

Friday, September 3, 2021

Attention: Professor Peter Katjavivi

Speaker of the National Assembly

Republic of Namibia

**PETITION TO THE Parliament of the Republic of Namibia
for the inclusion of the NAMA and Ovaherero Traditional
Authorities and People's on Genocide, Apology and
Reparations (GAR) negotiations and claims against the
Federal Republic of Germany**

**The PETITION seeks to halt any parliamentary process
without direct discussion between the affected
communities and the Federal Republic of Germany and
demands the restart of the negotiation process inclusive of
the directly affected communities.**





NAMA TRADITIONAL LEADERS' ASSOCIATION

SUMMARY

In the Joint Declaration by Federal Republic of Germany ("Germany") and the Republic of Namibia ("Namibia") to announce the recent reconciliation and reconstruction agreement between the two Governments of Germany and Namibia, the 'German Government acknowledges that the abominable atrocities committed during periods of the colonial war culminated in the events that, from today's perspective, would be called genocide.' Indeed, what occurred was genocide in violation of positive and customary international law.

Despite the fact that Germany ratified the 1948 Genocide Prevention and Responsibility to Protect Convention, the government of Germany disputes its liability to compensate the survivors and their descendants for damages caused by the German government's expropriation of vast Nama and Ovaherero material wealth by and through its illegal wars of extermination, including, but not limited to, the expropriation of tribal assets by Imperial Decree of December 26, 1905, through which the total movable and immovable possessions of the Ovaherero and Nama peoples – including land held in trust by tribal authorities on behalf of the Ovaherero and Nama communities – were expropriated under color of law without any compensation in violation of international law as part of an explicit and well-documented strategy of programmed genocide, enslavement, theft, and impoverishment.

The general principle that reparations are appropriate and required in cases of gross human rights violations such as genocide has been affirmed by the United Nations General Assembly, in the 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

The German government has refused to negotiate with the actual descendants (or their direct representatives) of the victims of the genocide, namely the Nama and the Ovaherero representatives. We tried several occasions to pressurize the negotiating parties, the Governments of Namibia and Germany – to include us without success. This was done in contravention of the National Assembly's resolution of October 26, 2006. It is furthermore a violation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as the negotiations between the German and Namibian state governments took place without free and prior informed consent (FPIC) of the Nama and Ovaherero communities who, according to UNDRIP, are entitled to that right.

A. Prior to Genocide and Takings

1. The Nama sovereign polities of Great Namaqualand comprised a confederation of Khoikhoi peoples – the Nama – whose ancestral lands cover much of southern and some northern Namibia, who were governed by Gaogu (Kings) and subject to the supremacy of customary Namaqua law. The Nama polities belonged to the confederation established under the

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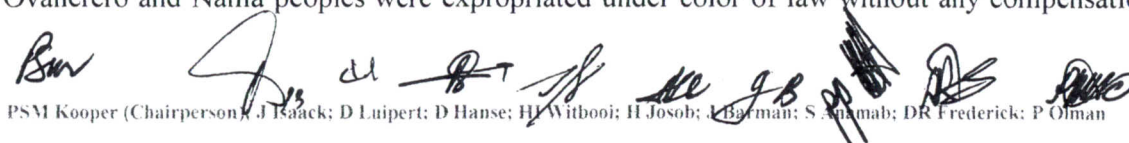
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Hoachanas Treaty of 09 January 1858, which guaranteed the unity and equality of the Nama tribes and peoples.

2. The Ovaherero sovereign polities of Hereroland comprised a federation of Ovaherero, Ovambanderu, Ovatjimba, and other Otjiherero-speaking peoples, whose ancestral lands cover central highlands of modern-day Namibia, who were governed by a Paramount Chief (the Ombara Otjitambi) and Chiefs, and who were subject to customary Ovaherero law.
3. Nama and Ovaherero Traditional Authorities are corporate successors to the tribal authorities that ruled Namibia over one-hundred years ago. However, the tribal authorities were reduced due to the crime of genocide and subsequent loss of land and other properties.

