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DEBATES
OF THE
NATIONAL ASSEMBLY

2000

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HON. NAMISES

Looking at profits and the revenue, there is a concern that the producers will get less because all will go to government. I thank you.

DEPUTY MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT:
I move that the debate be adjourned until Tuesday, 1st November 2000.

HON. BOOYS: I second.

AGREED TO.

TRADITIONAL AUTHORITIES BILL:
RESUMPTION OF SECOND READING

SECOND ORDER READ:

Resumption of Debate on Second Reading – *Traditional Authorities Bill* [B.27-2000].

THE SPEAKER: When this debate was adjourned yesterday, the Question before the Assembly was a motion by the Hon. Minister of Regional and Local Government and Housing –

That the Bill be now read a Second Time

DIRECTOR GENERAL OF THE NATIONAL PLANNING COMMISSION (HON. KUUGONGELWA): Hon. Speaker, I rise to support the Traditional Authorities Bill. I hail this Bill for its progressive nature and dynamism, by promoting the preservation of our cultures and traditions and their observance in a democratic way. This is so because the Bill provides for continued recognition of Traditional Authorities and their role in the management of the affairs of the communities that they lead and by defining this role. I do not think the Bill is unclear in any way, as some Hon. Members suggested here, because the Bill clearly states the Traditional Authorities' functions as being the supervision and ensuring the observance of the customary laws of the community in question.

The Bill also provides for the promotion of affirmative action amongst traditional communities and the members of those communities. I cannot see any conflict between this and the provision on promotion of customs and traditions, also as suggested here, because affirmative action is a provision of our Constitution. This is provided for in our Constitution because it is seen as an important instrument for achieving democracy in this country where the majority of our citizens have been excluded on different basis from

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participating in issues affecting their lives. That this Bill addresses this issue is an indication of its responsiveness to the real issues that face our communities.

I also do not think there could be any confusion as to the role of traditional authorities and those of politicians. The functions of traditional authorities are broader than politics and they outlast political mandates. They can therefore not be confused with the mandates of political leaders.

However, the Bill clearly defined the role for Traditional Authorities in issues of governance and law enforcement in co-operation with law enforcement agencies, central government and regional and local authorities. The specific roles of each of these institutions are as clear as daylight in this Bill and in practice.

The Bill is, therefore, in my view, in order and helpful indeed, and it is not any of those negative things that it is said to be by some members from the opposition benches.

I therefore support the Bill.

HON. PRETORIUS: Mr Speaker, it is no secret that I have a soft point for traditions and therefore also traditional authorities.

I can, therefore, fully identify myself with what His Excellency the President said last Friday at Outapi in the Omusati region. According to *Namibia Today*, he *inter alia* said the following:

“Traditional leaders and parents should each strive to pass on the values and respect of culture to the young generation, because a nation without culture is not respected by other nations.

This was said by President Sam Nujoma on Friday at Outapi in the Omusati region, where he presented a congratulatory trophy to the Kaimbi Mundjele Cultural Group for its excellent performance in several cultural festivals in this country.

Nujoma also asked traditional leaders and parents to whip those who are unwilling to adhere to cultural norms, because culture is the fundamental source of respect and wisdom of any given nation.”

Mr Speaker, just for the sake of the record. Provided the conditions of Article 8 of the Constitution of Namibia, what was said by the President is hundred percent constitutional.

The document I have in my hands now is one of the interesting and historic documents in my safe. It is therefore that I am only making use of a photocopy. It is a copy of the Swapo Election Manifesto in 1989, handed to me over a cup of tea on 5th July 1989, and

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signed by all those present, with compliments, namely, Hage G. Geingob, Moses Garoëb, Theo-Ben Gurirab, Hidipo Hamutenya, Nahas Angula, Adv. Tjiriange, L. Amathila, Festus Naholo and Anton Lubowski.

Important for the sake of our argument was that I congratulated them that day about what I read in the newspapers about their attitude to traditional leaders.

I checked it myself afterwards in the Manifesto and found the following on page 18 and 19:

"For administrative convenience and development requirements, a Swapo-led government will restructure and divide the country into regional, district, municipal and village units of local government. This division will not be based on tribal and racial lines, as has been the case. The present tribal 'homelands' will be done away with. But local government will be organized in such a way as to protect local cultural traditions and institutions. Local government structures will be organised in such a way that they can directly influence policy decisions at the central government level. Chiefs and other traditional leaders of the Namibian communities of our society will have a significant role to play in local government."

Notwithstanding the fact that the Hon. Deputy Minister of Fisheries and Marine Resources, Hon. Naruseb, said the other day that Swapo is making progress with the fulfilment of their 1989 Manifesto, not very much about local government in this connection has come true, except for an Advisory Council of Traditional Leaders.

Nevertheless, I myself believe that the 1995 Act on Traditional Authorities is not a bad piece of legislation, except for the fact that it restricts the liberty of constitutional political involvement of traditional leaders, in the sense of having a direct say and participation.

In any case, it was less rigid than a media release from Cabinet on the 30th September 1993. The media release under the heading, "*Kings and Kingdoms in the Republic of Namibia*", reads as follows:

"The Government of the Republic of Namibia expressed serious concern about certain divisive events which are currently unfolding, in particular, the disturbing trend that is developing whereby an increasing number of Kings and kingdoms are being installed by various tribal and ethnic groups in the country.

Cabinet reached consensus on Thursday, 28 September 1993, that government should develop a law to define the powers of traditional leaders in terms of the Constitution, and the Report of the Commission of Inquiry into Matters Relating to Chiefs, Headmen and Other Traditional and Tribal Leaders.

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With regard to the proliferation of Kings and Kingdoms, Cabinet passed the following resolutions:

That Namibia is a Republic and a Unitary State, not a Kingdom.

That Cabinet only recognises the role of traditional leaders in terms of the Constitution of the Republic of Namibia, which does not contain any reference to Kings nor Kingdoms whatsoever."

Mr Speaker, it was against the later change in attitude of the Cabinet quite an experience to me recently to visit, in a parliamentary group, King Kauluma, one of these Kings, and to witness even the respect that Hon. Ministers paid to their King.

I myself find the way in which this Act is amended in a total new Bill, without indicating the changes, somewhat strange. Also for that reason I think it is quite justifiable to refer the Bill to the Standing Committee of Governmental Affairs.

What is important to me is that any Bill should not only be legal but also legitimate. In this case legitimate in the sense that it is also regular and conforming to customary law and habits.

In conclusion, Mr Speaker, if we can solve the problem to the satisfaction of everybody, I shall not rule out the possibility of even the Afrikaners applying to register their Traditional Authority. Thank you. LAUGHTER.

HON. GASEB: On behalf of Chief Justus Garoëb, I move that the debate be adjourned until Tuesday, 31st October 2000.

HON. SISKI: I second.

AGREED TO.

ADJOURNMENT OF ASSEMBLY

On the motion of the Minister of Labour, seconded by Mr Dinyando, the Assembly adjourned at 17:40.

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HON. BOOYS: I thank the member for the question, I never said in my contribution that the members are non-members. If you want to ask questions, you can ask questions on what I have said.

Hon. Dr Speaker, I am of the opinion that the new Meat Corporation must embark on aggressive marketing strategies from which the communal farmers can benefit.

I hope that the new Meat Corporation shall also rectify the prices to the previously disadvantaged farmers and the previously advantaged farmers. What I mean by that is, buyers were sent by Meatco to buy cattle for N\$500 in the communal farmers, but when he himself sold his cattle to Meatco, he was paid N\$1 500. This was the problem we had in the past and I hope that the new Meatco will address this issue.

HON. NAMISES: On a point of order. May I call your attention to the quorum?

THE SPEAKER: The quorum is in order. You may proceed.

HON. BOOYS: Cde. Speaker, Meatco had artificial ownership, there was no ownership, but this Bill is going to address that too. I support the Bill and I rest my case. Thank you.

MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT: I move that the debate be adjourned until Friday.

HON. DINYANDO: I second.

AGREED TO.

TRADITIONAL AUTHORITIES BILL:
RESUMPTION OF SECOND READING

SIXTH ORDER READ:

Resumption of Debate on Second Reading – *Traditional Authorities Bill*, [B.27-2000].

THE SPEAKER: When this debate was adjourned on Tuesday, 26th October 2000, the Question before the Assembly was a motion by the Hon. Minister of Regional and Local Government and Housing –

That the Bill be now read a Second Time

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HON. GAROEB: Mr Speaker, Sir, it is with great pleasure that I am joining those Hon. Members who are participating in the debate on this relatively unpopular topic of the Traditional Authorities. I have decided to refrain from politicking and to, once again, try to make a meaningful contribution on this Bill.

Before I, however, move to the theme of my address, I would like to take this opportunity to congratulate the Hon. Minister Iyambo for the great deal of understanding and appreciation he is displaying nowadays towards the dilemma of the Traditional Leaders in Namibia. Even so, there is much room for improvement, given the present mind-set of most of the Hon. Members – with due respect – which is so unsympathetic towards traditional matters.

My contribution in this August House will mainly focus on the dignity, pride, status and authority of the Traditional Authority in relation to this Bill. I think it is important for the Hon. Members to establish common ground on what is meant by these four concepts. I will briefly begin by looking at what dignity and pride entails.

I keep on reminding the Hon. Members of this House, that the loss of our land and freedom at the hands of the successive colonial regimes went hand in hand with the loss of our dignity and pride. But the Hon. Members of this House, with due respect, seem to keep on missing the point.

What the Traditional Leaders are expecting from this August House, now that the true sons and daughters of the soil are governing our country, is to restore the lost or stolen dignity and pride of the Traditional Leaders and the Traditional Communities.

I think the best way to illustrate the school of thinking of the Traditional Leaders is by touching on the dilemma around their status and authority.

If we were fair to the Traditional Leaders, the principal clause of this Bill should be to salute the Traditional Leaders for spearheading the wars of resistance and the ultimate liberation struggle. As much as the history of Namibia is so distorted, we, the Namibians, know the role played by the Traditional Leaders in the past.

The problem today is that instead of their laudable achievements of the past, which still have a positive bearing on today's independent Namibia, the authority of the Traditional Leaders is diminishing with every new legislation. Let us look, for instance, at article 3(2)(e) on page 5.

“A member of a Traditional Authority shall, in addition to their functions referred to in subsection (1), have the following duties:

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- (e) to respect the culture, customs and language of any person who resides within the communal area of that traditional authority, but who is not a member of the traditional community which such member leads.”

Hon. Speaker, Sir, this clause is not only one-sided and a matter of ambiguity, but also creates loopholes for concession holders and some members of NGOs to manipulate the traditional communities with their money and know-how, without any obligation to respect the leadership or not to infringe on their powers and duties.

Before we, therefore, endorse this clause, we humbly call on the Hon. Minister to remedy the situation by inserting another clause more or less along the following lines:

“Any person who resides within the Communal Area of the Traditional Authority, but who is not a member of that Traditional Community must co-operate, and not undermine the powers and duties of such Traditional Authority.”

Hon. Minister, the protection of the authority of Traditional Leaders against, more specifically, the outsiders is not explicit.

Even now there are instances where certain NGOs use donor funds and facilities to isolate some Traditional Leaders.

DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION (HON. KATALI): On a point of order. Hon. Speaker, I would like to draw the attention of this Hon. House to rule 17 of the Standing Rules and Orders and specifically the members of the CoD with reference to subsection (f) and subsection (c).

THE SPEAKER: I think the Hon. Member is thinking correctly, but the invocation of this provision is inappropriate. I do not see any reason why. What do you want to draw our attention to?

DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: Hon. Speaker, subsection (f) states that “a quorum call shall be allowed once during the same sitting” and (e), “the Speaker may refuse mischievous quorum calls.”

THE SPEAKER: What are you doing with those provisions?

DEPUTY MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION: They have called more than once.

THE SPEAKER: They have not called now. You have interrupted the Hon. Member who was making a contribution to invoke something that is irrelevant at this point. I have every power to invoke these two rules. I am fully conscious of it. The Hon. Member is out of order.

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HON. GAROËB: Mr Speaker, Sir, I continue. Even now there are instances where certain NGOs use donor funds and facilities to isolate some Traditional Leaders who are not in their good books. They even go so far as to influence and fund designation of Chiefs of their liking and rule such areas through such puppets. The Hon. Minister will appreciate that such irregularities on communal land cannot be tolerated.

