SPEAKER:** Can we continue tomorrow, the day after tomorrow or perhaps next week?

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**SECOND READING – LAND BILL  
HON VENAANI**

**HON VENAANI:** Honourable Speaker, I am leaving, in fact, I am not going to be here. I am leaving on a private mission.

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**HON SPEAKER:** But I am asking, how far are you?

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**HON VENAANI:** Honourable Speaker, I beg your indulgence to just get five minutes.

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**HON SPEAKER:** Make it less than five, please. (*Interjection*)

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**HON MEMBER:** You left your speech and started to talk out of your head.

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**HON VENAANI:** No, I have not left the speech. Honourable Speaker...(*interjection*)

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**HON DIENDA:** Can I continue on your behalf?

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**HON VENAANI:** Yes, you must continue on my behalf. But what I am trying to move to...(*interjection*)

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HON VENAANI**

**HON MEMBER:** She continues as a spouse or what? (*Laughter*)

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**HON VENAANI:** As a spouse, as a second wife. That is alright, but on a lighter note. I do not want to be beaten. (*Laughter*) I do not want to be beaten, I withdraw that. I do not want to be beaten up. (*Interjections*) (*Intervention*)

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**HON SPEAKER:** Let him conclude.

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**HON VENAANI:** Honourable Speaker, what I am trying to push through is that this Bill has addressed a number of issues, but we need consultation.

I want this Bill to be referred. My wish and my prayer is that we refer this Bill to the Natural Resources Committee, so that they go and consult communities because we cannot pass it. It is too emotional, it is too fast and there are some issues that need to be addressed. (*Interjection*) No, it is a question of a lack of consultation. Proper consultation has not been done and I want this Bill to be referred to a Parliamentary Committee to address many of the issues that I have raised and others that are outstanding.

Honourable Speaker, just as the last sentence because I shall not be here when we close this House. I want to wish all the Members of this House, starting from the Leader of the Government Business a happy and restful season.

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**HON MINISTER OF LAND REFORM:** Are you not coming back?

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HON !NARUSEB**

**HON VENAANI:** No, I am not coming back. I will be on the Party mission outside the country. (*Interjection*)

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**HON MEMBER:** What Party?!

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**HON VENAANI:** The People's Party. I might not have the time to meet many of you and I want to wish you, Honourable Speaker, the Leader of Government Business and all Political Party Leaders here the best and say that, we fought, we laughed, we got angry with one another, but it was all in the interest of our Motherland. May you have a restful season. Please, Whatsapp me and greet each other. Thank you very much.

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**HON SPEAKER:** Thank you very much. Can I also suggest or advice, that you kindly, please hand over the copy to the Honourable Minister, so that he does not need to wait for the record, but will have access to the issues that you have raised? Yes, can I call upon Honourable Minister !Naruseb.

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**HON MINISTER OF WORKS AND TRANSPORT:** While I am contesting the summary of my Young Brother here in terms of consultations, I want to postpone and adjourn the Debate until Tuesday, next week.

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**HON SPEAKER:** Thank you very much, indeed. With that, the House stands adjourned until Tuesday next week.

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**SECOND READING – LAND BILL  
HON SANKAWASA**

**HON SPEAKER:** The Secretary will read the Second Order of the Day.

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**RESUMPTION OF DEBATE ON SECOND  
READING – LAND BILL [B.19 – 2016]**

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**SECRETARY:** Resumption of Debate on Second Reading – *Land Bill* [B.19 – 2016].

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**HON SPEAKER:** When the Debate was adjourned on Thursday, 17 November 2016, the question before the Assembly was a Motion by the Honourable Minister of Land Reform that the Bill be read a Second Time. The Honourable Minister of Works and Transport adjourned the Debate. I call on the Deputy Minister to take the Floor.

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**HON DEPUTY MINISTER OF WORKS AND TRANSPORT:** He had to be attended to by the Doctor.

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**HON SPEAKER:** There are others who wish to contribute.

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**HON DEPUTY MINISTER OF WORKS AND TRANSPORT:** I can stand in for him, and move my contribution.

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**HON SPEAKER:** Are you ready to take the Floor on behalf of the Minister?

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**SECOND READING – LAND BILL  
HON JAHANIKA**

I was just making sure – you can still find time. Honourable Jahanika, please take the Floor.

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**HON JAHANIKA:** Thank you, Honourable Speaker. Honourable Members, it is a great honour for me to make a contribution on this very important Land Bill which is long overdue. The Bill is long overdue because we, in NUDO, have been raising the issue of one integrated land law rather than the present system, which distinguishes between communal and commercial areas, in our 2004/2009 and 2014 Manifestoes. We, therefore, thank the Minister who has come to his senses and copied something from our Manifesto. Honourable Speaker, Honourable Members, (*intervention*)

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**HON SPEAKER:** On a Point of Order, please.

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**HON JAHANIKA:** What is the order? I am not lost.

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**HON MINISTER OF GENDER EQUALITY AND CHILD WELFARE:** Thank you, Comrade Speaker. I think we are Honourable Members with all the five senses. Therefore, it does not mean that the Minister who has come to his senses had some senses missing, and other senses came back to him. The Colleague should withdraw this statement. It is not good. It does not auger well to the ears of the children of that Minister. Withdraw those words that is not Parliamentary. Thank you.

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**HON SPEAKER:** Thank you very much. Hang on. Did you refer to *copy*? What did you say?

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**SECOND READING – LAND BILL  
HON JAHANIKA**

**HON JAHANIKA:** I said *copied from the NUDO Manifesto*. He copied from the NUDO Manifesto.

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**HON SPEAKER:** Do you mean the ideas?