B. Genocides and the Takings

4. On 12th April 1893, German Government committed the very first crime of genocide against the Nama people in today's Namibia. As Curt von Francois explained in his official Report to the German Foreign Office, it was three miles from Hoornkrans and hours before dawn that he issued the first Extermination Order of 1893: "At 1:00 a.m., I announced the following orders to the squadrons: '*The troops' mission is to exterminate the tribe of the Witbooi*'. Francois used the word "*vernichten*": to exterminate. Gaob Hendrik Witbooi's 12-year-old son, Klein Hendrik – who was disabled with congenital partial paralysis – was wounded while fleeing. He was crawling unarmed in a riverbed where a German soldier found and executed him with a point-blank shot to the head. Many Nama people were killed, and others were taken as hostages and enslaved as forced laborers in Windhoek, including Gaob Witbooi's own wife and daughter.
5. Lieutenant General Lothar von Trotha issued the second Extermination Order against the Ovaherero people on 2nd October 1904. This order was rescinded by the German Government on 08/09 December 1904 after they had belatedly discovered that the exterminations were inconsistent with the principles of Christianity and humanity, that total extermination was impossible to put into effect and were absurd from economic point of view and that proclamation was "demeaning Germany's standing amongst the civilized nations of the world". But many Ovaherero were already killed, and the killings continued.
6. On 22nd April 1905, the same Lieutenant General von Trotha issued the third Extermination Order against the Nama people despite German Government's reasonings before 9th December 1904. The value system of Christianity and Humanity; economic and development point of view; impossibility to exterminate an entire nation; and demeaning standing for Germany amongst civilized nations; were all forgotten and irrelevant. This Extermination Order against the Nama people was never withdrawn and remains intact.
7. The German Government spent months designing an Imperial Decree that was to provide legal foundation for the dispossession of the Nama and Ovaherero. It was through this Imperial Decree of 26 December 1905, which the total movable and immovable possessions of the Ovaherero and Nama peoples were expropriated under color of law without any compensation


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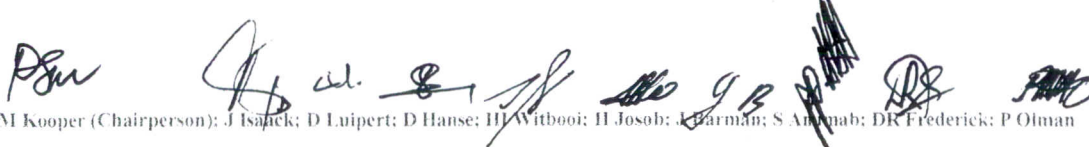
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in violation of international law as part of an explicit and well documented strategy of programmed genocide, enslavement, and theft.

8. These Extermination Orders and Expropriation Order were used to commit the crime of genocide against the Nama and Ovaherero people using the most horrible and inhumane methods, followed by concentration camps and deportations as part of forced labor and enslavement, and finally the theft of all movable and immovable possessions of the Nama and Ovaherero peoples.
9. Genocide damages of permanent nature such as the many killings, flogging and other tortures, rapes, destruction of families and community structures, and the consequent psychological trauma cannot be rectified fully or directly. Skulls and other body parts (remains of our ancestors) from the victims of Nama and Ovaherero genocide are still in museums in Germany and Namibia. These skulls and body parts of our ancestors apparently belong to private institutions such as universities and museums and cannot be returned for dignified burials as per Nama and Ovaherero customary laws.
10. The expropriated ancestral land of descendants of the particularly affected communities – the seven regions identified in the Joint Declaration of the two Governments of Namibia and Germany, constitutes 82% of total geographical area of Namibia. Livestock and many other movable properties were also expropriated. Stolen and/or looted artifacts remain in museums in Germany. Nama and Ovaherero communities built many of Namibia's historic infrastructures such as Parliamentary Building through forced labor without compensation. Equally, southern towns of Namibia were built by the karakul industry since 1907 which was basically done through forced labor without compensation.

C. Resolution of the National Assembly of Republic of Namibia

11. On 26 October 2006, the National Assembly of Republic of Namibia adopted Resolution as follow:
 - That what happen to our people during 1904 to 1908 as a result of General von Trotha's Extermination Order was a brutal act of Genocide sanctioned by the German Government of the day.
 - That our people are entitled to demand the payment of reparations from the German Government.
 - That the Namibian Government should be an interested party in any discussions between its nationals and the German Government on the issue of reparations.
 - That dialogue be convened between, on the one hand, the German Government and on the other hand, the Namibian Government and representatives of the affected parties, to try and resolve this matter amicably and thereby strengthening and solidifying the existing excellent relationship between the two countries (Germany and Namibia).
12. Focus of Resolution of the National Assembly of the Republic of Namibia of 2006 is that:


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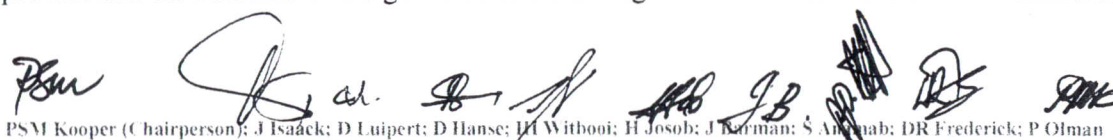
- Both Governments of Federal Republic of Germany and the Republic of Namibia must formally accept (recognize) that the systematic massacres committed by the German Government of the day constitute genocide and is indeed a Genocide.
- The affected communities must be paid reparations – not donation of development aid which gives credit to the donor, in this case the German Government.
- The Namibian Government is only an interested party for its citizens – but not an actual victim or descendant of victims and is thus not entitled to the reparations. The Namibian Government's role and responsibility is clarified by the resolution.
- The affected communities must directly participate during negotiations through their representatives.

D. Exclusion of Affected Communities

13. The Nama Traditional Leaders' Association (NTLA), the legitimate representative of all Nama Traditional Authorities, which are recognized by the Government of the Republic of Namibia in terms of the Traditional Authorities Act, 2000, remain excluded from the genocide negotiation process.
14. The German Government dictated to the Namibian Government to appoint a Special Envoy for genocide negotiations between the two states of Germany and Namibia. This instruction by German Government contradicted the Resolution of the National Assembly of the Republic of Namibia. The NTLA and Ovaherero Traditional Authority (OTA) technical representatives emphasized and demanded adherence to the Resolution of National Assembly during a meeting held in December 2015 with representatives of the Namibian Government.
15. In May 2017, NTLA and OTA met with the Namibian Government at the Statehouse. This parties at the meeting agreed that the Namibian Government and Representatives of the Nama and Ovaherero communities shall be negotiating with the German Government as stipulated by the Resolution of the National Assembly. However, the State President, Dr Hage Geingob requested to reconvene the meeting after two weeks. This request was done for the President to further consult and was accordingly granted by the meeting. Unfortunately, the President never reconvened the meeting and no agreement was signed.
16. In April 2019, NTLA and OTA once again wrote a letter to the Namibian Government, but the State House did not respond to our letter.
17. NTLA and OTA pressurized the Namibian Government for INCLUSION in genocide negotiations without success.

E. Joint Declaration: Reconciliation and Reconstruction Agreement

18. The NTLA held a meeting on 24 August 2021 and deliberated on the genocide negotiation process and the outcome of the genocide bilateral negotiations between the two Governments of


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Germany and Namibia. All 10 (ten) recognized Nama Traditional Authorities were represented at the meeting. **The meeting unanimously REJECTED the agreement.**

19. The EXCLUSION of representatives of the affected communities contravenes the Resolution of the National Assembly of the Republic of Namibia of 2006. This exclusion clearly violates the rights of the affected communities.
20. There is clearly an unreconcilable material variance between the Namibian Government's negotiated development aid and the REPARATIONS demand of the particularly affected communities.
21. We are obviously shocked by the Namibian Government's clandestine tactics to get buy-in from the Nama Traditional Authorities. It is incomprehensible that our Government of the Republic of Namibia used individuals which are not recognized by law as traditional leaders in their efforts to legitimize the so-called joint declaration. In fact, these individuals are either under investigation, involved in court cases, or already convicted by our courts. Similarly, members of parliament excluded, lawfully recognized traditional councilors of the affected communities from their clandestine meeting.

F. Conclusion


22. The Genocide Negotiations for the Nama and Ovaherero Genocide must start on a clean sheet and the affected communities must be directly participating in negotiation process.

By instruction of the Nama Traditional Leaders Association:


Signed as per the resolution of the meeting held on 24 August 2021, Hardap Resort, Mariental District, Hardap Region, Republic of Namibia

Yours sincerely,

KAI-//KHAUN TA
Gaob PSM Kooper 
Chairman of NTLA

/HAI-KHAUA TA
Gaob J Isaack 
Vice-Chairman of NTLA

BLOUWES TA
Chairman of TC J Barman 


BONDELSWART TA
Chairman of TC H Josob 

SWARTBOOI TA
Gaob D Luipert  **CHARLES UIRAB**
ACTING GAOB

TOPNAAR TA
Acting Chief S Anamab 

WITBOOI TA
Gaob HI Witbooi 

!KAR'KHOE //AES TA
Gaob D Hanse 

AFRIKANER TA
Senior Councilor P Olman 

!AMAN TA
Senior Councilor DR Frederick 

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