What's more, Mr Speaker, Sir, even a mere committee, like a Conservancy Committee, a Development Committee, Waterpoint Committee or a Resettlement Committee is a more powerful legal instrument than the Traditional Authority. The irony of the case is that some of these committees are funded and controlled by such NGOs.

The powers of these committees are explicit, while the Traditional Authorities rely on implied powers. Luckily most committees are seen and accepted by the Traditional Communities for what they are, namely sub-institutions consented to control natural resources of the Traditional Communities.

In the spirit of the current decentralisation, it is only proper that the Traditional Authorities will be taken into consideration for transfer of powers and functions of government from the national level.

With the Community Courts forthcoming, the decentralisation of powers from the Ministry of Justice to the Traditional Authorities is very clear. I hope the other Ministries will also follow suite and thereby restore the lost dignity and pride of the Traditional Authorities.

Even the enabling legislation on Community-based Natural Resource Management exclude, for instance, concession areas from the jurisdiction of communal areas. This, Hon. Speaker, creates a situation whereby concession holders are automatically becoming landlords with precedence of power over the Traditional Authorities.

By allowing this irregularity, we are reverting back to 1904 when land was divided in four categories, namely, state land, land occupied by settlers, native land and concession areas.

This further boils down to the fact that with every concession granted to a company, native land is becoming smaller and smaller. I hope Hon. Minister Ithana will also take heed of this.

Our concern, Hon. Members, is that most of our legislation are Western legislation with an African flavour. What we actually need when it comes to traditional affairs, is African legislation with a Western flavour. Why Western flavour? We accept that we are living in a changing world of hi-tech and globalisation. Indeed, we are living in a world changing from the former men's world to that of women and child. Hence we accept that changes will come in years with evolution, it will come with education, and will also come by voluntary assimilation of the Western culture and traditions.

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But you cannot change the people by virtue of legislation. We are Africans and are proud to be what we are. Even where we are operating under the Westminster System, we remain Africans. We can change or make laws to suit our needs, but we cannot change Africans overnight to suite the Western legislation or eurocentric culture.

One very clear example of eurocentric culture is that of our Church. The Church in Namibia is more than a hundred years old, but it still does not have an African identity.

Please do not misunderstand me, I am a staunch Christian, but the truth must be brought to bear, that the Church killed our culture, more specifically the culture of those groups living in central Namibia.

The school of thinking that everything African is bad was the root cause for the African people losing almost everything which was noble, sacred or dear to them – traditionally speaking.

Against this background, Hon. Minister, we are, truly speaking, afraid to again sacrifice or sign away the little we are left with. I sincerely hope that this August House now appreciates the dilemma of Traditional Leaders who are not represented in this August House.

With these few remarks, I rest my case and support the Bill.

DEPUTY SPEAKER (HON. KONJORE): Cde. Speaker, Hon. Members, it was not my intention to participate in this debate, but after I listened to what Chief Garoëb said, I would first of all like to register my sincere support for the Bill before us and would also like to underline some of the things said by Chief Garoëb, particularly with reference to this clause.

I fully agree with him that there is a need that we look into it, that there is a stipulation in this Bill concerning the citizens and residents in a particular community, with respect to the respect and dignity of a traditional authority. I believe there is a need for that.

MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION (HON. ITHANA): May I ask the Hon. Member a question? In view of what the Hon. Member is saying with regard to the respect that the citizens of a certain community should give to a traditional leader, does the Hon. Member not think that the presence of traditional leaders, who ought to be respected by the citizens, in a House such as this one, takes away that respect, because in the heat of debate in the House of Commons there is a likelihood that certain statements will be made which reflect badly on the persons we ought to give respect to.

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DEPUTY SPEAKER: Hon. Speaker, with all due respect, as far as I am concerned, not necessarily. It depends on how people view what was said and how people are addressing each other.

As far as this stipulation in the Bill is concerned...

MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT (HON. H. ANGULA): May I ask a question? In line with what Cde. Konjore has said, I am sure by this time all Hon. Members know both national and international protocol, I would like to ask the Hon. Member, when Presidents meet, whether in a convention or a summit, the two Presidents can speak and answer one another, but ministers have no right to speak as they may utter words that may offend Presidents, unless the President invites the ministers to say something. The question is this: What Cde. Pendukeni is saying is the distortion, where you have a Chief who is not supposed to be offended or questioned by the commoner. Now he sits in the same house as the commoner and the commoner will ask the Chief any question. Is it a contradiction that a Chief will ask respect from a commoner within the House of Commons, whereas the Chief should only speak and argue and exchange interjections with other Chiefs and not with commoners. Is the Hon. Member aware that this is really embarrassing? Does he believe that this is embarrassing for commoners here to answer their Chiefs, only to end up asking a portion of land when they go back home? Can the Hon. Member from the bottom of his heart and feelings tell us whether these things are really in order and in concord with the life of politics?

DEPUTY SPEAKER: Cde. Speaker, my answer was, not necessarily. We are in the process of growing and if we take the Namibian history, it is only ten years after independence and we are in the process of institution-building. Therefore, I agree that it would be a good thing if our traditional leaders, Chiefs and Kings, could be above commoners and above politics. But on a lighter note, it is also very important that sometimes parents must be present where the children are playing to see how they play and protect them, guide them where necessary.

What I am trying to say, Cde. Speaker, is that I agree that if we ask the traditional authority to respect the culture, customs and language of any person who resides within the communal area of that traditional authority, but who is not a member of the traditional community which such member leads, then in the same vein we must also see to it that such members are also requested to respect the traditional authority. If this is provided for on the part of individual members in the law, then I would argue, let us make the same provision in the law on the part of the traditional authority.

This is my humble request and contribution.

DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES (HON. NAMBINGA): May I ask my colleague a question? Both Chief Garoëb and Cde. Konjore seem to be emphasising the issue that somewhere there are people who do not belong to that specific tribe and do not show respect to the traditional leadership. Is this a perception

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you have or can you perhaps give us specific examples? In other words, I was wondering whether you are anticipating. If you can give us an example I am sure it would help us. This is an Hon. House, and whatever we come up with in this House must be an honourable idea.

DEPUTY SPEAKER: Cde. Speaker, as far as I am concerned, and Chief Garoëb believes the same, it is with reference to a provision in the Bill. This is not to say that we think in future it may happen or that in respect of a particular individual it will happen, but a provision is made in this Bill for respect of individuals who may reside in a particular traditional area, that their customs and language should be respected by the traditional authority concerned. It is on this basis that I am saying the same mechanism for a kind of protection, which is provided for an individual, should also be provided for a traditional authority. Any person could feel, I do not need to respect the traditional authority because I am not of that language group. I do not have a specific example or a specific case in mind.

Before I conclude, I would also like to say, when referring to this, we are not talking about traditional leaders per se....

DEPUTY MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. WENTWORTH): May I direct a question to Hon. Konjore? Hon. Konjore, in your opinion, wouldn't it be better if all Namibians could respect all traditional authorities, so that even if I am passing through, I am not resident there, I will respect those traditional authorities. Don't you also think that the question which Hon. Helmut Angola asked becomes more relevant if we want this respect? I want to give you an example.

Two weeks ago I was at a function in Ondangwa and the King was present there, and I could with the greatest comfort and ease give the greatest respect to that King. But if that King was present in this House where we bicker and argue and fling vindictive remarks at each other, I doubt if, with the same clarity of conscience, I could have given that respect. Don't you think that we should culture ourselves to respect all authorities and this will include education at school for that respect really to take root, that we should not have confrontations with those authorities in the House of Commons?

DEPUTY SPEAKER: I agree with that respect element and I was about to say that as far as I am concerned, this particular legislation is not addressing traditional leaders in Parliament. It is not trying to legislate for the functions of traditional leaders in Parliament, but it is trying to legislate for traditional leaders out there. What I am trying to say is that as far as I am concerned, the request made here is applicable, for example, to the King in Ondangwa who is not here. The stipulation must protect the King in Ondangwa, the King in Warmbad or Khorixas who are not political figures.

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What I said previously is that we are in a growing process, a process of transition. So, the time will come that we say we make a provision for traditional leaders to take leave to be here. This is stipulated in the law, that they can take leave and be here, and that they are even replaced by others. However, I don't argue against the implications of traditional leaders being involved in politics. I am not arguing against that. But what I am saying to the Minister – with all due respect, and I know he will understand what I am trying to say – is that there is a need for us to also protect our traditional authorities as far as respect is concerned. INTERJECTION.

What I am saying is, I don't think the Hon. Minister is talking about traditional leaders in Parliament, I believe the provision made in this Bill is for traditional leaders who are not politicians. That is what we are talking about.

Let me in conclusion say that time will teach us that all teachers, all traditional leaders, all spiritual leaders must leave Parliament. I fully support the Bill. Thank you.

HON. H. BOOYS: Thank you, Cde. Dr. Speaker. I once again rise to contribute to this discussion.

Hon. Speaker, I do not know whether we have studied in practice the concept of traditional leadership in Namibia. I know we have studied the Bills, but I don't know whether we have really tried, as Members of this August House, to practically study these traditional issues. What I mean by that is, we like to refer to each other as Caprivians, Kavangos, Owambos, Damaras, Hereros, Namas, but these people don't know themselves the way we refer to them. If I say Kavangos, they know among themselves that they are Mbukushus, etc. If I refer to them as Namas, they know among themselves they are Kai //Khaûn, /Khau-an or /Khõbesen. If we refer to them as Owambos, they know themselves as Kwanyamas, Ndongas, Ogandjeras, etc. And when you refer to them as Damaras, they know themselves as /Gowanin, /Khomein, etc. And this is one issue which you also have to respect. If you talk about respect for human rights, you must also respect those small aspects.

I rise to express my appreciation to the Minister of Regional and Local Government and Housing for tabling this Bill, affecting the legal status of traditional leaders, and not only the legal status, but also providing the legal framework under which these organs can operate.

Hon. Dr. Speaker, this is a political house. In this House we conduct the business of politics. That is why we have different political parties in this House with different political opinions, different political ways of doing things. If anything is discussed in this House, we are going to differ. It is the democratic right of each Namibian citizen provided by the Constitution.

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Through you, Cde. Speaker, to Dr. Iyambo, Cde. Minister, I know that you are a target, sometimes things become personal towards you, because some frustrated politicians want to use you as scapegoat, to keep on accusing you of running the affairs of the Chiefs in government. I do not agree with that. But as a politician you take it. Politicians receive and they also dish out. Democracy in this country has come to stay. It is the right of each and every citizen of this country to associate themselves with whom they want to associate, or disassociate themselves from whom they want to disassociate.

Cde. Speaker, Hon. Members of this August House, if Chief Tsudao Gurirab is my friend today, I can disassociate myself from him tomorrow.

MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT (HON. H. ANGULA): May I ask my brother a question? Cde. Booy's, can you define to us, if you are able to, what is the difference between traditional authority and/or tribal authority, communal land and/or tribal land and feudal authority and/or tribal authority. Can you define for us the difference between these terminologies?

HON. BOOYS: Cde. Speaker, I am a layman. I think these things are just the same. People sometimes play around with names to suit themselves.

But to come back to my speech, the citizens of this country have the right to associate themselves with whom they want to associate. If Tsudao Gurirab – not this one – is my friend today, tomorrow I can disassociate myself from him and become somebody else's friend. People are fighting in this House today for gays and lesbians to have the right to be together and we should also accept that all the others also have the right to associate or disassociate themselves, because many of those gays and lesbians have children because they associate themselves with others and then they disassociate themselves and become the way they are.

Therefore, Cde. Minister, I would ask you to continue with your good work. Traditional leaders practically have contributed to the independence of this country. They have spent their time and resources to make this country independent. Those who contributed know themselves and those who didn't, also know themselves. But I would like to use this opportunity to thank them, because I am also a product of what I gained from them. Many of them have even inspired me and I would like to mention their names. They are the likes of Chief Munjuku II, Munene Ngauvauva and Kaptein Hendrik Witbooi. These are the people who during the dark days told the Jannie De Wets and M.C. Bothas, "I am going to side with the oppressed masses", when a certain fellow came to the forefront, to be known as a messiah, to liberate Namibians, namely Dirk Mudge. When he started preaching here that "I am here to lead you to independence", we knew that he was speaking on behalf of South Africa.