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**HON JAHANIKA:** The idea was copied from the NUDO Manifesto, *(interjections)* of course. Honourable Speaker...*(interjections)* Withdraw what? Copied? *(Intervention)*

---

**HON SPEAKER:** I think there are words that you used that the Minister has *come to his senses?* What do you mean by that?

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**HON JAHANIKA:** By realising that NUDO was always talking the truth. That is what I mean. What is wrong with that?

---

**HON SPEAKER:** Anyway, you may continue.

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**HON JAHANIKA:** Honourable Speaker, Honourable Members, the war between some Namibians...*(interjection)* What is the order? I insist I will not withdraw.

---

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**SECOND READING – LAND BILL  
HON JAHANIKA**

**HON SPEAKER:** The words *coming to his senses* are a bit insulting.  
(*Intervention*)

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**HON JAHANIKA:** To realise.

\_\_\_\_\_

**HON SPEAKER:** You are defining them now, but please withdraw the way you used them originally. Withdraw that and you continue.

\_\_\_\_\_

**HON JAHANIKA:** The meaning of *coming to senses* is to *realise*. Can you look it up in the dictionary?

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**HON SPEAKER:** No, no, you are explaining it further, but the original usage is actually insulting, withdraw that.

\_\_\_\_\_

**HON JAHANIKA:** It is what I meant.

\_\_\_\_\_

**HON SPEAKER:** Yes, but you are only explaining it further upon the intervention by the Honourable Member. Withdraw that and continue. Please, withdraw that.

\_\_\_\_\_

**HON JAHANIKA:** You want to push me out of Parliament.

\_\_\_\_\_

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**SECOND READING – LAND BILL  
HON JAHANIKA**

**HON SPEAKER:** No, no, no!

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**HON JAHANIKA:** No, I am not going to withdraw! There is no need to withdraw.

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**HON SPEAKER:** Please, withdraw that.

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**HON JAHANIKA:** Why? What did I do wrong?

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**HON SPEAKER:** I said the way you used the words originally was not proper. Do the right and honourable thing, withdraw and continue.

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**HON JAHANIKA:** We thank the Minister who realised that NUDO was right when they were asking for (*intervention*)

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**HON SPEAKER:** Let us not have a Debate. I am asking you to withdraw those words!

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**HON JAHANIKA:** Why are you asking me? Whom did I insult? No! (*Interjections*)

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**SECOND READING – LAND BILL  
HON JAHANIKA**

**RT HON PRIME MINISTER:** That phrase – it says...(*interjections*) Can the Honourable Member just take a seat please, so that I can address...(*intervention*)

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**HON SPEAKER:** Sit down! Sit down, please!

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**RT HON PRIME MINISTER:** It says to begin to come to one's senses means to begin to think in a sensible or correct way after being foolish.

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**HON SPEAKER:** Let us have order! Honourable Member, withdraw those words and continue. Do the honourable thing, please.

---

**HON JAHANIKA:** Because you are forcing me...(*intervention*)

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**HON SPEAKER:** No, no, no!

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**HON JAHANIKA:** I am withdrawing because you are forcing me.

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**HON SPEAKER:** You may continue.

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**SECOND READING – LAND BILL  
HON JAHANIKA**

**HON JAHANIKA**: The war between some Namibians, Hereros and Namas, and Germany from 1904 to 1908 was about land. Land is the economy and the economy is land. A *Land Bill*, which does not recognise that in Namibia, Namas and Hereros have been robbed of their land by the Germans is not the right Bill, as the Bill is supposed to correct the wrongs of the past as far as land is concerned. We know very well that the Germans who travelled across the oceans to Namibia came without a significant amount of their properties with them.

Land, of course, is one of the properties that are immovable, thus when the Germans settlers arrived in Namibia around 1883, their hands were empty. They had nothing in their hands. Land is a basic asset of life and a principle natural capital where people produce in order to make a living. German settlers occupied the grazing areas of the Hereros and Namas, but did not occupy some of the most fertile areas in the former Ovamboland, Kavango and Caprivi. (*Interjections*) I said in the former, you cannot tell me rubbish. Honourable Speaker, I withdraw, I withdraw that!

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**HON SPEAKER**: Order! Order! Are you seeking for a Point of Order? Okay, continue please.

---

**HON JAHANIKA**: Honourable Speaker, Honourable Members, Hereros and Namas, therefore, should...(*intervention*)

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**HON SPEAKER**: Deputy Speaker, are you rising on a Point of Order?

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**HON DEPUTY SPEAKER**: I would like to bring to the attention of all of us, Rule 109, which says, can I read it? “*Whenever the Presiding Member rises*

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HON JAHANIKA**

*during a Debate, the Member who is then speaking and all other Members shall resume their seat, remain seated and the Presiding Member shall be heard without interruption.” Thank you.*

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**HON SPEAKER:** We should remember those Rules and abide by them. Thank you. Continue.

---

**HON JAHANIKA:** Honourable Speaker, thank you very much. Hereros and Namas, therefore, should enjoy priority when it comes to the Resettlement Programme, as they are the only people whose forefathers and mothers’ land was grabbed by the German settlers from 1884 to 1908. They did not only grab their land, but they killed our people over their land. In other words, they have committed genocide against innocent people. If the *Land Bill* does not prioritise Namas and Hereros, the Bill must make provision for Namas and Hereros to reclaim their ancestral land because they know where their forefathers and mothers used to live as most farms’ names south of Oshivelo are either in Otjiherero or Nama language. In Namibia, you cannot talk about land without talking about the Herero and Nama Genocide.

