



CONTRIBUTION BY

**HON. MCHENRY VENNANI, MP
LEADER OF THE OFFICIAL OPPOSITION**

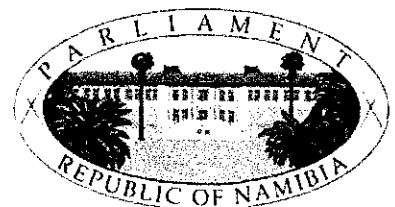
ON

**THE SECOND READING OF
THE LAND BILL (2016) AS INTRODUCED BY THE MINISTER OF LAND REFORM**

17 NOVEMBER 2016

PARLIAMENTARY OFFICE

T: +264-61-288 2563 | F: +264-61-226 494
E: g.martin@parliament.na | W: www.dtaofnamibia.org
Parliament Building, Southern Wing, Office 154, Windhoek, Namibia
PO Box 41272, Ausspannplatz, Windhoek, Namibia



CHECK AGAINST DELIVERY

Honourable Speaker, Honourable Members,

Today's discussion and my contribution here today must be seen in the light of the fact that, according to the Ministry of Agriculture's own figures, 281 prime farms are owned by foreign nationals whilst the bulk of Namibian people are relegated to farming on communal land with no security of tenure.

Upon introducing the Bill, Hon. Nujoma acknowledged that the Land Bill must reflect the "aspirations of the Namibian people." The Ministry of Land Reform and the Harambee Prosperity Plan have both promised that a Land Conference would be called during the course of this year. This has proven to be yet another empty promise and the Land Conference was abruptly called without the public being adequately informed of the reasons behind the cancellation.

It is surprising that after cancelling the Land Conference which should inform and guide land reform in the country, this House is now being confronted with a voluminous Land Bill, which whilst it addresses many of the shortcomings also does not address many other equally critical issues.

The Minister's statement pays lip service to consultation that was done back in July 2010 that is supposedly sufficient to have informed the drafting of this Bill. Between 2010 and now the landscape relating to land has significantly shifted focus from agricultural land to the public outcry against the huge challenge of urban land poverty. I find it surprising that the Minister in his motivation statement implies that sufficient consultation was done, when since this Bill was

tabled, I have been inundated with phone calls from representatives of Civil Society who wish to air their concerns on the general lack of consultation during the drafting of this Bill. It is true that there may be some laws which do not require an extensive amount of consultation, however the issue of land is one issue which has captured the imagination of the Namibian people through the sheer desire to just have land they can live or farm on. To present a Bill of this magnitude and significance to this House in the absence of proper consultation is contrary to the principle of a government for the people and by the people.

In addition to this, this Bill was tabled before this House only last week Wednesday and yet today – a mere week later - members are expected to properly deliberate and discuss one of the most important Bills that has been tabled in this House since independence.

Hon. Speaker,

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

URBAN LAND NOT ADDRESSED BY LAND BILL

Without denouncing the importance of agricultural land, why is it that a Land Bill fails to address the equally, if not larger, national problem of urban land shortage? Traditionally, the land question in Namibia has focussed almost

exclusively on agricultural land, and so too the Land Conference of 1992 was focussed on addressing bottlenecks in the acquisition of agricultural land, in recent years the dynamic has shifted towards the hunger for urban land, particularly in the larger towns and cities.

The Land Bill looks at addressing security of land tenure in communal areas, and yet in the major towns unproclaimed shanty towns have continued to mushroom since independence.

A Land Bill that does not address security of tenure for people who live in the shanty towns on the outskirts of Windhoek, Swakopmund and other major, does not address the real land needs of the Namibian people.

I would like to once again reiterate the call from the 2014 DTA Manifesto for the introduction of an Urban Land Resettlement Scheme. In as much as a need to resettle people on communal farms has been identified, the same and even bigger need exists in the urban areas.

Any attempt to modernize the legal and institutional framework relating to land which does not address the urban land problem is incomplete.

COMMUNAL LAND RIGHTS

Honourable Members

Whilst, the DTA applauds the initiative in the Land Bill to finally give legal recognition and security of tenure to communal land rights, the mechanisms the Bill seeks to put in place to do so present various problems.

The Bill states that Traditional Authorities will be responsible for the allocation of communal land rights, but then at the same time it (under section 26 and 27) also states that such allocations by Traditional Authorities are “of no legal effect” unless ratified and registered with various Boards. This represents an erosion of the legitimacy and authority of Traditional Authorities, as they will ultimately become dependent on these boards in order to function properly.

It must also be noted that only “recognized” Traditional Authorities will be permitted to allocate communal land rights. In a system such as ours where traditional authorities have been regrettably politicized and certain Traditional Authorities are refused recognition based on lack of political patronage, there is an inherent danger of creating a situation where Traditional authorities will be corrupted by the ruling and political elite.

Another pertinent question is what happens to those rights which Traditional Authorities have conferred to individuals or families before this Bill?

I would further like to raise a strong objection against Section 23(j) which permits the State to expropriate communal land “in the public interest to the payment of just compensation”.

Whilst the rationale for expropriation of commercial farm land can be seen in the context of redressing the unequal distribution of land, the envisioned expropriation of communal land defies logic. The rationale behind expropriation cannot be successfully applied to communal areas where groups of 20+ families are struggling to farm on limited dry farm land.

EXPROPRIATION: What happens afterwards?

Section 82 of the Bill provides that subject to an obligation to pay just compensation, the Minister of Land Reform, may at any time expropriate any property for land reform purpose in the public interest.

Section 83 and 84 then set out the procedure to be followed during expropriation, but then subsection 5 of section 84 [84(5)] also states that the validity of expropriation will not be affected should the Minister not have followed the procedure laid out in Section 84. Why put a list of requirements and procedures to be followed, if simultaneously there is a clause that says that bypassing that procedure will not affect the validity of the proposed expropriation?

But Hon. Members these are technical problems which can be fixed, my greater concern is what happens with the expropriated farms.

The Land Resettlement Scheme has already been marred by allegations of favouritism and nepotism in the allocation of land resettlement farms.

Whilst the first and necessary step is for the State to acquire land, the more important question is what happens to that land afterwards. What measures are in place to guarantee that expropriated farms are put in the hands of competent qualified farmers who can obtain the same yield from the farms as previous owners?

The Land Bill does not clearly set out the procedure and requirements for acquiring an expropriated farm and I believe this aspect of expropriation is far more important than the mechanisms to acquire farms. So too, whatever form expropriation takes, if it is not accompanied by a comprehensive policy and programme to properly train and equip the Namibian farmers who will take over those farms, then expropriation will fail and do more harm than good.

CONCLUSION

Hon. Speaker, Hon. Members,

I have only highlighted a few of the many loopholes and problems which this Bill presents. But even these represent very significant and far ranging problems.

For the reasons raised above, and due to the fact that this Bill was rushed before this Assembly without due consultations, I propose that the Land Bill be referred to the Standing Committee on Natural Resources for wider consultations and investigation.

I so move.