Namibians were brought to a crossroad and they had a choice to make. Many of them chose to be associated with Sam Nujoma, while others chose to be associated with Dirk

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Mudge – and they are today sitting somewhere in this House and those Chiefs who chose to be associated with Sam Nujoma. They are Chiefs Munjuku II, Chief Stefanus Goliat, Marcus Cooper and our Deputy Prime Minister, Hendrik Witbooi. They associated themselves with the masses who were suffering. They deserve to be praised by a person like me in this House today. It is because of their contributions that I am today an Honourable Member in this House.

Today with the tabling and, possibly, acceptance of this Bill, the ball is in the hands of the traditional authorities to organise themselves in favour of their communities which they serve, and not in favour of political parties which they serve. I also agree with Hon. Namises when she said traditional authorities must be from the bloodline. Yes, they must be from the bloodline and not just be appointed because of political allegiance.

Traditional leaders who were marginalised before independence have also today come to terms with our Constitution and their democratic rights. For example, when M.C. Botha and Jannie De Wet

HON. BIWA: May I ask the Hon. Member a very small question? Hon. Member, I think you would agree that the "Minister of Chiefs" was in exile and he doesn't precisely know who is who. So, are you trying to advise the Minister who to recognise and who not by giving a catalogue of Chiefs of favour? You mentioned the names of certain Chiefs who were in exile.

HON. H. BOOYS: Thank you, Hon. Biwa, for that question. When I started, Cde. Speaker, I said, I do not know whether we are familiar with the coming alive of these traditions, or we are only familiar with what we have learned from the Bill on the table. To come back to Hon. Biwa's question, yes, the Minister was abroad. I congratulated the Minister for tabling this Bill and the fact that he tabled this Bill shows he is continuously concerned and continuously addresses the issues. I did not advise the Minister to recognise certain Chiefs, I did not say that, I never used the word "influence". The names which I mentioned are not the names which I am giving to the Minister for these people to be nominated. What I have said was, when I was a young man, standing around the stage or political platforms, I listened to Chief Munjuku, I listened to Kaptein Witbooi, I listened to Kaptein Cooper, I listened to Chief Goliat, and I praised them for inspiring me and I praised them for me being here today.

HON. BIWA: May I again ask the Hon. Member a small question? Hon. Member, why is it so that you did not mention the names of some of the Chiefs who were protecting you and keeping you under the bed when you were hunted by the security police?

HON. H. BOOYS: Cde. Speaker, if this question could just be a bit broadened and the name of the Chief is mentioned, I can answer. For Hon. Biwa's information, there was no single Chief who protected me. I was not protected by any Chief in my lifetime.

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Cde. Speaker, traditional leaders who were marginalised in the past by the former minister, M.C. Botha, the Minister of Bantu Affairs in South Africa who appointed Jannie De Wet as Commissioner of Bantu Affairs, these were the people who were establishing in some communities traditional leaders, and because of fear, many of them couldn't stand up and say, "no, but I am not that, I am that." But today with the democratisation of Namibia and freedom of association, these people have realised – and I can give an example.

DEPUTY MINISTER OF PRISONS AND CORRECTIONAL SERVICES (HON. NAMBINGA): May I ask a question? Just a very important point. The former South Africa Minister who created some artificial chiefs, is it because of this that the family of Goroseb in Khorixas, who are regarded to be the real chiefs, are nowhere to be found? Could that be the reason?

HON. H. BOOYS: Hon. Minister, Khorixas and the surrounding areas were formerly commercial farms, owned by white people, like Kamanjab, Kalkfeld. Khorixas and the surrounding areas were in 1968 proclaimed as Damaraland. What the Deputy Minister is asking, he can just derive from the information which I gave him. This was not really Damaraland, it was proclaimed in 1968.

Jannie De Wet and M.C. Botha created the impression that the San is one group. After independence, many of you came to know that when you talk about San, you are talking about a lot of clans. They also made to understand that the Damaras are one group, but the Damaras are not one group and the Namas the same. There was another kaptein who was in this House and today he is only for some tribe. That is why I am saying I don't know whether we really understand these things on the ground or we are just getting it from papers.

HON. NAMISES: May I ask the Hon. Member a question? Does the Hon. Member imply that these different Damara-speaking groupings needed their own traditional leaders or kings of chiefs?

HON. H. BOOYS: Cde. Speaker, this is not something that I have to say, this is what is on the ground. You have /Gowanin, you have /Gaiodaman, you have Tsoaxudaman, they are there.

Therefore, Cde. Speaker, the systems which were created by M.C. Botha and Jannie De Wet must not continuously serve as a basis to appoint political friends. I rest my case and I support the Bill.

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HON. CHATA: Thank you, Hon. Speaker. My intervention is very small. All I wanted to do is to express and register my observations as far as the Traditional Authorities Bill is concerned.

The first thing on which I am not really comfortable with the Bill and the content thereof is the whole idea of having a Bill which is so prescriptive in each and every tiny detail of how traditional matters should be run in the country. Given the diversity of cultures which Namibia is well blessed with, to have a Bill that has hundred percent uniformity in terms of running different cultures, I think the task would tend be daunting, if not impossible. I would expect a Bill which is more general in nature in terms of traditional aspects in Namibia. But a Bill which is so prescriptive and tends to target the achievement of uniformity of approach, I have difficulties with that.

Coming to specific aspects of the Bill, and you will agree with me that my opening statement will perhaps be supported by my line of thinking, because I come from one traditional authority which may differ from the others ...

HON. MEMBER: Which one?

HON. CHATA: From the Mafwe Royal Establishment in the Caprivi. If we look on page 4 under section 3(1)(d) it refers to the "Promotion of Affirmative Action" and here we are trying to put in place the legal instrument that will force our traditional authorities to succumb to the whole notion of women equality and stuff like that. It is like we are assuming that the way our traditional authorities were run even before the Roman-Dutch Law, was perhaps not right. So, now we come in contact with these European laws and we have to prescribe things that government, which is more modern, is failing to do. I am so ignorant, I do not know whether there is a legal instrument in place that forces government to make sure that women are equally represented in all structures. But here we are going to introduce a law that will directly require traditional authorities to have women representation in their structures. What we are saying is, if we have a traditional authority without women representation, given their traditional way of doing things, they are in breach of the law of the state. I find that as targeting a smaller and weaker group.

So, all I am saying is, I would love to have a law that allows traditional authorities to run things they are used to. What is traditional if things are not allowed to run the way they have been running?

MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION (HON. ITHANA): May I ask a question? In view of what the Hon. Member is saying about the traditional leadership vis-à-vis the requirement of the Bill for women representation, does the Hon. Member know that the Constitution is the number one law in the country?

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HON. CHATA: Well, the question of knowing or not knowing is really subjective, because I can choose to say I know even if I don't know. I don't know if the Hon. Member will know whether I know or don't know. But I know.

Another aspect to which I want to draw the attention is on page 5, section 3(2)(e). A lot of previous speakers referred to this, but there is one element that I felt was not referred to by other speakers, namely the whole question of jurisdiction. You know that the recent event – recent in terms of years – in the Caprivi, much of the problem was because of the lack of well-defined or well agreed to areas of jurisdiction. Traditionally in the Caprivi, for many years up until independence, there were two well established traditional authorities which I think, minus politics, fared very well. There were no problems until politics were introduced.

HON. MEMBER: By whom?

HON. CHATA: The politicians. All I am saying is, politics introduced problems. But the whole argument that really worsened the whole crisis of the Masubia and the Mafwe conflict was about the whole issue of jurisdiction. There was no well agreed and accepted area of jurisdiction, as to who owns where and what. I see it is still missing in this Bill and now it is getting worse, because we have four traditional authorities and the whole area of jurisdiction is not clear. Right now there are three fronts within the Mafwe. No one knows where does this chief stand and stuff like that. So, one would expect that a Bill of this nature would address such a contentious issue. It is very serious and confrontation will come from that area.

So, when we talk of respect for culture and language, I think the issue of jurisdiction becomes very clear. When do you know you have left your own area into another area?

On the next page, section 4 deals with the designation of Chiefs or head of a traditional community. On page 6 it says:

“If such community has no Royal Family, any member of that traditional community who shall be instituted as head of that community”

This is what I referred to. Someone who comes from the Caprivi would wonder how do you have a traditional community without a Royal Family. If you claim to be a traditional community, you should have a Royal Family. But maybe it applies to other sections of the country, I don't know. That is what I said, having a legal instruments which tries to be uniform creates problems. We will rather have a general document that gives general guidelines and lets the specifics be dealt with in the traditional way. As it stands now in this Bill and we allow it to become a law, it will create even more problems for the people of the Caprivi, because anyone will claim to be a Chief. I am very far from the Royal Family, but as it stands now, I can organise my people in the village to become a community without a traditional authority. Really, that has no basis in terms of our culture

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and tradition. A statement like this will create problems. A statement like this is subject to abuse and people can take advantage of it and create more problems.

I left out many things because my notes are not well organised. Maybe one more thing before I draw to a conclusion. When it comes to the settlement of disputes in section 12 on page 11. The Bill refers to issues of dispute within traditional communities, not between traditional communities, as we had in the Caprivi and I see in the Bill there is no provision of how to go about that. The Bill only provides for disputes within the traditional community and I find that to be a very big oversight. Thank you.

HON. ULENGA: I move that the debate be adjourned until tomorrow.

HON. NAMISES: I second.

AGREED TO.

ADJOURNMENT OF ASSEMBLY

In terms of rule 90 of the Standing Rules and Orders, the Assembly adjourned at 17:45.

7 November 2000.

TRADITIONAL AUTHORITIES BILL:
RESUMPTION OF SECOND READING

SEVENTH ORDER READ:

Resumption of Debate on Second Reading – *Traditional Authorities Bill* [B.27-2000].

DEPUTY SPEAKER: When this debate was adjourned on Wednesday, 1st November, the Question before the Assembly was a motion by the Hon. Minister of Regional and Local Government and Housing –

That the Bill be now read a Second Time

HON. ULENGA: Mr Deputy Speaker, before I get into the meat of the Bill before the House, I would like to remind the Hon. House about the date of today, namely the 7th November 2000. Exactly 83 years ago it was the day of the Great October Socialist Revolution. I am mentioning this because I see former Marxist parties have totally forgotten about this date.

MINISTER OF AGRICULTURE, WATER AND RURAL DEVELOPMENT (HON. H. ANGULA): May I ask the Hon. Member a question? Is it allowed for a leader of a party to come into this Hon. House dressed like a “mafioso” from Sicily?

DEPUTY SPEAKER: The question is out of order.

HON. ULENGA: As I was saying, Mr Speaker, one is always reminded of good, desirable things happening in neighbouring countries, and therefore I think it is very appropriate for this House to congratulate President Bakili Muluzi of Malawi and the people of that sisterly country for ridding themselves recently of a corrupt and self-serving cabinet.

MINISTER OF HOME AFFAIRS (HON. EKANDJO): May I ask my neighbour a question?

HON. ULENGA: As long as it is not about foreign judges and homosexuals.

MINISTER OF HOME AFFAIRS: Hon. Ben, do you still remember, because it is a question which I wanted to pose at the time when you sitting here at the back and I was sitting here as Deputy Minister of Local Government. You made an emotional speech that you went to test for AIDS and you urged the House to go for tests. What happened to the results? You made a speech here, you were so emotional! Do you remember?

DEPUTY SPEAKER: Hon. Minister, you put your question which is now ruled out of order.

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MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): On a point of order. Is it allowed in this House for a supposedly Hon. Member to shed crocodile tears about the evils of corruption when in his party there is an Hon. Member who cannot even pay maintenance for one child, to entitle him to make a living. Is that not a form of corruption? What is more corruption than denying a person a living?

DEPUTY SPEAKER: You are out of order, Minister.

HON. ULENGA: Mr Deputy Speaker, of course, we can sometimes make jokes in this House, but I would advise that when it comes to the question of AIDS and HIV we should refrain from laughter.

DEPUTY MINISTER OF ENVIRONMENT AND TOURISM: On a point of order. The question put to Hon. Ulenga by Cde. Jerry was ruled out of order and he has no right to mention anything on that question.

DEPUTY SPEAKER: Point well taken. You are out of order if you react to that question because I ruled it out of order.

HON. ULENGA: Thank you, I will continue. As I said, three years ago I made a statement in this House, without promising to bring my HIV test results, but now that Jerry is asking for them, he shall have them tomorrow and I will show them.