Honourable Speaker, Honourable Members, it is not new for certain groups to be prioritised as with the introduction of the National Resettlement Policy in the late 1990s, the following groups of people were put in order; the San Community, ex-PLAN fighters, Returnees and more. If the Government does not amend the Bill to prioritise Namas and Hereros in the Resettlement Programme, then they will be left with no other alternative rather than to start with land grabbing as part of the first phase of the struggle for economic freedom in our lifetime.

Honourable Speaker, Honourable Members, we, Namibians, cannot continue to buy ancestral land from the whites at high prices like that. Therefore, the *willing-seller-willing-buyer* policy should be done away with and be replaced with another system that accelerates land reform – even if we need to change



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HON JAHANIKA**

our Supreme Laws, we must do it as soon as possible. I will support the Ruling Party...(intervention)

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**HON SPEAKER:** On a Point of Order.

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**HON MINISTER OF FINANCE:** Thank you, Honourable Speaker. I just want to remind the Honourable Member of Rule 116(a), which says, *speak against or reflect upon a decision or Act of the Assembly except for the purpose of moving that it be rescinded*. Now, if the Honourable Member propagates land grabbing, I think that is speaking against an Act of the Assembly, and I think that is not allowed according to the Rules. Thank you.

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**HON SPEAKER:** Thank you. Honourable Member, please continue.

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**HON JAHANIKA:** I will support the Ruling Party to use their two-third majority once in their lifetime for the benefit of all Namibians.

Honourable Speaker, Honourable Members, the enlargement of communal areas is good news from the *Land Bill*, and the following communal areas must be the first ones to be enlarged by buying adjacent farms and be added to the following communal areas:

- Ovitoto
- Otjimbingwe
- Omatjete
- Omongwa (Aminuis)

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HON JAHANIKA**

Honourable Speaker, Honourable Members, I hope that the *Land Bill* has done away with the allocation of 20 hectares, as 20 hectares was originally meant for mahangu fields, but not for grazing purposes. It has created more problems than solutions, especially in the following Regions:

- Omaheke
- Otjozondjupa
- Erongo
- Kunene, which are mainly for livestock farming areas.

The other problem caused by the Government is the issue of gazetted Traditional Authorities versus un-gazetted Traditional Authorities where the Government prefers to work with gazetted Traditional Authorities forcing the subjects who belong to un-gazetted Traditional Authorities to work under Traditional Authorities that they are not members of and through that undermining the choice of the people.

The allocation of 20 hectares by some Traditional Authorities will one day cause calamity in some communal areas. In the Otjinene Constituency, it is being alleged that recognised Traditional Authority Councillors are selling communal land like KFC to other people from areas like Rehoboth, Ohangwena, Omusati etcetera, while the residents are hungry for land.

It is being alleged that money collected is not being deposited in the Traditional Authority's account, but in the individual pockets of those who are selling the land. I request the Ministry to investigate these land corrupt practices.

In conclusion, I would like to request the honourable House to refer this Bill to the relevant Standing Committee on Natural Resources to solicit more input from stakeholders. I thank you.

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**HON SPEAKER:** Thank you. Honourable Deputy Minister of Land Reform.

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**SECOND READING – LAND BILL  
HON SWARTBOOI / HON KAVEKOTORA**

**HON DEPUTY MINISTER OF LAND REFORM:** Honourable Speaker, thank you very much. Honourable Speaker, we all know that the question of land is an important and sensitive issue. In bringing this Bill to this House, the idea of the Ministry was to allow a thoughtful and meticulous Debate on the matter of land, particularly with the idea to help in reform efforts for the benefit of all of us.

Having read the mood and having understood some of the concerns of the Colleagues, but also appreciating the various strategies being employed, possibly to raise emotions beyond a manageable proportion in this House, in our view, or at least in my view in the absence of my Minister, creates the risk that we may not deal with the substantive issues responsibly, and I fear that in a contaminated environment in which emotions tend to drive issues and derail core matters that need to be discussed from substance to other, probably the misinterpretation of history. My view is this, and I so Move that, we postpone the discussion or this Debate until Thursday, so that the Minister is here when the discussion is taken forward and the he hears thoroughly the views of the Colleagues and that we do justice to this important Bill. I so Move.

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**HON SPEAKER:** Thank you. I have a list of Honourable Members who requested to make contributions, let me exhaust that. Next on my list is Honourable Kavekatora.

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**HON KAVEKOTORA:** Thank you very much, Honourable Speaker, for giving me the opportunity to make a contribution to this very important piece of Legislation. I want to start off by making a few comments regarding the events before this Bill was tabled here. During our Standing Rules and Orders Committee meeting, we asked a question to the Honourable Speaker about the cut-off date as to when Bills are to be submitted to this august House and we were given a specific date as to when this cut-off date is.

Prior to that, the Executive was informed about the cut-off date and were

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HON KAVEKOTORA**

humbly requested by the Honourable Speaker to submit Bills on time. Failing to do so, in the words of the Speaker, it will not accommodate any further Bills. Those two premises where in my opinion not adhered to. As a matter, also subsequent to that there was another discussion that talked about an issue of let us assess the Bills and look at the complexity of the Bills or the magnitude of the Bill and decide on allowing some of the Bills that are not as sensitive as others. Again, that principle was repudiated. I do not know by whom.

Coming straight to the Bill, Honourable Speaker, I also wanted to have a written comment on the Bill, but I got stuck at the object of the Bill. When you read the object of the Bill, and you start to make a comparative analysis between the object and what the Bill then starts to elaborate on, there is a serious mismatch because the Bill, in the object, is talking about issues such as, and I want to be very specific on Page 11 – this is where I got stuck – it says, *the objects of this Act are to address, in accordance with the Namibian Constitution, injustices of the past, which include dispossession*. When I got there, I started to compare this Bill with that word – *dispossession* – and I could not find anything other than what has been quoted here, that addresses the issue of dispossession. That is where I got stuck.

