

PROPOSED LAND BILL

22 NOV 2016

By Hon. Benson P. Kaapala, MP.

Introduction

The proposed Bill before this august house comes at a time when our people's demand for land, urban land to build homes and communal or commercial land for agricultural purposes is louder than ever before. In recent years land disputes have been on the increase a sign that many of our people are in need of this great right.

I applaud the efforts of the Minister of Lands and his team for producing this document for our deliberation so that we as members of this house may contribute positively towards the dream that every Namibian has a place to call home.

There are some points however I would like to contribute towards this debate; the points touch on the Land Board, Allocation of Customary Land Rights and Expropriation of Agricultural Land for Land Reform.

The first point is with regards to the time frame of the word “habitually” in the definition of “communal area” of Chapter 1;

The word “habitually” has a number of meanings and depending how one interprets this word, it could lead to land disputes. “Habitual” here I presume implies a significant period of presence in a particular geographical area and not merely a permanent residence.

This should be made clear because some who apply for “communal land rights” do so not because they have lived on the particular land from time immemorial but rather because they have a permanent structure after encroaching on another's land. This brings me to my second point which to an extent is a result of “habitual inhabitancy”.

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The second point is with regards to Part 3, Allocation of Rights in Respect of Communal Land;

24 (3) and (4) deals with traditional authorities displaying notices at their offices and the land board offices. This is not effective and is one of the causes of land disputes. The act provides for radio, newspaper and other media outlet notices at the expense of the traditional authority, this is more effective than notices at offices but still not sufficient to alert the community about applicants. What could be very effective is convening a community meeting in the community where an applicant wants customary land rights. This would alert members of the community who have a claim to the land as stipulated in **Section 30, Recognition of Existing Customary Land Rights.** There has been cases where a land in dispute has one party being issued a certificate on a piece of land that is owned by another party as per **Section 30 (1).** But due to circumstances the said person applied for customary land rights after it was issued to the former without the community knowing. This is a familiar land issue, which even I as Member of Parliament am currently faced with.

Rather, the Ministry of Lands should provide funds in its budget for the Land Board for communicating land applications through community meetings and mass media in addition to notices on office notice boards away from communal communities.

On this note Honourable Speaker, the proposed **Bill should also incorporate interim measures in case of land disputes** while investigations are ongoing as per **Part 4, General Provisions Section 46** or to confirm or disprove claims as per **Section 30 (1).** Land that is under dispute should have all activities frozen and all applications put on hold until the issue is resolved.

But what happens is that one party is often law abiding while another has no consideration for the law and utilises the land as if they have been given rights. This has the potential to erupt into violent encounter because one party may feel the law is being unfair in that the other party has access to the disputed land while they should abide by the law when they report the issue to the Police and relevant parties. Often the Land Board, Traditional Authorities and the Police when approached to help diffuse this issue they seem to be unaware of the rights they have in terms of the Act apply the law. Implementation of Acts and Laws at the grassroots level seems to be lacking due to information dissemination.

This is true even in urban areas if you recall Tuesday's The Namibian newspaper which ran the story of a developer building on land that is forbidden despite directives not to build. Therefore, the proposed Bill should have interim measures during disputes and also impose fines to those who do not adhere to these measures. These measures are valid for **Section 33**, **Section 37** and **Section 39**.

The Third point is with regards to Part 3, Expropriation of Agricultural Land;

Land resettlement is an important activity and all forms of land reform should be encouraged and supported. Of all the gifts that children can inherit, nothing compares to land, therefore land is an important right.

My contribution with regards to Expropriation of Agricultural Land is three fold;

Firstly, land expropriated should lead to food security and not merely owning land and underutilizing it. The proposed Bill should emphasize on sustainable land use and not merely contribute to food insecurity and at the end of the back to depending on government handouts.

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

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

I would like to conclude my contribution with a remark on the Land Board appointments **Section 6**. The proposed Bill recommends that four women be appointed to the board **Section 6 (1) (e)**. I know we are trying to promote women but this should not lead to gender inequality. The Land Board has a minimum number of 11 members according to **Section 6 (1)**, there is a chance that other board members may be women and in the end have an all women board. I think we should always consider gender equality and discriminate because of gender. I propose two women and two men because each gender represents different roles especially when it comes to farming in the communal areas. Men and women often have different farming roles and each would serve the board better in their respective roles.

A handwritten signature in black ink, appearing to be 'R. H.' or similar, located at the bottom center of the page.