DEPUTY SPEAKER: Hon. Member, I will name you. You cannot react on something that was ruled out of order. We are not now discussing HIV/AIDS, therefore it is out of order.

HON. ULENGA: Hon. Deputy Speaker, I am sorry to make you a bit nervous, I didn't intend doing that.

MINISTER OF HOME AFFAIRS (HON. EKANDJO): The Hon. Member must withdraw that, he cannot call the Chair "nervous".

DEPUTY SPEAKER: I will never be nervous, thank you.

HON. ULENGA: I gladly withdraw that, I didn't know that you will never be nervous.

HON. AMUKUGO: May I ask the Hon. Member a question? Is the Hon. Member aware that when one Hon. Member from that side beat up his daughter, he actually found refuge in a CoD home?

DEPUTY SPEAKER: That one is out of order.

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MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): On a point of information. Is it not corruption if you owe the state money which you cannot pay back because of your claims on travel and subsistence allowance, until you form a new party and you are now able to own up to Treasury. Is that not corruption?

DEPUTY SPEAKER: You are out of order, Minister.

HON. ULENGA: Hon. Deputy Speaker, I am rising now in accordance with rule 18(a) to indicate the time.

ADJOURNMENT OF ASSEMBLY

In terms of rule 90 of the Standing Rules and Orders, the Assembly adjourned at 17:45.

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MINISTER OF FINANCE

Mr Speaker, allow me now at this stage to take this opportunity to thank all my colleagues for the understanding they have shown towards the financial constraints of the Government by not putting excessive demands on the revised budget.

Mr Speaker, I now invite the Hon. Members of the National Assembly to subject the revisions and adjustments which I have presented to scrutiny. I count on the full support of all the Hon. Members of this august House for the speedy approval of the revised budget for 2000/2001.

HON. DE WAAL: I move that the debate on the motion by the Hon. Minister of Finance be adjourned until Tuesday, next week, the 14th November.

HON. JUNIUS: I second.

AGREED TO.

TRADITIONAL AUTHORITIES BILL: RESUMPTION OF SECOND READING

FIRST ORDER READ:

Resumption of Debate on Second Reading – *Traditional Authorities Bill* [B.27-2000]

DEPUTY SPEAKER: When this debate was adjourned yesterday, the Question before the Assembly was a motion by the Hon. Minister of Regional and Local Government and Housing –

That the Bill be now read a Second Time

HON. ULENGA: Mr Deputy Speaker, I was just about to complete the first sentence of my contribution yesterday evening when, unfortunately, I was caught by the gong and the House had to adjourn.

As I was saying, Mr Deputy Speaker, with regard to my congratulations to the President of Malawi and the people of that country, I just wish that our own government here, and especially its Prime Minister – I do not see him here today, he is travelling once again – who for years have pretended to be a committed fighter of corruption, would pick a feather from this proverbial bird and start investigating and exposing the corrupt deeds of his government. I know none on the other side would survive such action.

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MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): On a point of order. Is it allowed for a supposedly Hon. Member to come and shed crocodile tears when he knows he owes the government unpaid bills regarding his travel and subsistence allowance when he was a Deputy Minister. When is he going to pay back? He is concerned about corruption. That is corruption.

HON. ULENGA: Mr Deputy Speaker, the Minister of Regional and Local Government and Housing was very gracious the other day by agreeing to a postponement, and I must express my gratitude. I can unfortunately not congratulate the Minister on the Bill itself, for I think it falls far short of expectations regarding the requirements in the field of our country's richly diverse, rich cultural traditions.

Indeed, instead of proposing to facilitate culture and tradition in an unbiased, non-manipulative fashion, the Bill does the exact opposite: It attempts to serve as the Trojan Horse through which ministerial manipulation and political patronage is smuggled into the running of traditional affairs, thereby aiming to subvert and undermine them, and turning traditional authorities into the grovelling slaves of the political masters of the day.

These attempts, Mr Deputy Speaker, to subject tradition and culture of this country to the ruling party's insatiable megalomania, must be stopped. They only end up discrediting, deforming and, finally, totally destroying our communities' richly diverse cultural traditions.

Our first task, Mr Deputy Speaker, should be to free traditional authorities from the bondage of political patronage. The whole system should be purged from the notion of reward and political favour. It shouldn't be a question of who did what during which years, because tradition and culture has nothing and should have nothing to do with reward, with political views and so forth. Further, the shadow of the Minister's sword must be lifted from above the traditional authorities, for they cannot be expected to serve both the Minister's political interests and the cultural interest of their traditional communities at the same time. One cannot have two lords. It is either the Minister or tradition and culture to be served.

Mr Deputy Speaker, just like the colonial regimes before it, the present government and ruling party has, upon accessing power at independence, used the clearly unacceptable, corruptible practice of reward and punishment, carrot and stick if you like, in favour of those traditional leaders who were perceived to side with the ruling party, and against those who have refused to be politically manipulated. As a result, many chiefs and heads of traditional authorities have been pressurised to join the ruling party, with pretended fanfare. Many have been made to grovel before Ministers and lesser government officials, many have given favours in terms of corrupt land rights grants to political office-bearers and others from the ruling party. The Minister of Lands and Rehabilitation has a huge problem now to take away those lands. In the process many of the traditional leaders have

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discriminated against and neglected their communities. All these were in order to curry favour with a government that is clearly ready and willing to do this kind of "business" with traditional authorities. The whole business of "scratch my back and I will scratch yours" has become so lucrative, with the result that ordinary commoners have lied, obfuscated and forged their family histories to claim royal descent.

As long as it is the Minister and even the Head of State, and not the cultural traditions through customary law that have the last say in the matter of who qualifies and who does not qualify for traditional office, this office will never be free from political patronage. I therefore argue that the recognising authority for traditional authorities be removed from political office-bearers and be vested in a neutral authority such as the Supreme Court or the Judge President or Chief Justice, for example. I know that it happens in some countries.

I also do not see any reason why any allowances payable to traditional leaders cannot come from the proposed Community Trust Fund. I think the formation of this Community Trust Fund is indeed one commendable proposal in this Bill. The state can then disburse monies into the Fund and not pay chiefs directly. Traditional authorities should be, first of all, servants of their traditional communities and not those of government. It is therefore very important that traditional authorities are shaped into veritable institutions serving cultural traditions and not mere instruments of government policy.

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

HON. ULENGA: Mr Deputy Speaker, ironically we seem to have liberated the country and the nation, including traditional authorities, from the yoke of colonialism and humiliation, only to again subject them to a similar burden. As everybody knows, all our Kings and Chiefs, Captains and Gao-Aobs had all been defeated, humiliated and shamed in front of their communities by the colonial authorities. That is what history teaches us. In the process they have been forced to act against their own subjects and their fellow Chiefs even.

The case of both Hendrik Witbooi and Samuel Maharero is apposite and relevant. About a hundred years ago, in Okahandja, these Chiefs who count among the heroes of Namibia were made to go out and search for Kahimemua and Kavikunua, bring them to Okahandja, try them themselves and sentence them to death and execute them in Okahandja. So, clearly our history shows us, whatever the strength of Chiefs, there was a time when, because of defeat, they had to sit there and even send a contingent of the army into the colonialist forces to fight, amongst others, even each other.

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Therefore the issue of reward to Chiefs who are perceived to have fought on which side or the other, the Minister and the nation generally should take a very careful and serious look at that one. It shouldn't come as a reason for acceptance or rejection.

You will remember further how the South African colonial governor in Cape Town was proclaimed Paramount Chief of all the native tribes of South Africa, with powers to appoint, depose, frustrate with red tape and stonewall against whatever he didn't like which was happening amongst the traditional communities. I am surprised to see that the same powers and procedures are being proposed for the Minister in this Bill, and there is no doubt that the results will be the same as during the colonial era. Chiefs will fall one over the other, trying to curry favour, buy favour by promising votes, be fearful, grovelling and subservient and lose their dignity. If they fail to do so the political masters get angry and wag that finger in the Chief's face and threaten punishment, withdrawal of development, and the heavens falling down, and so forth, like it happened in recent years in the case in Caprivi. You remember the Pidico case.

The royal dignity of Chiefs and traditional authorities, and the impartial respect that is due to each of our diverse cultural traditions can only be maintained if the traditional office is clearly divorced from any form of political influence. The Minister cannot avoid a clear conflict of interest in lording it over Chiefs.

Another clear problem area regarding this Bill is over the issue of so-called customary law. While the Bill purports to facilitate the codification of customary law of each traditional community, according to which traditional affairs would then be conducted, it goes ahead and prescribes the very activity that it purports to place under the jurisdiction of customary law. Thus for instance, under Section 10, Chiefs shall appoint senior traditional councillors, amongst others. Why this unnecessary prescription? As a matter of fact, if you go from traditional community to traditional community in Namibia, you will find that it is not necessarily the case that Chiefs, according to customary law, have to appoint their councillors. It depends on what traditional authority and what traditional custom you are dealing with. Therefore, by now putting this prescription in, you are actually contradicting what you were saying at the beginning. You said you are going to codify customary law so that it can be the controller of traditions and customs. Instead of leaving this to the discretion of the diverse customary traditions of our country, the Bill now goes ahead and prescribes. It shouldn't be like that.

Suffice to say, that amongst many of our traditional communities the designation of traditional councillors does not necessarily rest with the Chief.

There is no need, Mr Deputy Speaker, to attempt to comb every traditional community with the same comb, as diversity in traditions is one main characteristic feature of culture. Assist with the codification of culture and put up an agreed mechanism of ensuring custom is applied, and that this custom does not contradict the Namibian Constitution, and the rest should be left to traditional authorities and their communities.

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Uncalled for tampering with these cultural traditions creates the impression of a hidden agenda, and risks possible instability. Everybody would remember, Mr Deputy Speaker, that our experience the last ten years in this country have clearly shown that there are serious fault lines running alongside our traditional affairs, and unless we are very careful in handling these matters, there is always a risk that there would be minor, or even major, eruptions along these fault lines. The case of Rehoboth in the early nineties, what has happened so far in the Caprivi, and even the Dhemba/Kolonkadhi incidents have demonstrated these fault lines that I am talking about.

It is interesting to see in this regard that this Bill is in large measure a reaction to, and an attempt to obfuscate with regard to the dispute concerning the Hambukushu traditional authority. When the government agreed to a referendum in that area in 1990, there was no law regulating these issues, and still the government said they would accept what comes from the community. But last year we saw a decision by government to shift the goal posts against that traditional authority and that community. No wonder, Mr Deputy Speaker, amongst that community – as I experienced a few days ago – today they talk of the government Chief, i.e. Mbambo, and the community's Chief, Majavero. Such government bias is totally unacceptable and should not be allowed.

On the question of tribal marginalisation and domination and, of course, also the issue of affirmative action and the status of women in traditional authorities, I think there is an interesting question coming up, whether we would want to treat certain traditional communities as being more equal than others or do we want to consider them as being equal? For example, what is the difference between the Hambukushu, on the one side, and the Kxoe as two traditional communities, or is it perhaps a question of the perpetuation of one tribe's domination over another? I think these are some serious issues that need to be taken up.

I was asking myself, against the background of the argument that is forwarded with regard to the Dhimba in this country, for example, and I was looking at the question of the Rehobothers. The argument is that both communities have come in a hundred or two hundred years ago from the north or from the south. Why aren't they treated the same? There is the interesting question of the Kwanyama. Where is their communal area? Is it in Namibia or is it in Angola, or is it in both countries? INTERJECTIONS. I know that about a hundred years ago, Chief Mandume one morning woke up to hear about an imaginary borderline going right across his mahangu fields.

MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): On a point of information. It is a well-known fact that the Hon. Member who is speaking is a grandson of Shigwedha sha Hango and he should know the history relating to his uncle. So, he should not come and raise the problems here.

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HON. ULENGA: Mr Deputy Speaker, I have to say the Minister should not spread lies in the House.

DEPUTY SPEAKER: I do not think that word is proper for the decorum of the House.

HON. ULENGA: I didn't mean "lies", that is withdrawn unconditionally. I meant something else, I meant unacceptable historical distortions.