Honourable Speaker, to make matters worse, the Land Conference that was anticipated to have taken place, which in my view could have been a serious contributing factor to the completeness of this Bill, has been postponed. Why? I do not know.

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**HON SPEAKER:** On a Point of Order.

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**HON KAVEKOTORA:** Point of what Order?

\_\_\_\_\_

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**SECOND READING – LAND BILL  
HON KAVEKOTORA**

**HON !NAWASES-TAEYELE:** Honourable Speaker, I am not so sure whether we are doing justice to this exercise. I thought when the Deputy Minister rose to try to rescue this situation of exactly the same issues that the Honourable Member is raising on the Floor now was that the Ministry to be given the opportunity to consult on the issues that were already raised, including the Leader of the Official Opposition looking at the interest that has been shown from this side of the isle for the Ministry to be given the opportunity to consult further on this matter. Therefore, Honourable Speaker, I am requesting you to bring this discussion to a closure, for now, for further consultation. I thought that was exactly what the Deputy Minister was trying to request.

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**HON SPEAKER:** Let me help. (*Interjections*) I will ask you when I need your help. First of all, the intervention by the Deputy Minister of Land Reform was very clear and I understood him. However, I have a long list of Members who wish to make a contribution, and I thought we could finalise those who wish to partake to have their say and then we are going to make the voice recordings available to the Honourable Minister of Land Reform so that he is in the picture in terms of the various contributions made when he is going to reply, formally, to the contributions made so far. Then at that particular stage, he could make his judgement in terms of what would be the way forward. That is a sort of idea I am entertaining here.

Secondly, I do not think it is correct for Honourable Kavekatora to say that we do not follow the Rules with respect to those Bills that were prioritised to go forward, because that is what we have done. I actually pronounced myself on that particular issue, and this particular Bill was included then as one of the few out of nine Bills that were going forward. However, if we do not conclude in whatever form or shape, and the matter is referred to a Committee, that, of course, will be a determination that we could make along the way as we finalise that particular item.

I am following the Rules as they are before us. Honourable Member, if you do not mind, could you continue, and if those of you who would like to await the

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HON KAVEKOTORA**

suggestion made by the Deputy Minister, it is well and good, but if you are insisting that you want to make a contribution, I have no choice, but to exhaust the list that I have now, Honourable Members.

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**HON KAVEKOTORA**: Thank you very much, Honourable Speaker. On a Point of Order, I really thought the Deputy Minister would request this august House to postpone this Bill, indefinitely, but the Honourable Deputy Minister just went to postpone this Bill until next week, Thursday, just to allow the Minister to be here. That is a totally different ballgame, and that is why I have chosen to continue making my contribution.

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**HON SPEAKER**: That is why I requested you to have the Floor.

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**HON KAVEKOTORA**: That is why I am having the Floor.

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**HON SPEAKER**: May you now continue please?

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**HON KAVEKOTORA**: Yes. Honourable Speaker, I think with regard to the comments that the Honourable Speaker has made – when we were talking about the submission of Bills, all the Bills were work in progress. There was nothing concrete on the table of the Speaker. That is why we said, we need to look at the Bills that are not as complex as the one that we are talking about now, but that is fine.

Honourable Speaker, I stopped – I was interrupted at a point when I was talking about the Land Conference, which I think the Land Conference is a

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HON KAVEKOTORA**

very critical and important piece of exercise that will do justice to this very sensitive issue of land. Honourable Speaker, I do not want to say much about the current situation when it comes to commercial land. I just want to say something with regard to commercial land to this august House, and that is to say, the current commercial land that we are talking about was at a point in time communal land for some Namibians who are sitting here today.

When we talk about the current commercial land, we must understand, and take cognisance of the fact that that land was communal land to some of the Namibians who are here today. We also know how these people have lost that land. I think it is very important for us to take that matter very seriously, if we are to prevent some of the things that we do not want to have in this country.

I also want to remind this House on one very important development, and that is, the development in the neighbouring country South Africa. A very similar exercise took place in South Africa, there was a Constitutional Court challenge by the Riemvasmakers of that country, and they won that challenge. In some of the areas in the Northern Cape, the Resettlement Programme was blocked to allow ancestral land to be discussed, so that, at the end of the day, it is returned to its rightful owners.

South Africa is just around the corner. I think it is something that we, as a country, have to take cognisance of, so that when we talk about these things, when we come up with such a very important piece of Legislation in which some of the areas that I have visited in the past few weeks, the consultation, if it has taken place at all, was not as effective as one would wish it to be.

Therefore, it is on that basis that I humbly request the Honourable Minister and the Honourable Deputy Minister, in view of the above, not only to postpone this Bill to Thursday, but to postpone this Bill until we have the Land Conference, to postpone this Bill until we have a proper analysis of what we want to have as our Legislation, because failing to do so, will just bring us back to this august House with another Amendment to a Bill, which has been the tradition all along. We have a tradition of having so many Amendments because we have not thought certain things through. I think that is something that I am just humbly requesting the Government to seriously take note of and

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HON MUHARUKUA**

to make sure that, at the end of the day, once a piece of Legislation has been approved, it stands the test of time.