I was just talking about the interesting case of the Kwanyama and I was saying that about 90 years ago, the Chief woke up one day and was told by some people who said they are the higher authority that there is an imaginary line. They didn't even put it on the ground, they said just about five metres or so from your doorstep there is an imaginary line which we call the boundary of two countries and you must not cross it, because if you cross it there will be war. The Chief of course, being what he is, a cultural and traditional leader of his community, was not going to listen to this. This provoked war, as we all know, that ended in the killing of the Chief. INTERJECTIONS. Go back to the history books. The issue really is, if there were a legitimate Kwanyama Chief or head of traditional authority who happened to reside in Angola, would the government, according to this law, recognise his authority in Namibia, or would you go ahead and divide the Kwanyamas into two and let them have two chiefs simply because of that?

MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): On a point of information. The boundaries of Namibia are defined in the Constitution, to which we everyday pledge. Why is the Member questioning the constitutional prescription in the name of making propaganda? We are here to defend the Constitution and you are not supposed to question it.

HON. ULENGA: Mr Deputy Speaker, the Namibian Constitution is definitely not in question here.

As I was saying, I see the Bill is actually taking away traditional rights as far as residential areas are concerned, and I was wondering, I thought about the Herero traditional community and I thought of Okahandja and Omaruru. Is this Bill actually suggesting that there shouldn't be any recognition of a communal area within some of these very historical and very important cultural areas and sites for certain communities?

We find in certain other cases, also in the Herero case, that there are perhaps more than ten so-called communal areas. I see the Bill is only talking about one communal area. How exactly does the Bill propose to deal with this very complex traditional and cultural issue?

The whole of sections 5 and 6, which deal with the prior notification and recognition of Chiefs or heads of traditional authorities, is really an unacceptable attempt at frustrating with red tape and stonewalling in order to reduce traditional authorities to the agenda of government. It looks like from the beginning to the end such proposed procedure may

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easily exceed 5 years. This process can only lead to frustration of traditional authorities and breaking them down.

All in all, Mr Deputy Speaker, this Bill, as far as we are concerned, only raises more questions than it answers. We concede the power and the right, indeed, of government to rule, and government should rule directly, it shouldn't rule according to the old British Imperialist diction of indirect rule, a la Lord Lugard. Government has the power to rule and it should rule directly. In the case of this Bill, however, the interests which are being proposed to be served are clearly those of government and not of culture and tradition. I thank you.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING (HON. N. IYAMBO): Cde. Deputy Speaker, Hon. Members, I would like to thank all the Hon. Members who spoke on the Traditional Authorities Bill, for or against, for their contributions.

Firstly, I would like to state that Namibia is a land of contrast. It is, therefore, not easy to draft a Traditional Authorities Bill that would cover all traditional aspects of the communities in Namibia. However, we have tried to draft a Bill which we consider would cover most of the traditional practices of the communities in Namibia.

There are those of the traditional leaders who appoint their leaders, there are those who elect their members. It is up to a particular customary law, which is comparative in a particular community that has to be followed, and that we will have to be told by the communities themselves, not to be advised by government.

The Hon. Deputy Minister of Health and Social Services wanted to see Section 3(1)(b) of the Bill to read that the execution and administration of customary laws of a traditional community must be done in conjunction with the Ministry of Justice and the Ministry of Home Affairs. I would like to assure the Hon. Deputy Minister that the Community Court Bill that will come before this House will provide the link between the administering of customary laws and common laws and how the two may assist one another.

The Deputy Minister would also like a reference to Royal Family to be included in section 4(1) of the Bill, when designation of Chiefs or Heads of traditional communities are designated. The inclusion of "Royal Family" is not needed in the Bill, because it will depend on the customary law of that traditional community. If it is the Royal Family that made the appointment, then automatically it will be done accordingly, or if they are the ones that elect, it will also be done accordingly. That is why, throughout the Bill, the emphasis on customary law application is very, very important. Prescription how it should be done is not necessary, as long as the customary law of a particular community allows it.

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The Deputy Minister would also like to see the inclusion of "Royal Family" in sections 5(1)(a) and (b). He said this is when acting arrangements are in question. But note that acting arrangements are not made a rule, the sentence starts with "may", meaning if it is the custom of that community that there be acting arrangements, yes, the community may do it. If the community's customary procedures do not allow that, no acting arrangements should be made possible.

It is, therefore, very important that customary law cannot be codified by the government. It has to be codified by the traditional communities itself, and it is the traditional community that will have to avail that to the government, for government to satisfy itself, whenever there is a need for appointing or electing or any act that would be carried out, for government to inform itself that it is done in accordance with the customary law that the community has codified itself. There is nowhere in this Bill where it is suggested that codification be done by government.

I would like to thank Hon. Pohamba in his absence for his contribution. Of course, I have a small problem with his wish to have traditional leaders throughout Namibia, particularly senior and junior traditional councillors, elected. I am again saying, if it is the customary law of a traditional community to elect, let them elect. But again, if they are appointed, let that also be allowed. We are just saying the customary law must prevail in accordance with how it is applied in the local conditions.

He is of the opinion that elections have to take place because traditional leaders are public officials. Unfortunately I do not agree, I don't think they are public officials, I think they are leaders of subgroups in the larger society. In other words, they are only leaders in given geographic areas.

Hon. Pretorius, while supporting the Bill, thinks that the Bill is amended without indicating the changes that are being made. I would like to inform the Hon. Member that the Bill is not amended at all, it is a new Bill and that is why Section 20 repeals the Traditional Authority Act of 1995. The Hon. Member is not satisfied that there are some limitations imposed on traditional leaders' direct participation in national politics. I can only say that such limitations are provided for by Article 17 of the Namibian Constitution. Their right may only be abrogated, suspended by Parliament on such ground of public interest. As a matter of fact, I can inform Hon. Members that we are being consulted by virtually all our neighbouring countries, those who recognise their traditional leaders, because they are really in trouble, and I am sure many of you know about this. I think we have tried to do the best we could. In any case, traditional leaders are not forbidden to participate in national politics, they can even be politicians. We are only saying, when they get involved in those clearly identified national political institutions, then they must take leave from their traditional leadership for the time-being, until they return later on.

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In point 12 of Hon. Pretorius' contribution, he thinks the Bill is not legitimate. I can only say that Mr Pretorius should wait until the Bill is enacted in law and feel free to take your case to court. I have no doubt that I will defeat you there, because this Bill is quite in order.

I thank Hon. Mbumba in his absence, Hon. Tjiriange and Hon. Kuugongelwa for their support and in verifying that the Bill is quite in order.

While supporting the Bill, Hon. Namises, like Hon. Pretorius, thinks the Bill should be referred to the Standing Committee on Governmental Affairs, but I do not think so.

I thank Hon. Garoëb for his support. He particularly referred to section 3(2), that there ought to be a section that implores that non-members of a particular community must also respect the laws and customs of a particular community where they live. I think generally it should be accepted to be so. But for the purpose of this section, it will not be possible to include that we prescribe an obligation to non-members of a particular traditional community, that is referred to here, because the title of that section 3 actually refers to the powers, the functions and duties of traditional leaders and members of that traditional community and the inclusion of a non-community member will not be advisable here. On the other hand, Article 19 of the Namibian Constitution clearly states, in no uncertain terms, that the rights and cultures of all Namibians should be respected. In this case, for the sake of clarity for the Hon. Chief, if he feels that his customs or culture are being ignored or being violated by any individual who may not be a member of his traditional community, he can simply go to court and challenge such an individual.

Hon. Konjore and Hon. Chata also referred to that problematic issue of a non-community member, that we should compel him or her to respect the customs and the laws of a particular traditional authority, particularly when it comes to area of jurisdiction. The explanation is the same, this Bill is about traditional authorities and the members thereof.

Hon. Chata seems to think that the Bill is too prescriptive as far as affirmative action is concerned. I wish it was possible to enforce affirmative action in traditional authorities, but obviously we cannot. We can only appeal and it will in any case depend on the customary laws of that traditional community whether affirmative action can be accommodated. Nothing in the Bill suggests that it will be enforced.

To map out areas of jurisdiction is not that easy, since colonial activities have abolished many, if not all, of these areas of jurisdiction for traditional leaders. I do not think there is now a need to go and redraw new territorial areas of jurisdiction for traditional leaders where they do not exist.

On the question of communities that do not have Royal Families, yes, there are communities in Namibia today that do not have Royal Families, or if they have, it is

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possible that those Royal Families might have gone underground during the colonial time because of persecution. It is those communities that, instead of today being ruled by members of the Royal Family, are ruled by prominent members of their communities who, for the sake of this Bill, are called heads of traditional communities. There are many of these.

Regarding section 12, the settlement of disputes, disputes have to be settled in accordance with the customary laws of the traditional community. We are just saying, today there are traditional communities who have a dispute within their communities, but they are unable to solve them. It is for those we are saying that if they reach that point, they may then inform the Minister in writing, saying "we have a dispute in our community which we would like to be assisted to solve." It is not that we will impose ourselves on them.

Hon. Booys, I understand your frustration with traditional leaders who have been imposed on others. It is for that reason that we are saying that unless a traditional community agrees among itself or allow the Ministry to be involved in trying to mediate, the best that we can do is not to recognise any at all. If they cannot reach an agreement, we are not going to choose anyone of them.

Hon. Kaura made a lot of noise, unfortunately unfounded. He claims that there are some communities that are marginalised. He listed the San people, Basters, Hereros, Mbukushus and Ovazembas. For the information of the hon. Member, the Ovazembas do not reside in the area of Chief Shikongo Taapopi. On the other hand, the case of the Ovazembas has been referred to the Council of Traditional Leaders. It has been provided for that where there is a dispute that cannot be solved, indeed it can be referred to the President, after which the President will refer such issue to the Council of Traditional Leaders to investigate, since they are the custodians of customs.

Mr Kaura should have mentioned other communities that today also have problems. I wonder why he has left them out. He did not mention Ovambalantu vs. Ovambalantu, Okalongo s Oukwanuyama, Goliath vs. Isaaks, Mayuni vs Mafwe in Caprivi. There are many others. Why did he choose to think that only those that he mentioned have problems? He is definitely not being honest in this case.

About Kings and Paramount Chiefs, the law is clear, it does not recognise the reference to Kings or Paramount Chiefs. The highest title accorded by the law is a Chief. But section 11 of the Bill allows members of the community to call their traditional leader anything they want in their own language.

Hon. Kaura's reference to late Hosea Kutako should be understood for what late Kutako was. He was not a tribalist at all, that is true. On the other hand, it is not true that Namibia is free today because of the work of Hosea Kutako only. There are many others who have contributed to the liberation of Namibia – those that came before late Kutako, his

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contemporaries and those that came after Kutako. On the other hand, I wish to say that the statute of Kutako was made as a result of a decision made by the government and the unveiling date will also be decided by government. INTERJECTION. The Hon. Members do not know the history behind the making of that statute. Why don't you leave it to those who decided that the statute should be done to decide when it should be unveiled. Let me assure you, government, since it has decided to make the statute, will decide on the date when the statute will be unveiled. You sit, keep quiet, you will be informed.

Hon. Kaura thinks that the Herero community is the only ones that suffered and fought the Germans. That is definitely not true. It is well-known that the Nama people and the Ondonga people equally fought the Germans. During the war many Herero communities fled to the Ondonga area and many of them chose to remain there up until today.

Then about the noises about the Hambukushu traditional community, and Hon. Ben Ulenga should know better than anybody else. Hon. Member – and this also goes for Hon. Kaura – the traditional and customary procedures of Hambukushus in appointing or electing a Chief is as follows: The elders of the village sit and discuss among themselves. They need to have a Chief or traditional leader or replace one, and once the elders in the village have discussed the issue, they will then go to the Royal Family and inform the Royal Family of the topics they were discussing and how they want it to be solved. The Royal Family then give their consent accordingly to what the elders of the village are asking. That is exactly the same way Chief Mbambo was elected. If you do not know, go and ask. That was how he was elected. When the villagers were not happy with the former Chief, they urged the village elders...

HON. ULENGA: Seeing that this point is very relevant, may I ask him a question?

DEPUTY SPEAKER: Question declined.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I am replying to questions. That is how the community was given permission to organise an election. The problem is that when the community realised that they do not want the current Chief, they simply went and organised a referendum. INTERJECTION. Unless you did not listen to what I said. Because they went and organised the referendum themselves without going through the customary procedures of urging the elders of the village to discuss the issue and take it up to the Royal Family, for it to be agreed upon there, it was not in line with customary laws. After the referendum they went and installed their Chief. So, who has a problem with this? They had followed their own procedure and installed their Chief, what do they want from us? They never came to us and even followed the procedures in the North and now we are told, after they have installed their Chief, we must recognise their Chief and get rid of the other one. I can tell you, I will never do that because they violated their own customs.