We cannot just go for a piece of Legislation that was brought in 5 to 12, just to come back after we have the Land Conference where we have to do some other Amendments where some of the people will even stand up and start arguing because, if you look at the Traditional Authority, the definition thereof and the ownership or the custodian of communal land has now been changed – all these things really point down to one point, and that is a point of saying, let us postpone this Bill. There will be no damage done, but the more we run through this thing at an accelerated rate, the more problems we are creating for ourselves moving ahead. My humble request Honourable Speaker is for this Bill to be postponed until we go through the Land Conference. Therefore, I do not support the Bill at all.

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**HON SPEAKER:** Thank you. Honourable Mbai, are you part of the list? (*Interjections*) Please, let us have order! In fact, you wanted to speak on a Point of Order, unfortunately, Honourable Kavekatora has concluded. You only stood up when he concluded. The next in line (*intervention*)

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**HON MUHARUKUA:** Honourable Speaker, on the request of the Deputy Minister of Land Reform and in light of what Honourable Kavekatora said, in fact, what I want to say is, perhaps, it is correct to heed to the request. The reason why I am saying that is this: I am interpreting from the request that the intention is that the Bill lapses by Thursday, but the guts from my learned Colleague here to withdraw it is not there, it is an embarrassment. So, perhaps, Honourable Speaker, with that request and this request, I think it is quite correct that we postpone it to Thursday.



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**HON SPEAKER:** I heard you, but the most unfortunate thing for me presiding here is that I have Honourable Members on my list who wish to make contributions and they are equally entitled to have their say. So, on that basis, we continue.

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**HON MAAMBERUA:** Comrade Speaker, I sense the mood in the House that if the Ministry can do the honest and honourable thing to withdraw this Bill, all of us will not be interested in contributing further, because that will be with the purpose of consulting at a later stage. Can the Ministry just withdraw the Bill?

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**HON SPEAKER:** I think we should be fair to the Ministry. There is the option that the Bill might lapse, but there is also an option of referring the Bill to a Committee. Those options are up to the Ministry to choose the best way out. That is the reason why there are people who wish to make contributions. I do not want to prevent them from making their views heard in the House. Honourable Mbai.

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**HON MBAI:** Honourable Speaker, I am completely confused now, because I concur with the views of the previous speakers, including the request of the Deputy Minister of Land Reform, but unfortunately, I regard myself as a person who would not like to inflame emotions in a situation of this nature. I was intending to make my contribution at the end, to request the discussion to be referred to a Standing Committee for further consultations and inputs.

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**HON SPEAKER:** That is a very clear proposal. Attorney-General.

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HON MBAI**

**HON ATTORNEY-GENERAL**: May I ask Honourable Mbai a question on his proposal?

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**HON SPEAKER**: Yes, please.

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**HON ATTORNEY-GENERAL**: Honourable Mbai, I take it that your suggestion is predicated on the fact that you would like to have this Bill properly ventilated, discussed and thoroughly analysed in terms of the issues that are being raised. Is it a possibility that with the list that the Speaker has in front of him, more issues may come out to the fore that may be indicative of what other issues could be ventilated and discussed when the Bill would be disposed at its terminal point, and is it possible that your proposal can accommodate the ability for other Members to also express what they think should be particularly considered as focal issues when that Bill is dealt with in the manner that it would be dealt with at a point in time that it is dealt with? Is it a possibility that your proposal could accommodate my concern?

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**HON MBAI**: In fact, that is not my Bill. This is the Bill of the Minister, and I stood up to make a contribution, because I want everyone to express themselves, but against the background of the feelings and sentiments expressed before me, we must try to accommodate these feelings. Let me proceed and finish.

Honourable Speaker, I rise to contribute to the Debate under discussion. I would like, in the first instance, to thank the Honourable Minister for bringing this very important piece of Legislation to this august House. The problem of inequitable distribution of land in Namibia dates way back to the early days of colonialism. Therefore, the struggle for Independence was because of land. Land has become one of the most critical factors in achieving the redress for the wrongdoing of the past.

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The Bill under discussion marks a major change in the institutional framework that handled the country's land matters. The establishment of Land Boards vested communal land in these Boards, and the definition of its powers and duties are to some extent commendable, but need more enforcement mechanisms. It is very essential to separate the powers of Traditional Authorities and that of Land Boards, so that the custodian right of Traditional Leaders and Authorities are not misunderstood. It is, therefore, important that the two Legislations, after all, speak to one another, namely the *Land Act* and the *Traditional Authorities Act*.

The powers and functions of Boards are defined in the Bill, but it does not provide for the enforcement of these powers. Even if the Land Board puts down decisions on certain issues, there is no enforcement capacity to make sure that those decisions are observed. Taking them to Court is time-consuming and costly, but Customary Courts can deal with land disputes because they have powers enforced already.

The other issue I would like to raise, Honourable Minister, is on the constitution of the Boards, Subsection 6. If a Traditional Authority fails to nominate a person for appointment, following a request of the Minister under Subsection 3, the Minister may appoint any person whom the Minister thinks fit. Why can this not be referred to a particular Traditional Community in the absence of a Traditional Authority?

The other burning issue that needs the utmost attention of all of us in this august House, Honourable Speaker, is the situation of recognised and unrecognised Traditional Leaders. This situation does not only complicate the function of Land Boards, but it is detrimental to the progress and development of Traditional Communities. Honourable Speaker, Honourable Members, to ensure that corrective measures are properly implemented Land Boards personnel should be given proper training.

Finally, consultation before any Policy or Act can be put into practice – people have to be consulted and their responses solicited. We should go around notifying people of such important pieces of Legislation. I, therefore, request for the indulgence of the House that the Bill be referred to a Standing

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Committee of Parliament for further consultation and input. I thank you.