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I have advised them to go back and to follow the customs, then we can talk. That is the problem, Hon. Kaura and Hon Ben Ulenga.

When it comes to the Baster community, the Baster community organised an election among themselves, they elected their Kaptein, they never, ever applied to the Ministry. You don't therefore expect me to go and beg them to come and apply. No.

When it comes to the Damara communities, the Damara communities have drawn up their structure and presented it to the Ministry, and I still have it up to today. I even have it here, I can show it to you. It is signed by themselves. They said they have a King and their King will never be equated with a Chief. We said, fine, either you let the structure of King be the one approved or you let him be equal to other Chiefs. They said no, they want to present a structure where the King is above and others are under him. That is what we have. This structure was presented by the Damaras themselves and this is the one that we have gazetted. After gazetting was done, others started to revolt and now want to get away from that one single leader. We said, agree among yourselves that it is no longer the structure and submit the other structure. That is where we are now.

I have already said the Ovazembas' case is with the Council of Traditional Leaders for investigation.

It is also not true to say the Herero communities are not recognised. We have three traditional authorities of the Hereros which are recognised, with the fourth having its case before the Council of Traditional Leaders. It is not because of the Ministry, it is because of the dispute among themselves. There are 48 people who have also applied to be gazetted and I have refused, and I will tell you the reason why. The reason is, these people are listed in the ministry as headmen under Chief Riruako, and I said, "if you want to be recognised as Chiefs, then the status of headman has to change. I cannot now just make a headman a Chief. What happens to the transition? That is the problem, and that is not my problem, it is their problem.

There are two recognised communities of the San people. I only know of one which is seeking recognition and again, their case is with the Council of Traditional Leaders.

Hon. Speaker, Hon. Ben Ulenga made a lot of noise that did not make sense to me. So, I really do not think there is anything I want to respond to. He said a lot of things which I think were not really customary in nature and did not adhere to the requirements for recognition of traditional communities.

Hon. Speaker, Hon. Members, thank you very much.

Question put: That the Bill be read a Second Time.

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HON. T. GURIRAB: I object.

HON. PRETORIUS: Hon. Speaker, was there not a motion to refer it to the Standing Committee?

DEPUTY SPEAKER: I am not very clear whether the motion at this moment is in written form.

HON. PRETORIUS: It was in written form.

DEPUTY SPEAKER: Was it on the Council of Traditional Leaders or Traditional Authorities? There were two Bills, let us be clear on that one. I will let this item stand over until tomorrow, so that the secretaries check on their records and then we can make a ruling.

NAMIBIA STUDENTS FINANCIAL ASSISTANCE
FUND BILL: COMMITTEE STAGE.

MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT
CREATION: Mr Deputy Speaker, I move –

That the Assembly now goes into Committee on the Bill.

HON. BOOYS I second.

AGREED TO.

HON. LUCAS takes the Chair.

ASSEMBLY IN COMMITTEE:

DEPUTY CHAIRPERSON OF COMMITTEES: The Committee has to consider the *Namibia Students Financial Assistance Fund Bill* [B.29-2000].

Clauses 1 to 5 agreed to.

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TRADITIONAL AUTHORITIES BILL
RESUMPTION OF SECOND READING

FIRST ORDER READ:

Resumption of Debate on Second Reading – *Traditional Authorities Bill* [B.27-2000].

DEPUTY SPEAKER: When this debate was adjourned yesterday, the Question before the Assembly was a motion by the Hon. Minister of Regional and Local Government and Housing –

That the Bill be now read a Second Time

I now put the motion moved by Hon. Namises for the referral of this Bill to the Standing Committee.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I object.

House divided.

MOTION REJECTED.

Bill read a Second Time.

TRADITIONAL AUTHORITIES BILL:
COMMITTEE STAGE

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Deputy Speaker, subject to rule 26(a) of the Standing Rules and Orders, I move –

That the Assembly now goes into Committee on the Bill.

HON. DINYANDO: I second.

AGREED TO.

HON. LUCAS takes the Chair.

ASSEMBLY IN COMMITTEE:

DEPUTY CHAIRPERSON OF COMMITTEES: The Assembly has to consider the *Traditional Authorities Bill*.

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Clause 1 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING (HON. N. IYAMBO): I move an amendment in clause 1 under definitions (a), (b) and (c):

That in clause 1, in the definition

- (a), "senior traditional councillor" insert "or elected" after "appointment";
- (b) "traditional councillor" insert "or elected" after "appointment";
- (c) "traditional leader" insert "or elected after" "appointment".

I so move.

HON. PRETORIUS: Madam Chairperson, only a question. Maybe I am reading it wrongly:

The definition of "Repealed Act" means "the Traditional Authorities Act, 1995", but in clause 20 it reads: "Subject to subsection (2) the Traditional Authorities Act, 1995 and the Traditional Authorities Amendment Act, 1997 are hereby repealed."

I only want clarity on that.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: The Act of 1995 was amended in 1997, and both the principal Act of 1995 and the Amendment Act of 1997 are hereby repealed.

HON. PRETORIUS: Then I still have a problem, then it must read, "repealed Act means the Traditional Authorities Act 1995, as amended."

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I concur, Hon. Chairperson.

Clause 1, as amended, agreed to.

Clauses 2 and 3 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: In clause 2:

Insert in paragraph (b) of subclause (1), "or elected" after "appointed"; and

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TRADITIONAL AUTHORITIES BILL
RESUMPTION OF SECOND READING

FIRST ORDER READ:

Resumption of Debate on Second Reading – *Traditional Authorities Bill* [B.27-2000].

DEPUTY SPEAKER: When this debate was adjourned yesterday, the Question before the Assembly was a motion by the Hon. Minister of Regional and Local Government and Housing –

That the Bill be now read a Second Time

I now put the motion moved by Hon. Namises for the referral of this Bill to the Standing Committee.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I object.

House divided.

MOTION REJECTED.

Bill read a Second Time.

TRADITIONAL AUTHORITIES BILL:
COMMITTEE STAGE

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Deputy Speaker, subject to rule 26(a) of the Standing Rules and Orders, I move –

That the Assembly now goes into Committee on the Bill.

HON. DINYANDO: I second.

AGREED TO.

HON. LUCAS takes the Chair.

ASSEMBLY IN COMMITTEE:

DEPUTY CHAIRPERSON OF COMMITTEES: The Assembly has to consider the *Traditional Authorities Bill*.

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Clause 1 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING (HON. N. YAMBO): I move an amendment in clause 1 under definitions (a), (b) and (c):

That in clause 1, in the definition

- (a), "senior traditional councillor" insert "or elected" after "appointment";
- (b) "traditional councillor" insert "or elected" after "appointment";
- (c) "traditional leader" insert "or elected after" "appointment".

I so move.

HON. PRETORIUS: Madam Chairperson, only a question. Maybe I am reading it wrongly:

The definition of "Repealed Act" means "the Traditional Authorities Act, 1995", but in clause 20 it reads: "Subject to subsection (2) the Traditional Authorities Act, 1995 and the Traditional Authorities Amendment Act, 1997 are hereby repealed."

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MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: The Act of 1995 was amended in 1997, and both the principal Act of 1995 and the Amendment Act of 1997 are hereby repealed.

HON. PRETORIUS: Then I still have a problem, then it must read, "repealed Act means the Traditional Authorities Act 1995, as amended."

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I concur, Hon. Chairperson.

Clause 1, as amended, agreed to.

Clauses 2 and 3 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: In clause 2:

Insert in paragraph (b) of subclause (1), "or elected" after "appointed"; and

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In clause 3:

Insert in paragraph (d) of subclause (2) "or election" after "appointment" and "or elected" after "appointed".

HON. RIRUAKO: I hope the House will listen. May I ask, are Chiefs elected or appointed by the government? Are they elected or not? Read the amendment.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: The Chief was not here yesterday and I was saying that Namibia is a land of contrasts, even when it comes to traditional communities and leadership. So, in this country, even among the traditional leaders, there are those whose customs do not allow election, but they only allow appointment. On the other hand, there are those traditional communities whose customs allow election. In this case, because of those contrasts, we provide for both and we only say it is the customary law of a particular community that needs to be used. If they appoint, they can do so; if they elect, they can do so in accordance with their customary law.

HON. RIRUAKO: According to our customs the Chiefs must be elected. Are we throwing away our customary law or not?

Clauses 2 and 3, as amended, agreed to.

Clause 4 put.

HON. ULENGA: Objection. I will not get into the details, it is an objection to clause 4 as a whole.

House divided.

Clause 4 agreed to.

Clause 5 put.

HON. PRETORIUS: Madam Chairperson, I just want to ask a question, the last paragraph of that clause on page 8: Subsection (10) of clause 5. The last sentence reads:

"The members of the community may elect, subject to the approval of the Minister, a Chief or Head of the traditional community by a majority vote in a general meeting of the members of that community who have obtained the age of 18 years and who are present at that meeting."

My question is, whether there is any provision in any law for somebody to compile a voters list of a community or who is doing the checking?

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MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING:

Preceding the wording you read, Hon. Pretorius, this should only happen in a community where customary laws are not certain or, there is a total disagreement of appointing, for example. The Minister will then say, in this case, if you cannot agree to appoint, I can only say the way to solve that problem would be for you to organise an election of members of that community, and if that happens, then it must be all members of that community who are of the age of 18 or above, and if they agree, remember in the designation of the traditional leaders, it says the Minister or the Minister's representative must be there to satisfy him or herself. Obviously in this case the Minister or the Minister's representative will have to make sure that there are people that will count those votes. On the other hand, this stipulation will not be in the law but in the regulations.

HON. PRETORIUS: It is not quite clear to me, because that was my problem from the start, that as soon as we have any kind of election, you must have a voters list above any doubt. I am now thinking very hard to get a traditional authority for the Afrikaners, but say, the majority of people at that meeting are English-speaking and white like me, who is going to decide who are members of my community and who not, and who is going to chase them away? We must have a voters list and there is no provision in any of these clauses for a voters list.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: One of the provisions in this Bill says that people who are not members of your particular community, but who have decided voluntarily to assimilate themselves or by marriage that they want to become part of your community, then you can allow them. In the case of the English, if they have by marriage become members of your community or anybody else who has assimilate him or herself voluntarily, then you accept that member. It is really for the members of this community to say this person is part of our community or he is not.

HON. PRETORIUS: I do not want to argue about it today, but I think we must look at it, so that when the problem arises one day, that we are ready for it.

HON. RIRUAKO: I agree with Hon. Pretorius, because in our case our customary law is not followed. The Minister does what he pleases without looking at the pros and cons and to what he must limit himself. In that case there must be an independent person to see how the people will vote, but not the very person who does things as he pleases. I thank you.

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HON. MOONGO: I have to raise my concern on that point, because what happened in Okwanyama when Headman Dan was taken off is because politicians influenced the other headmen to become Swapo and then they said there is tension, disputes, in order to have elections so that they vote that man out. So, this must not be influenced by politicians. Thank you.

HON. NAMISES: Mine is in relation to the question where the Chiefs are removed and then it is referred to the President. In clause 8(1), the community gives warrant of removal and they remove him according to that customary law, but then the President is informed.

DEPUTY CHAIRPERSON OF COMMITTEES: Which clause are you speaking on?

HON. NAMISES: Hon. Pretorius was speaking on clause 5, I am on page 9.

DEPUTY CHAIRPERSON OF COMMITTEES: No, we are not there yet.

HON. BIWA: I am referring to clause 5(10)(e), the last part. I see that the Bill is suggesting that 18 years should be the voting age. I would like to find out whether this also applies to all the customary laws of the different communities, or are we imposing the 18 years of age?

HON. RIRUAKO: Clause 5(10) refers to "a Chief or Head of traditional community". No, they do not have that power at all, it is a camouflage, because they cannot do things according to their will. The very Minister will interrupt and do as his political party always does. There are no assurances in this so-called Bill, nothing. There must be a law which all of us will abide to, but not to favour a certain political party in power to do things as they please.