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**HON SPEAKER:** Thank you. Honourable Agnes Limbo, please.

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**HON LIMBO:** Thank you, Honourable Speaker. Honourable Speaker, I do not know whether I should proceed, because (*interjections*) I wanted to start by saying that we all agree that we have a serious problem when it comes to the land issue in this country. We have been talking about it. Everyone has been saying that Namibia went to war because of land. We were reminded last week by Honourable Venaani who said, *we are not only complaining about the land in our communal or commercial areas, but also in our urban centres.*

As we are speaking here, some of us, since we came back from wherever we were, for the past 26 years, we do not have a piece of land – whether it is in a town or a communal area, because it is not mine, I do not have a piece of paper to show. My question remains: Why did I waste my time fighting for a country where I do not have anything to call mine?

I am one of the people who have been a CEO in this country, as a Town Clerk of Katima Mulilo, but I am very proud to say that you can send an investigator to go and investigate, I do not have a piece of land, neither my daughter or my whatever, because I was very honest. (*Interjections*) Listen to where I am going! I was very honest. (*Interjections*) Can you give me a chance please?

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**HON SPEAKER:** Please continue.

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**HON LIMBO:** General, let me tell you that I was honest because I had a piece of land, which I bought in 1999 before I went to Katima Mulilo. When I

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was in the UK, I sent money to buy a piece of land, but as I am talking to you now that piece of land was taken away from me. (*Interjections*) That is what I am saying! The piece of land I bought with my own money was taken away from me, because there were people who thought they were stronger than others. I have been battling since then. (*Interjections*) Colleagues, can I get a chance to speak?

In this Bill, you are saying that we were given 20 hectares each. I am not one of the people who have a paper to show that I have 20 hectares because the people who are responsible to address the Land Board look at the papers and say, *oh, it is Limbo*, and put it aside. This is real. It is not a joke. When I was fighting, there was no RDP or SWAPO, we were fighting as Namibians and I thought (*intervention*)

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**HON SPEAKER:** Please, let us have some order.

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**HON LIMBO:** Comrade Speaker, I am not going to give anybody a chance to bulldoze me here. (*Interjections*) Honourable General, give me a chance!

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**HON SPEAKER:** Please order, please!

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**HON LIMBO:** What security are you talking about, Honourable General? That is why I am saying there is no honesty in this country when it comes to people who are given the responsibility to deal with some issues. They are not honest. I applied for the so-called 20 hectares in 2005, because I had more than 20 hectares, which I call my ancestral land, but because of the system, I am forced to apply for 20 hectares. (*Interjections*) That is what I was told!

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That application was submitted in 2005. I followed up two weeks ago and they told me that my ID and the letter for the Traditional Authority were lost. I took these documents to them, and now they are saying the application is lost. What is that? (*Interjection*) That is why we are saying, some of us are not going to get this despite the fact that I am from a place where my land was not taken during colonialism. The piece of land where I was born was not taken away from me. (*Interjections*) I am saying, in Zambezi Region. I am supporting you, because land was taken in the south and central...(interjections) Yes, I agree, but where I was born, no one will say, *this piece of land was taken by a German or a Boer, no!*

Why should I live in a country I call mine without a piece of land? That is my question. Despite all these things, we must look at the people who are responsible, because if you look at the people we came with, in 1989, some of them own five houses and some have farms – they have everything. Where do we get some of these things ourselves, and where did they get them, including the General here? (*Interjections*) Because you are attacking me.

Coming back to the Bill, Honourable Speaker, I want to know, because it says here...(intervention)

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**HON SPEAKER:** What page?

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**HON LIMBO:** Page 58 under (d), it says, *any agricultural land that is held in excess of economic farming units* – where they are saying, this type of land, which is not used is going to be taken away – where it says, *underutilised, abandoned* and all that. My question now is, as I was saying, we were told to apply for 20 hectares and I have land, which is supposed to be bigger than 20 hectares, what will happen? Because it is not that I did not want to utilise my land I want to use it.

I need to be empowered, because the people whom we are saying are today

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living in commercial areas were empowered by the system. Therefore, in order to avoid the influx of people from communal to commercial areas, we must be assisted to develop the available land. At least, then we will share the little we have with the people who lost land completely. Now I am forced to apply for a resettlement area, while I have a piece of land, which I can utilise properly, if I am assisted. That is why I do not support the idea that they have to take unutilised land. It is not that it is not utilised. It is because people do not have the means to work on that land.

The other issue, Honourable Speaker, is the issue of Land Boards. As I said, Land Boards, I do not know what happens in other areas, but in my own area, like Honourable Simataa said last week, there is a problem because of this newly Proclaimed Chiefs. When I was growing up and even during the time we came back from exile, some of these people were not chiefs, but they now claim to be chiefs from nowhere. I used to live here, but you were forced by being told, *you cannot get this piece of land*, and you have to go to that Chief. Historically, I do not recognise him as a Chief, because I know that that person was a subject like me. That is where the conflict comes from.

We are fighting over land that is supposed to be ours. I need that cleared, here in the Bill. We are not trying to be funny, it is real. (*Interjections*) For your information, my father has been dead for two years. Where were you? You are calling yourself the AG, but you do not follow events in the country.

Honourable Speaker, in conclusion, I want to say this, let us not talk about land for the sake of talking. Let us be honest and say to ourselves; there are people in this country who suffered and they will continue to suffer if we do not address this issue, correctly. People in towns are squatting, and people in the villages do not have land. Before Independence, everybody was saying that the regime by then was giving our people *matchboxes*. Those were the houses we were talking about in Katutura, in Katima Mulilo, etcetera.