HON. ULENGA: With regard to clause 5(1)(b) where it stipulates that if no Chiefs Council or Traditional Council for that community exists, the members of that community who are authorised, etc. I just want to find out from the Minister what assurances he can give the House that this particular subclause will not lead to unacceptable discrimination and unacceptable privilege of only a certain tiny section of the community. How can we ensure that the entire community will indeed be allowed to exercise their rights as guaranteed by the Namibian Constitution?

Further, Deputy Chairperson, I see that, starting from 5(b)(i) up to (vii) there is a whole process being described which to me looks very long, convoluted and definitely confusing to a community which may not be well versed in the art of writing, reading and filling in forms. What assurances can the Minister give that this is not hidden, camouflaged stonewalling, red tape, unnecessary bureaucracy from the side of government?

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HON. ULENGA

I also feel that none of these clauses state a clear deadline. Going on further to subclause (3)(a)(ii) where it refers to "such group of persons not constituting an independent traditional community, inhabiting a common communal area..." Is the Minister sure that there is no case where two or even more cultural communities may be living together, where they feel that as far as they are concerned they are totally separate and distinguishable as far as their culture and history are concerned? Will the Minister in such a case be able to allow different communities to claim a common traditional communal area?

If I have to take an example, there is a community which is a traditional Damara-speaking community in the area of Rehoboth. There are also others in that area who are a traditional community, who have a culture and tradition completely different from this one.

HONOURABLE MEMBER: Who are they?

HON. ULENGA: The Rehoboth Basters. But this is not the only example that is relevant in the whole country, there are others.

What I want to say is that the characteristic feature, as far as this kind of issue is concerned, is indeed vested and you cannot really put up a definitive limitation or prescription as is given in subclause(3)(a)(ii).

I further see in the same subclause (3) that the Minister has the power to decide whether the numbers of such community are sufficient or insufficient in order for them to establish themselves as a traditional community. Doesn't the Minister think that this would be an unacceptable infringement on the rights of whichever traditional community? Thank you.

MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): Clause 5(8)(a), (b), (c) and (d). I am responding to Hon. Pretorius who wants to be a Chief. I know the purpose of your question about voters registration, that you want representativeness of those who are taking part in the vote. I know this is your concern.

A typical African society, which still follows the pattern of traditional organisation, will start with the family, and the family is connected to other members of that community through an extended family system. Then that clan will have some form of leadership, and through the formal networks people know each other. The community will know that people who are taking part in the vote come from that clan, from that area, etc. Normally in the typical African society, there should not be a dispute. The dispute only comes about now because even urbanised Chiefs want to continue to be Chiefs, which should not be, because when you are in an urban area, the Chief of the urban area is the chief of the municipality. That means you have to abide by the municipal rules.

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MINISTER OF HIGHER EDUCATION,
TRAINING AND EMPLOYMENT CREATION

HON. BIWA: On a point of order. I would like to remind the Chairperson that by making a general statement, the Hon. Member is creating a serious procedural precedent.

MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION: I am not creating an precedent here, I am only explaining to Hon. Pretorius who was asking about the representativeness of a vote, which can be abused. It is true, it can be abused. But in the normal typical African community it will not be abused because the people present know each other. They know you come from that area, I come from that area. They have roots.

It is only that those who are urbanised want to be in both camps – one foot in the tradition, one foot in the European tradition, for economic reasons. If the Minister would decide to recognise Chiefs without paying them, there will not be a quarrel. The problem he has created for himself is the payment, because everybody wants to have access to public resources. I would advise the Minister that Chiefs should be paid by their own communities, because they represent the tradition and aspirations of those communities – as it happened before. That will solve the problem. Thank you.

MINISTER OF LABOUR (HON. TOIVO YA TOIVO): Cde. Deputy Chairperson, I do not know what the quarrel is about here. Chiefs are born, they are not created. It is a clan of Chiefs which is followed, they are not elected, they are born. It is only those hungry people, the Lucifers, who want to be elected. I am now talking from experience. As Cde. Nahas indicated, according to the African tradition you have a clan of Chiefs. If the one dies, the elderly people choose from that clan that this is going to be our Chief.

We have the Gurirabs according to the tradition of the Damaras, you have the Mahareros according to the tradition of the Hereros, not the Lucifers, as Cde. Nahas indicated here who want to be Chiefs and commoners. That is not according to the African people. These are hungry people, they want to benefit from both sides, from the Chiefs as well as from the commoners. That is not the African tradition, these are Lucifers. Thank you.

HON. ULENGA: In the same clause, Madam Chairperson ...

MINISTER OF TRADE AND INDUSTRY (HON. HAMUTENYA): On a point of order. Is it allowed that somebody who has opposed a Bill in its totality, should come back and discuss its clauses? He opposed the Bill. Now what is the point of discussing it in part?

HON. ULENGA: Of course, it is a question whether this House is just a rubber stamp or is it really an institution of democracy. We know, for example, that with your numbers you always outvote everybody, but we still indicate what we want to say.

The question of the so-called African tradition.... INTERJECTIONS.

MINISTER OF HIGHER EDUCATION, TRAINING AND EMPLOYMENT CREATION (HON. N. ANGULA): On a point of order. The African tradition is essential and really cannot be called "so-called". If he lost his own tradition because of certain complexes he has, that is his own individual problem, but he should not question African tradition. It is essential to our existence. He can live with his own inferior complex and deny his Africanness, but he cannot undo his skin, unfortunately.

HON. ULENGA: I am aware of that quasi-science. I was just going to say that we should be careful, Madam Chairperson, that the issue of traditional authorities cannot be bound within one African tradition. Some African traditions are indeed different from others and I will say that there are traditions in this country that may allow for the election of chiefs. So, again, what I would argue for is to avoid combing everybody with the same comb.

Some Africans have straight hair, some have kinky hair, some have brown hair, some have black hair. So, why are you suggesting that we all should be combed with the same comb? Combing should be done according to hair. Thank you.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairperson, the decision to have this election, in the first place, will take place under the customary law of a particular community. The customary law does not provide for a list of voters. The list of voters are only provided for in the national elections, not in the customary law.

To answer the question of Hon. Ben Ulenga, what is meant by section 5(3)(ii) – and there is a lot of evidence on this – is that there are communities that live in one area and there is a traditional authority, recognised, gazetted in that traditional area where all community members living in that traditional area are represented in that traditional authority.

Then the question is, I would believe that if there is a recognised traditional authority and yet all people of that traditional area are represented in that traditional authority, if you want to establish a rival traditional authority, yet you have a traditional authority in which your member of your particular clan is also represented, in how many traditional authorities are you going to be represented?

About the election of traditional leaders, Hon. Riruako, what is taking place in your community was not even of your making and you know that. It was not of your making. Traditional leaders in your community are not elected, but people who are elected are people like you. INTERJECTIONS. Wait a minute!

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

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MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairperson, I was trying to explain the history of the election of traditional leaders, how it came about. There are Hon. Members in this House who know very well how it came about. Hon. Riruako is trying to tell us that Maharero was elected. Maharero was not elected as a Chief, Hon. Member. Maharero was elected to coordinate the war effort. Therefore, the need for coordinating the war having ended, the question is: Is it possible in a free independent Namibia that we can have a Chief who is elected and claims that that is the right procedure for one to be a Chief? Hon. Member, as you are sitting there, you do not have the Royal tools. The Royal tools are not with you.

On the other hand, I can tell you that if you were to be a Chief of my tribe, what happened to you in Uukwaluudhi that you ran away? Chiefs don't run away, never! If a Chief runs, honestly, he is no longer a Chief. That goes to explain that you cannot be a Chief.
INTERJECTIONS.

HON. MOONGO: On a point of order.

DEPUTY CHAIRPERSON OF COMMITTEES: Hon. Moongo, the Minister is replying.

MINISTER OF HOME AFFAIRS (HON. EKANDJO): May I ask a question? Hon. Minister, is it true that when the Chief ran away, he ran faster than Frankie Fredericks?
LAUGHTER.

HON. NAMISES: On a point of order. Hon. Chairperson, is it allowed that you give permission to Hon. Jerry Ekandjo and not to Hon. Moongo? Was his intervention different from Mr Moongo's? I just need clarity, how did it happen that he is given permission and Mr Moongo was not given permission?

DEPUTY CHAIRPERSON OF COMMITTEES: I just want to remind Members that points of order are not refused. He did not rise under a point of order. You just stood up and you did not say on what you were rising.

HON. MOONGO: I said a point of order. On a point of order. Is it allowed in this House that the Minister, who was not at Uukwaluudhi at that time, may fabricate false stories here?

DEPUTY CHAIRPERSON OF COMMITTEES: The Chair will no longer allow points of order because we are delaying the Bill too much.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairperson, I have even replied to the question of the leader of the little party. I am through.

Clause 5 agreed to.

Clauses 6 to 9 put.

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SING: **HON. RIRUAKO:** I am referring to clause 6(1). If the Minister is satisfied that a Chief or Head of a traditional community has been dismissed in accordance with the requirements of this Act, he or she shall notify the President of such a dismissal in writing. But in this case, if there is any dispute of being a Chief, you are not from the Royal family, let us talk about the whole African tradition. Talking about the Royal family and who is who, I am a nephew of Samuel Maharero, a nephew of his own father. For one to tell me that people who carry the name cannot touch the sacred cow or sacred fire, who is who? I am a nephew of Kambazembi, his mother came after my mother, one father, one mother. Now tell me who is who? Who is Zeraua? Zeraua's father came after my own mother. I want to let you know who I am.

MINISTER OF HOME AFFAIRS (HON. EKANDJO): On a point of order. Is it allowed for a member, because of his frustration that he cannot attend a Chief's meeting that side, to vent his frustrations in this august House? We never stopped him from going there, he is welcome to go there.

DEPUTY CHAIRPERSON OF COMMITTEES: The Hon. Minister is out of order.

HON. RIRUAKO: Let us call a spade a spade. If you want to name them in this House, I will tell you where they come from. I know where I brought them from.

DEPUTY CHAIRPERSON OF COMMITTEES: May I ask you to concentrate on the subclause and not generalise the issue?

HON. RIRUAKO: According to the subclause, if the man is accepted by the people who live there, not appointed by an individual who likes him, then the President has the right to endorse that.

DEPUTY CHAIRPERSON OF COMMITTEES: Hon. Chief, you are just repeating yourself.

HON. RIRUAKO: No, I want to say what is supposed to be said. This is how I am referring to those facts. If we talk about these things we must accentuate the point. There are people who are saying things which are irrelevant.

The Ovazemba case was referred to other Chiefs who don't know about the Ovazemba traditional background. The Ovazemba matter is part of me and you said the Ovazemba case must be referred to the House of Chiefs. Who are they? Do they know our background? Those people have to be honest, in the traditional way the nephew is the person to get the chieftainship.

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Clauses 6 to 9 agreed to.

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Clause 10 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: In clause 10, the following clause to be substituted for clause 10:

“Appointment or election of senior traditional councillors, traditional councillors and secretaries, and their powers, duties and functions.

- (i) A Chief or a Head of a traditional community shall appoint from amongst the members of his or her traditional community or cause to be elected by such members from amongst their number:
 - (a) senior traditional councillors who shall assist such Chief or Head in the performance of his or her functions and exercise or perform such other powers, duties or functions as may be delegated or assigned to any of them by such Chief or Head.
 - (b) traditional councillors who shall advise such Chief or Head and the senior traditional councillors of that community with regard to the performance of their functions and exercise or perform such other powers, duties or functions as may be delegated or assigned to any of them by such Chief or Head.
- (ii) The qualifications for appointment or election and the tenure of, and removal from office of a senior traditional councillor or traditional councillor shall be regulated by the customary law of the traditional community in respect of which such councillor is appointed or elected.
- (iii) A Chief or Head of a traditional community shall from time to time appoint amongst the members of his or her traditional community one person as a secretary, and such secretary shall perform such duties and functions as may be assigned to him or her by the Chief or Head.
- (iv) Any Chief or Head of a traditional community who has, in accordance with this section, appointed a senior traditional councillor or cause any such councillor to be elected, shall notify the Minister of such an appointment or election in writing, specifying the name, office, traditional title, if any, day of appointment or election of the senior traditional councillor or traditional councillor concerned, and the name of the traditional community in respect of which such senior traditional councillor or traditional councillor has been appointed or elected.