Today, we are told the biggest plot you can get is maybe 300 square metres while we have plenty of land in this country. Why? We have to be honest with ourselves because some people are taking a lot while some of us have nothing. We cannot continue like this. The situation must be curbed before

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land grabbing takes effect, like the Colleague has said. I am going to be one of those people who will grab land because I did not get what I was fighting for. I am still looking for that thing. Let me, at least, get a piece of land, which I can say, my children will inherit and register in their names, one day when I die. I am now just there calling myself all sorts of names. What did I fight for? What did my father die for? I am here without land.

Honourable Minister, your staff in Local Authorities is corrupt because they are the ones who took my land, and I am still fighting. I will show you the letter, it is here. Let us not take things as if we are joking. We are not joking. This is a serious issue. You cannot wait for 26 years for something you were told you would get when we got home, but here we are seeing people owning land, mines and fishing quotas. Where are we?

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**HON SPEAKER:** Thank you very much, Honourable Limbo. I think you made your contribution. Let us move on. The list is long and we are not going to be able to accommodate everybody. Honourable Shapwa.

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**HON DEPUTY MINISTER OF JUSTICE:** Thank you, Honourable Speaker. I rise to contribute to the discussion, and to support the *Land Bill*. Firstly, let me commend the Minister responsible for Land Reform and his staff for the great effort they put in the drafting of this important Bill. Allocation of land, especially in communal land is met by many challenges. Such challenges are contributing to the furtherance of poverty and misery of communal land dwellers who are already facing many hardships.

The challenges are also causing a lot of administrative headaches, especially to the communal Land Board, as well as to the Line Ministry. Some of the challenges are related to the involvement of Traditional Authorities in the process of allocating communal land. There are many people in the communal areas who are not able to access land simply because their Traditional Authorities are either deliberately deciding to sit on the applications for one



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reason or the other.

At times, they would refuse to allocate to certain people and the reasons advanced, in most cases, is that there is no sufficient space, as what is left is only for grazing, or in some instances, if an applicant is granted, it will interfere with the grazing rights of way, for example. These are genuine reasons if one looks at it in a positive way. However, in some instances, weeks, months or days later, one would be surprised to find that another applicant is allocated the same piece of land by the same Traditional Authority. All these things are happening because Traditional Authorities turned the allocation of land into business ventures.

Honourable Speaker, for as long as Traditional Authorities are not limited to advise on matters of customary and traditions only, including those that are related to land, the allocating of land in communal areas will remain challenging. We need to be bold enough to release the Traditional Authorities from the bureaucracy of land allocation and leave it to the State machinery to deal with it. It is much easier to question and control Government employees, for example, if they are causing delays or are involved in dubious activities as far as the allocation of land is concerned, but we know from our traditions that it is always difficult for us to deal with Traditional Leaders.

Thus, Honourable Speaker, my humble request is to limit the involvement of Traditional Authorities in land allocation, especially in communal areas. Section 24 of the Bill needs to be revised to be arranged in such a way that the involvement of Traditional Authorities is made very minimal and only for an advisory nature. This Section also needs to be harmonised with Section 26 as the two are causing misunderstandings between Traditional Authorities and the Board, as well as the applications who sometimes take it for granted that once a Traditional Authority says yes, they have it all. I think this is an opportune time to make a Law that is not resulting in problems. (*Intervention*)

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**HON SPEAKER:** There is a Point of Order.

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**HON MUHARUKUA:** Honourable Member, if I hear you correctly you would want Government officials, Public Servants to have a more cardinal role than Traditional Authorities. The question that I want to pose is in a form of a scenario. A Civil Servant working for the Ministry who originally, like myself, is from Opuwo, Otjimbingwe or wherever, but working in Gibeon – you are suggesting that that person is better vested to take the decision of allocation than a Tradition Authority who hails from that area? Am I hearing you correctly?

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**HON SPEAKER:** That is the question. Honourable Member, you may continue.

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**HON DEPUTY MINISTER OF JUSTICE:** Thank you. On the Customary Land Rights, this House will agree that Communal Land Rights are regarded as mere rights with no value attached to them. One cannot access credit using such a right as security at a building society or any commercial bank. The Communal Land Rights can be used as collateral or security at a commercial bank, if the plot or land concerned is surveyed and registered at the Deeds Office.

Our people who are holders of these rights do not know, and do not understand this factor. Once surveyed and duly registered in the Deeds Office, the holder can transact with any Financial Institution using the right over that land as security. Therefore, Honourable Speaker, it is my considered opinion that this Bill before us needs to clearly provide for a survey of communal land before the registration in the Deed Office. No one will know if the Law is silent on a particular requirement or process.

Section 27 of the Bill, which is dealing with registrations, only speaks about safekeeping of copies of certificates and diagrams by the Registrar of Deeds, but it is silent on whether the Registrar can register and issue a deed or not on

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a Communal Land Right. Please, I just want that this Bill provide for the surveying and registration process of a Customary Land Right for those holders who may so wish to register their right as deeds. This way we can open up opportunities to our communal area landowners to be able to use their properties as securities.

On another matter, Honourable Speaker, on Chapter 4, Part 5 of the Bill, which is particularly on Section 120, which is the Land Tribunal, I would love to see that the Registrar of the Tribunal is given the powers to set Tribunal Hearing dates. Maybe it is not proper to put it in the Bill, but maybe in the regulations, at least, because currently, the Tribunal has not been sitting and part of the problem is that, once the cases are filed, the President is not given any power to set the hearing dates. The cases stay there while the problems of land remain unresolved, especially on commercial land where sometimes land is needed to be purchased by the State for redistribution to the needy.

With these remarks, Honourable Speaker, I support the Bill. I will answer your question there, if you want.

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**HON SPEAKER:** Thank you. Honourable Fleermuys.

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**HON FLEERMUYS:** Thank you, Honourable Speaker. This version belongs to my Colleague, Honourable Benson Kaapala, mine is still coming. The proposed Bill before this august House comes at a time when our people demand for land – urban land to build homes and communal or commercial land for agricultural purposes is louder than ever before. In recent years, land disputes have been on the increase – a sign that many of our people are in need of the great right.

I applaud the efforts of the Minister of Land Reform and his team for producing this document for our deliberations, so that we, as Members of this House, may contribute positively towards the dream where every Namibian

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has a place to call home. There are some points, however, I would like to contribute towards this Debate – the points touched on the Land Board, allocation of Customary Land Rights and expropriation of agricultural land for land reforms.

The first point is with regard to the timeframe of the word *habitually* in the definition of communal area or Chapter 1 the word *habitually* has a number of meanings, and depending how one interpret that word. It could lead to land disputes – habitual here is presumed, implies a significant period of presence in a particular geographical area, and not merely a permanent residence. This should be made clear, because some who apply for Communal Land Rights do so not because they have lived on the particular land from time immemorial, but rather because they have a permanent structure (*Interjections*) (*Intervention*)

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**HON SPEAKER:** Order!

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**HON FLEERMUYS:** ...after encroaching. I got lost because I got agitated by this Namibian English.

Because they have permanent structures after encroaching on others' land. This brings me to my second point which, to an extent, is a result of habitual inhabitancy.

The second point is with regard to Part 3, *Allocation of Rights in Respect of Communal Land*, 24(3) and (4) deals with Traditional Authorities displaying notices at their offices and the Land Board offices. This is not effective and is one of the causes of land disputes. The Act provides for radio, newspaper and other media outlets notices at the expense of the Traditional Authority. This is more effective than notices at offices, but still not sufficient to alert the community about applicants. What could be very effective is convening a community meeting in the community where an applicant wants Customary

Land Rights.

This would alert numbers of the community who have a claim to the land as stipulated in Section 30, Recognition of Existing Customary Land Rights. There has been cases where a land in dispute has one party being issued a certificate on a piece of land that is owned by another party as per Section 30(1), but due to circumstances, the said person applied for Customary Land Rights after it was issued to the former without the community knowing. This is a familiar land issue, which even I, as Member of Parliament, am currently faced with. Rather the Minister of Land should provide funds in its budget for the Land Board for communicating land applications through community meetings and mass media in addition to notices on office notice boards away from communal communities.

On this note, Honourable Speaker, the proposed Bill should also incorporate interim measures in case of land disputes while investigations are ongoing as per Part 4, General Provisions Section 46 or to confirm for disproof claims as per Section 30(1). Land that is under dispute should have all activities frozen and all applications put on hold until the issue is resolved, but what happens is that one party is often law abiding, while the other has no consideration for the law and utilises the land as if they have been given rights.

This has the potential to erupt into a violent encounter, because one party may feel the law is being unfair in that the other party has access to the disputed land while they should abide by the law. When they report the issue to the Police and relevant parties, often the Land Board, Traditional Authorities and the Police when approached to help diffuse this issue they seem to be unaware of the rights they have, in terms of the Act applied the law.

The implementation of Act and Law at grassroots level seems to be lacking due to information dissemination. This is true even in urban areas. If you recall on Tuesday, the Namibian newspaper ran a story on a development of a building on land that is forbidden despite directives not to build. Therefore, the proposed Bill should have interim measures during disputes, and also impose fines to those who do not adhere to these measures. This means that these measures are valid for Sections 33, 37 and 39.

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The third point is with regards to Part 3, *Expropriation of Agricultural Land*: Land Resettlement is an important activity and all forms of land reform should be encouraged and supported – of all the **gifts** that children can inherit. Nothing compares to land. Therefore, land is an important right.

My contribution with regard to expropriation of agricultural land is three-fold. Firstly, land expropriation should lead to food security and not merely owning land and under utilising it. The proposed Bill should emphasise on sustainable land use, and not merely contribute to food insecurity and at the end of the **back** to depend on Government handouts.

Secondly, resettled communities should be supported not only financially but by educating them on maximising land use in a sustainable manner, report on the progress and productivity of these farms should be reported to Parliament annually and recommendations made on improvement.

Lastly, the land of support to resettled communities should be sustainable. Those who are resettled should work towards independence and not depend on Government 20/30 years while on a resettled farm.

I would like to conclude my contribution with a remark on the Land Board appointment. In Section 6, the proposed Bill recommends that four women be appointed to the Board. Section 6(1)(e), I know we are trying to promote women, but this should not lead to gender inequality. The Land Board has a minimum number of 11 members. According to Section 6(1) there is a chance that other Board Members may be women, and in the end have an all women Board. I think we should always consider gender equality and discrimination of gender. I propose two women and two men, because each gender representation plays different roles, especially when it comes to farming. The communal areas men and women often have different farming roles and each would serve the Board better in the respective roles. Thank you very much, Honourable Speaker.

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**HON SPEAKER**: Thank you very much. In view of the time, may I ask the

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Honourable Charles Namoloh – just to hear his voice?

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**HON MINISTER OF SAFETY AND SECURITY:** Thank you, Comrade Speaker. I would like to postpone the topic until tomorrow.

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**HON SPEAKER:** Thank you very much. With that, can we all agree that we resume the Debate tomorrow at the usual time? The House stands adjourned until tomorrow.

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