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- (v) The Minister shall, on receipt of a notice referred to in subsection (iv), make the appointment or election of a senior traditional councillor or traditional councillor known by notice in the Gazette, setting out in such notice the particulars referred to in that subsection with regard to such senior traditional councillor or traditional councillor."

Hon. Members, it is the same section as section 10, but in section 10, as it stands in the Bill now, it does not provide for election.

HON. BIWA: I have noticed that the Minister is putting so much emphasis on customary law and traditional community. I believe he has due regard for customs and customary law. I want to find out whether 18 years voting age is also in line with customary law.

HON. RIRUAKO: Somewhere, somehow we have to come to a point and that is the point we are longing for, if the people talk of elections, to elect their people. We want the amendment the way it is. I thank you.

HON. NAMISES: I would like clarification on (iii) and (iv), "the Chief or Head of the traditional community shall from time to time appoint from amongst the members of his or her traditional community one person..." Is it appoint and also elect? Will the Chief only appoint?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: What is happening in this clause, as I said, is that the clauses stand as they are, except where mention is made of appointment, we add "and/or elected". In other words, what is being clarified here is that there are appointments taking place, in others elections take place. So, it is appoint or elect.

In replying to Hon. Biwa, this Bill was extensively discussed with the Council of Traditional Leaders. Even the old Bill had the age as 18 years and in this one it was repeated. The Council of Traditional Leaders had no objection to that at all.

HON. BIWA: Hon. Deputy Chairperson, I glanced quickly through these amendments and I realised that they are quite substantive. I am just wondering whether we shouldn't adjourn on this, so that we can have an opportunity to look at these amendments more closely. I don't think the Minister can expect us to approve these clauses without having had a look at them.

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MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chair, as I explained, the only amendment that is done in this clause is just where "appointment" is mentioned, "or election" is added. We can compromise that we go ahead with the rest and this clause can stand over. But I can assure you it adds nothing else, it only provides for the two systems, appointment or election.

Clause 10 stands over.

Clauses 11 to 13 put.

HON. NAMISES: Hon. Chairperson, I am on clause 12(2): "On receipt of petition referred to in subsection (1) the Minister may appoint an investigation committee." Does it mean that this removes the judiciary committee, because I found this investigation committee in my early input also as a concern, because the investigation committee is a bit weaker. I was wondering whether this committee cannot be strengthened.

HON. RIRUAKO: You cannot appoint people who are not equipped with the law they interpret. Therefore there must be people who are really equipped alongside those appointed to investigate. They have to be strengthened to understand the Act and express themselves.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairperson, a judiciary committee, unfortunately, turned out to be just too expensive to bear, and most of the problems that we found so far have not really proven to justify a judicial committee. That is why it is simplified in this case.

HON. RIRUAKO: The same Hon. Minister referred the matter to his own judicial committee, like the person here in front who is equipped.

HONOURABLE MEMBER: Where?

HON. RIRUAKO: Somewhere in this House, and I don't think it is so expensive just to interpret the norms of the Act. It is Hon. Dr. Kawana, let me name him.

Clauses 11 to 13 agreed to.

Clauses 14 to 17 put.

HON. BIWA: I just want to ask the Minister to confirm something. I have learned reliably that there is a plan in the offing to discontinue the payment of allowances to traditional leaders. What I see in this Bill contradicts that information. I would like the

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HON. BIWA

Minister to state categorically that payment of allowances to traditional leaders is here to stay. I want it confirmed that they are here to stay. INTERJECTIONS.

HON. MOONGO: I would also like to say something on that point of payment. What about the payment of headmen and sub-headmen, because they used to get money from the community, but since independence they did not get anything. What is their position now? Will they be remunerated?

HON. RIRUAKO: Clause 14(a), "any customary, traditional practice or usage which is discriminatory or detracts from or violates the right of any person as guaranteed by the Namibian Constitution or any other statutory law...shall cease to apply." If this practice is not written, how can we assure the people of their right in theory? Subsection (c): "A traditional leader shall not permit his or her political opinion or allegiance to influence the functions of his or her office as traditional leader or, the member of the traditional community in respect of which he or she was designated, recognised or appointed, as the case may be."

What kind of protection do these people have under these conditions if discriminatory practices take place now and then? How should it be done? Who is the watchdog to make sure these things do not happen?

HON. BIWA: I felt I should put more clarity in the question that I put earlier, about the discontinuation of allowance. According to the source, the object of this plan to discontinue allowances is to curb the mushrooming of chiefs. That is the object of the plan I referred to this earlier. I want the Minister to make it very clear that payment of allowances is here to stay as far as Namibia is concerned.

MINISTER OF JUSTICE AND ATTORNEY GENERAL (HON. TJRIANGE): I just want to react to what the Hon. Chief has said. He quoted something here, clause (c). This is exactly meant to arrest the situation that has been created by you, by the Chief, where instead of being a traditional chief, you call a meeting where your followers belonging to different parties come to listen to their Chief, trying to solve the problems according to the tradition of the Hereros, and when you are there, you act as if you are in a DTA conference. That is why you are losing people, because you impose your political feelings on people who don't belong to your political party, and you are supposed to be ruling everybody. So, we do not want that.

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HON. RIRUAKO: The Hereros wear uniforms of different varieties and they have the right to say whatever they want to say. With no other Chief you can express yourself more freely than with me. This is a fact. Once he goes out there, he knows there is one man he can depend upon. INTERJECTIONS. I can handle my political affairs here and tackle the other matters outside. Leave alone the DTA, I treat you as Tjiriange.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairperson, I only wanted to inform Hon. Biwa that, like hon. Nahas Angula said earlier, the Chiefs were kept up by their subjects. You are a Chief because you have people that follow you and your people must keep you up for that reason.

Of course, they used to survive because of the work they were doing for their communities. For the time-being, section 17 remains as it is until I come to this House to request the House to approve differently. That possibility cannot be ruled out.

Clauses 14 to 17 agreed to.

Clauses 18 and 19 put.

HON. RIRUAKO: Clause 18(1): "A traditional authority may, with the consent of the members of its traditional community, acquire, purchase, lease, sell or otherwise hold or dispose of movable and/or immovable property...as may reasonably be necessary or expedient for the carrying out of the functions under this Act."

I think this has a political meaning. I put the shoes on the table and whom it fits is not my concern. I don't think the Hon. Minister was there by then when this kind of habit and methods were used. Unfortunately those things have already taken place, but this thing must be corrected and also kept the way it is in this paper. I think the Minister concerned will elaborate on this.

HON. ULENGA: Hon. Deputy Chair, I have a question with regard to clause 18. "A traditional authority may with the consent..." The Minister may want to explain, but my particular question is: If a particular traditional authority wants to buy property, let us say land, if the Chief's traditional authority wants to buy land, is the Bill actually implying some limitations on that kind of action or what is the argument?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: What Hon. Ulenga asked stems from the assets and the trust fund. The assets of the trust fund, obviously, would be run by a traditional authority. That traditional authority may, because the assets of the trust is now in their hands, want to use finances of the trust to acquire any

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other asset. Then it must do so with the consent of the community. That is what is implied here. There is no limitation, except that the assets and finances that are in the trust are there for the community, not for the traditional authority. If the traditional authority wants to use it, it obviously has to use it on behalf of the traditional community. That is why consent is needed.

Clauses 18 and 19 agreed to.

Clause 20 put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: In clause 20, insert in paragraph (b) of subclause (2) "or elected" after "appointed".

HON. RIRUAKO: Hon. Chair, I could have swallowed what the Minister said, but unfortunately I couldn't hear what is written in that kind of amendment. Could we postpone this Bill until Tuesday for proper scrutiny of the amendment?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: To explain and make it simpler for the Chief, we are saying where there is appointment there must be election. It is only "election" which is added. I cannot do better than that.

Amendment put and agreed to.

Clause 20, as amended, agreed to.

Clauses 21 and 22 put.

HON. RIRUAKO: "Any reference to Chief or a traditional community in any other law shall be construed as to include a reference to the Head of a traditional community." That is clause 21. In clause 22: "This Act shall be called the Traditional Authorities Act, 2000 and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*. A different date may be determined." Can this Bill or this Act first be referred to the traditional authorities before being gazetted? Why should it be put in the *Gazette* without any thorough explanation to the people concerned? Can the Minister elaborate on that question?

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairperson, as far as I know and can recollect, the role of traditional leaders is to advise the President, they are not lawmakers. We are making this law here and before this Bill was brought here, the traditional leaders were consulted and they were in agreement.

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Clauses 21 and 22 agreed to.

Title put.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: In the long title, "election" by inserted after "designation".

Amendment put and agreed to.

Clause 22, as amended, agreed to.

ASSEMBLY RESUMED:

Progress reported and leave given to sit again.

AGRICULTURAL (COMMERCIAL) LAND REFORM
SECOND AMENDMENT BILL: RESUMPTION
OF SECOND READING

SECOND ORDER READ:

Resumption of debate on Second Reading – *Agricultural (Commercial) Land Reform Second Amendment Bill* [B.37-2000].

DEPUTY SPEAKER: When this debate was adjourned yesterday, the Question before the Assembly was a motion by the Hon. Minister of Lands, Resettlement and Rehabilitation -

That the Bill be now read a Second Time

DEPUTY MINISTER OF JUSTICE AND ATTORNEY GENERAL (HON. KAWANA):
Hon. Deputy Speaker, I rise in terms of Rule 36 of the Standing Rules and Orders to associate myself with other Hon. Members who have contributed to the debate on this Bill.

Let me, first of all, express my appreciation and gratitude to my senior Minister for introducing this very important Bill. It was not my intention to contribute to the debate, but after a number of my senior colleagues had contributed and listening to the contribution of certain members of the opposition, I was left with no choice but to contribute to the debate.

Hon. Deputy Speaker, in order for Hon. Members to appreciate my contribution, I will begin with a historical background to the land question in Namibia. Before I do so, let my state up front that the land question is a sensitive and emotional issue to many Namibians. I am at the same time happy that, typical to its leadership qualities, the Swapo Party and its

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The Assembly met pursuant to adjournment.

THE SPEAKER took the Chair and read Prayers and the Affirmation.

TRADITIONAL AUTHORITIES BILL:
RESUMPTION OF COMMITTEE STAGE

FIRST ORDER READ:

Resumption of Committee Stage - *Traditional Authorities Bill* [B.27-2000]

HON. KONJORE takes the Chair.

ASSEMBLY IN COMMITTEE:

CHAIRMAN OF COMMITTEES: The Committee has to consider the *Traditional Authorities Bill*. When progress was reported, clauses 1 to 9 and 11 to 22 had been agreed to and clause 10 stood over.

Clause 10, as amended, put.

HON. BIWA: Hon. Deputy Speaker, we have looked at the amendment and it seems to be simply cosmetic. Therefore we have no objections.

Clause 10, as amended, agreed to.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Hon. Chairman, the Hon. Members will realise that there is an additional cosmetic amendment being done to clause 14: To insert in subparagraph (ii) of paragraph (c) "or elected" after "appointed", and in clause 17, paragraph (a) of subclause (1), "or elected" after "appointed" where it occurs two times, and in (d) of subclause (3), "or elected" after "appointed" where it occurs two times.

Hon. Chairman, the amendments to clause 14 and 17 were prepared, but apparently the legal drafters have forgotten to submit them to the secretariat. Thereafter they reminded me of it and I explained to them that we have already gone through the Bill. They said they will speak to the secretariat, so that after we would have settled clause 10, then I could just introduce these amendments so that they could be accepted at the same time.

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HON. BIWA: It is quite a tricky approach to come back on something that you have already agreed to, but since it is again a cosmetic change, we will have no further problems.

HON. RIRUAKO: Mr Chairman, last week we put everything in a clear way. Some of the members were not here then, and that is why the Minister now has to explain. We did query this issue until we came to an agreement. I don't think that we have a problem with this, we do not have to delay the whole Bill to go through. I thank you.

Clauses 14 and 17, as amended, agreed to.

ASSEMBLY RESUMED:

Bill reported with amendments.

TRADITIONAL AUTHORITIES BILL:
THIRD READING

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: Mr Speaker, subject to rule 26(a) of the Standing Rules and Orders, I move –

That the Bill be now read a Third Time.

HON. BOOYS: I second.

AGREED TO.

MINISTER OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING: I only wish to thank the Hon. Members for passing the Bill.

AGREED TO.

Bill read a Third Time.
